

**PART II
ADMINISTRATION**

4. (1) There shall be a Planning and Building Committee and, subject to this Ordinance, that Committee is the authority responsible for the administration of this Ordinance.

(2) The Committee shall, before exercising any function under this Ordinance, seek and consider the advice of the Planning Officer.

(3) The question of whether the Committee has exercised any function after seeking and considering advice in accordance with subsection (2) above shall not be enquired into in any court of law.

5. (1) The Planning and Building Committee shall consist of not fewer than five and not more than seven persons but may exercise its functions under this Ordinance notwithstanding any vacancy in its membership, provided that no business shall be transacted by the Committee if its membership is reduced to less than three persons.

(2) Two of the members of the committee shall be elected by the elected members of Legislative Council from among their number and all other members of the Committee shall be appointed by the Governor.

(3) Unless he is an elected member of the Legislative Council a public officer shall not be capable of being a member of the Committee, and a public officer who is a member of the Legislative Council shall cease to be a member of the Committee immediately he becomes a member of the Legislative Council, but unless he is elected as a member of the Committee under subsection (2) above.

(3A) The reference in subsections (2) and (3) to “elected members of Legislative Council” and “an elected member of the Legislative Council” include, in relation to the period falling between a dissolution of the Legislative Council and the next following meeting of the Legislative Council, any person who was an elected member of the Legislative Council immediately preceding its dissolution.

(4) The Planning Officer shall be entitled to attend at all meetings of the Committee and to take part in its proceedings, except that if a matter is put to the vote, he shall not vote.

(5) A member of the Committee who has a direct or indirect financial or other personal interest in any matter being considered by the Committee shall not take part in the consideration by the Committee of that matter and shall declare his interests in it. If so required by the Chairman he shall absent himself from the meeting of the Committee during such a time as a matter in which he has declared his interest is under consideration by the Committee.

(6) A member of the Committee declaring an interest in any matter is not obliged to specify the nature or extent of his interest.

(6A) The references –

(a) in subsection (1) to “elected members of the Legislative Council”;

(b) in subsection (6) to “an elected member of the Legislative Council” and “another elected member of the Legislative Council”

include, in relation to the period falling between a dissolution of the Legislative Council and the next following meeting of the Legislative Council, any person who was an elected member of the Legislative Council immediately preceding its dissolution.

(7) A decision of the Committee on any matter is not invalidated by the presence during the consideration of a matter of a member who has declared his interest in that matter or who has failed to declare his interest in that matter when he ought reasonably to have done so.

(8) A member of the Committee who is present during consideration by the Committee of any matter in which he ought reasonably to have declared his interest and who has failed to declare that interest commits an offence and on conviction of that offence is liable to a fine not exceeding the maximum of level 5 on the standard scale.

(9) Proceedings for an offence under subsection (8) above may only be instituted by or with the consent of the Attorney General.

6.(1) The Chairman of the Committee shall be such one of the two members of the Committee elected from among their number by the elected members of the Legislative Council as they shall designate and the Vice-Chairman of the Committee shall be the other of such two members.

(2) The Chairman of the Committee shall be such one of the two members of the Committee at which he is present, save that he shall not preside during consideration of any matter in which he has declared an interest.

(3) The Vice-Chairman of the Committee shall preside at all meetings of the Committee at which he is present and at which the Chairman is not present, and during consideration of all matters considered at a meeting of the Committee in which the Chairman has declared an interest, save that he shall not preside during

(4) This subsection applies where the operation of the foregoing subsections of this section in the opinion of the Chairman of the Committee (or, if for any reason he is not available, in the opinion of the Vice-Chairman of the Committee) would not result in an elected member of the Legislative Council presiding at a meeting of the Committee. In any such case the Chairman, or as the case may be, the Vice-Chairman of the Committee, may appoint another elected member of the Legislative Council to preside in his place, whether or not the person appointed is a member of the Committee. The person so appointed shall, in respect of all matters before the Committee during which he presides be deemed to be a member of it appointed under section 5(1) above, even if his appointment results in the number of members of the Committee exceeding eight. This subsection also applies if no person having the right by virtue of the foregoing provisions of this section (including this subsection) at a meeting of the Committee or during consideration of a matter before the Committee (as the case may be) is present, when the members of the Committee then present shall elect one of their number to preside

7.(1) Subject to subsections (2) and (3) below, the Committee shall meet when called upon so do to by the Chairman.

(2) The Chairman shall convene a meeting of the Committee to take place within fourteen days of receipt by him of request in writing signed by not less than three members of the Committee requesting him to do so.

(3) If the Chairman is outside the Falkland Islands or is for any reason unable or unavailable to perform his functions under subsection (1) and (2) above, the Vice-Chairman shall perform those functions in place of the Chairman.

(4) Subject to this subsection, every member of the Committee and all appropriate public officers shall be given by the Secretary at least five days notice of any meeting of the Committee. A majority of members present at any meeting of the Committee called on shorter notice may, however, resolve to accept shorter notice of that meeting.

(5) The question as to whether due notice has been given of any meeting of the Committee shall not be enquired into in any court of law.

8.(1) Subject to subsection (3) below no business shall be transacted at any meeting of the Committee when there are not three members of the Committee present.

(2) Any member who has declared an interest in any matter shall not be counted amongst the members present for the purpose of determining whether there is a sufficient number of members personally present.

(3) Notwithstanding subsection (1), above a meeting of the Committee may adjourn to a further meeting of the Committee the business of the meeting or such part of it in respect of which a sufficient number of members is not present.

9.(1) Any public officer or other person may, by the invitation or with the permission of the Chairman or other person presiding at the meeting of the Committee or (as the case may be) during consideration of any matter by the Committee attend at the Committee.

(2) A person attending under subsection (1) above may take part in the Committee's proceedings except that if a matter is put to the vote, he shall not vote

10. (1) There shall be a Planning Officer who shall be appointed by the Governor acting in his discretion and who shall have, without prejudice to any other functions he may have, the functions conferred on him by this Ordinance.

11.(1) A public officer shall be appointed by the Chief Executive to be the secretary to the Committee.

(2) It shall be the duty of the secretary ---

- (a) to attend at all meetings of the Committee;
- (b) to prepare minutes of all meetings of the Committee; and
- (c) save as is provided by this Ordinance to have custody of the Committee's records

12. A copy of the minutes of every meeting of the Committee shall be sent, as soon as they are prepared, to the Governor and to the Chief Executive.

Extract from the Planning & Building Extra-ordinary meeting held on 25 August 2003

3 Terms of Reference for the Committee

Members referred to an attached paper from the EPO regarding the Terms of Reference of this Committee. AG commented that the first two points were covered by the provisions of the Planning Ordinance and the Building Ordinance and suggested that the terms of reference be changed to read:

The Committee shall carry out such functions as are conferred on the Committee by Planning Ordinance and the Building Ordinance and additionally for dealing with the provision of off-street parking grants.

Chair explained that this matter had arisen because the Government Secretary had been asking for the terms of reference of all Government Committees. AG advised that he had spoken to the Chief Executive about this matter, explaining that Committees such as the Planning and Building Committee, Board of Education and Health & Social Services Committee, were all statutory Committees and as such their terms of reference were within the relevant Ordinances. AG offered to write to the GS advising of this. The Committee agreed to this offer.

(AG)