



BERMUDA

SAGE COMMISSION ACT 2013

2013 : 9

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WHEREAS it is expedient to provide for the establishment of the Spending and Government Efficiency Commission (the “SAGE Commission”);

Be it enacted by The Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

PART 1 PRELIMINARY

Citation

1 This Act may be cited as the SAGE Commission Act 2013.

Interpretation

2 In this Act—

“Chairman” means the Chairman of the Commission appointed under section 4;

“committee” means a committee appointed by the SAGE Commission under section 9;

“Minister” means the Minister of Finance;

“SAGE Commission” means the Spending and Government Efficiency Commission established under section 3 and the term “Commission” shall be construed accordingly.

PART 2 ESTABLISHMENT OF SAGE COMMISSION

Establishment of SAGE Commission

3 (1) There is established a body corporate under the name “Spending and Government Efficiency Commission”, with a common seal and power, subject to the provisions of this Act, to—

- (a) acquire and dispose of property, both moveable and immovable;
- (b) sue and be sued in its corporate name; and
- (c) perform such other acts as bodies corporate may by law perform.

(2) The objective of the SAGE Commission is to advise Government on the most efficient and cost-effective government organisational structure and governing processes in accordance with the functions set out in section 5.

(3) Subject to subsection (4), the SAGE Commission shall exist as a body corporate under this Act and conduct the functions under this Act for a period of six months starting from the date of appointment of the Commission.

(4) The Minister may by order, subject to the negative resolution procedure, extend the period of existence and operation of the SAGE Commission.

(5) The Minister shall by order, subject to the negative resolution procedure, dissolve the SAGE Commission after the laying before the Houses of the Legislature of the Commission's final report and recommendations and its audited financial statements as provided under section 14(7).

Composition of SAGE Commission

4 (1) The SAGE Commission shall be composed of six members appointed by the Minister who shall, subject to section 3(3), hold office for such period and on such terms as the Minister may determine.

(2) The Minister shall appoint a Chairman from among the members of the SAGE Commission.

(3) The Chairman and members of the SAGE Commission shall be persons with suitable qualifications and experience for the purposes of the Commission, as the Minister may direct.

PART 3

FUNCTIONS, OPERATIONS AND PROCEDURES

Functions of SAGE Commission

5 (1) The SAGE Commission shall evaluate and analyse operations of Government in line with international best practice to determine the best means of structuring Government, streamlining Government processes, improving delivery of services and introducing cost saving measures and greater transparency.

(2) Without derogating from the generality of subsection (1), the SAGE Commission shall—

- (a) review, assess and propose changes to Government and Government corporate bodies and agencies with respect to—
 - (i) the adequacy of the structures in place;
 - (ii) operations; and
 - (iii) processes for governing;

- (b) review, assess and propose a redesign of the organisational structure of Government in such manner as the Commission may deem appropriate, which may include streamlining or consolidating agencies, authorities and other bodies that have overlapping missions;
- (c) identify operational improvements aimed at cost-effectiveness and improved service quality, which may include shared services, enhanced use of information technology and changes in service delivery mechanisms;
- (d) identify inefficiencies;
- (e) identify activities that can be privatised or outsourced;
- (f) identify targets and other means for measuring efficiencies; and
- (g) do all such things the Commission may deem necessary to achieve the objectives of the Act.

Procedures at meetings

6 (1) The SAGE Commission shall meet as often as necessary or expedient for the due performance of its functions.

(2) The Chairman may summon a meeting at any time on giving such notice as, in his judgment, may be adequate.

(3) At a meeting of the SAGE Commission, the proceedings shall be regulated as follows—

- (a) three members of the Commission constitute a quorum;
- (b) the Chairman shall preside at meetings of the Commission;
- (c) if the Chairman is absent from a meeting of the Commission, the members present may elect another person from their number to act as Chairman and to preside at the meeting;
- (d) if a member of the Commission has any direct or indirect interest in any matter with the Commission—
 - (i) he shall disclose his interest to the Commission at the time of the matter being discussed; and
 - (ii) he shall have no vote in relation to the matter, unless the Commission has resolved that the interest does not give rise to a conflict of interest;
- (e) subject to subparagraph (d)(ii), a member of the Commission shall have no vote in relation to any question arising which touches or concerns him;
- (f) the decisions of the Commission shall be by a majority of votes;
- (g) in the event of an equality of votes, the Chairman shall have a casting vote; and
- (h) the Commission shall determine its own procedure.

Programme of operations of SAGE Commission

7 (1) The SAGE Commission shall decide on the programme of operations for purposes of its functions which shall be provided to the Minister.

(2) Without derogating from the generality of subsection (1), the SAGE Commission shall engage and solicit the input of a broad and diverse range of persons, associations and organizations, which may include—

- (a) members of the Legislature;
- (b) representatives of public service employees;
- (c) companies, boards and statutory bodies;
- (d) professional bodies;
- (e) individuals; and
- (f) such other persons as the Commission may deem necessary.

(3) Every Government Department and statutory body shall facilitate the work of the SAGE Commission, provide access to records and cooperate with the Commission.

(4) The SAGE Commission may employ such number of persons as staff members as it may determine necessary.

Reports and recommendations of SAGE Commission

8 (1) The SAGE Commission shall submit to the Minister such number of reports and recommendations and at such intervals as may be determined in the programme of operations.

(2) The SAGE Commission shall submit its final report and recommendations to the Minister at the end of the six-months period referred to in section 3(3) or at the end of such period as the Minister may have determined by order under section 3(4).

Appointment of committees and delegation of powers

9 (1) The SAGE Commission may, in its discretion, appoint from among its own members or from among other persons, such number of committees as it thinks fit for purposes which, in the opinion of the Commission, would be more expediently carried out or managed by such committees.

(2) The SAGE Commission may, subject to such conditions or restrictions as it thinks fit, delegate to—

- (a) the Chairman;
- (b) any of its members;
- (c) any committee appointed under subsection (1);
- (d) any public officer or employee of the Commission,

any of the functions or powers of the Commission under this Act, except the power of delegation conferred by this section.

(3) Any power, function or duty delegated as provided in subsection (2) shall be exercised or performed by the person to whom delegated in the name and on behalf of the SAGE Commission.

(4) The SAGE Commission may continue to exercise a power conferred upon it, or perform a function or duty under this Act, notwithstanding the delegation of such power, function or duty under this section.

SAGE Commission to be provided with information

10 (1) For the purposes of its functions the SAGE Commission may, subject to this section, require any officer or employee of the Government or member or employee of a statutory body or any other person who is in its opinion able to provide information or produce documents relevant to the functions of the Commission to give such information or produce such documents.

(2) The Secretary to the Cabinet shall ensure that requirements made by the SAGE Commission from any officer or employee of Government under subsection (1) are attended to expeditiously.

(3) The SAGE Commission shall not require any person to furnish any information or answer any question—

- (a) relating to proceedings or deliberations of the Cabinet or any committee of the Cabinet;
- (b) that might prejudice the security, defence or international relations of Bermuda;
- (c) that is subject to legal privilege; or
- (d) that might prejudice the investigation or detection of offences.

(4) For the purposes of subsection (3)(a), a written statement by the Secretary to the Cabinet with the approval of the Premier, confirming that any information, question, document or part of a document so relates shall be conclusive.

SAGE Commission and staff to maintain secrecy

11 (1) The SAGE Commission and every person employed or appointed under sections 7(4) and 9 shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of the functions of the Commission, and shall not communicate any such matter to any person except for the purpose of carrying out functions under this Act for the purpose of—

- (a) the reports and recommendations to the Minister under section 8;
- (b) the reports and recommendations to the Legislature under section 14(7);
or
- (c) court proceedings.

(2) This section does not apply to information which at the time of the disclosure is or has already been made available to the public from official Government sources.

PART 4
FUNDS AND ACCOUNTS

Funds of SAGE Commission

- 12 (1) The funds of the SAGE Commission shall consist of—
- (a) all such sums as may be appropriated by the Legislature for the purposes of the Commission;
 - (b) all grants, subsidies and contributions paid to the Commission or received from any source and funds raised by all lawful means.
- (2) For the purpose of the receipt of grants, subsidies and contributions under subsection (1)(b), the SAGE Commission shall be deemed to be a charitable organisation.
- (3) The Charities Act 1978 is not applicable to the SAGE Commission.

Surplus funds

- 13 At the end of the period of operation of the SAGE Commission, any surplus funds not utilized for purposes of the Commission under this Act—
- (a) that were appropriated by the Legislature for the purposes of the Commission under section 12(1)(a), shall be paid into the Consolidated Fund;
 - (b) that are a grant, subsidy or contribution received by the Commission under section 12(1)(b), shall returned to the respective donor.

Accounts of SAGE Commission

- 14 (1) The SAGE Commission shall cause proper statements of its financial affairs to be maintained and shall prepare in respect of the period of its operation a statement of its accounts in such form as required by applicable accounting standards.
- (2) The accounts of the SAGE Commission shall be audited by the Auditor-General or by an auditor appointed by the Auditor-General.
- (3) A person shall not be qualified for appointment as an auditor under subsection (2) unless he is a public accountant who is registered or deemed to be registered under the Institute of Chartered Accountants of Bermuda Act 1973.
- (4) The statement of accounts must present fairly and accurately—
- (a) the financial transactions of the SAGE Commission during the period of its operation; and
 - (b) the financial position of the period of its operation at the end of its operation.
- (5) Where the Auditor-General has not been appointed to be the auditor, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the SAGE Commission.

(6) As soon as the accounts of the SAGE Commission and the financial statements have been audited in accordance with the provisions of this Act, a copy of the audited financial statements signed by the Chairman, together with a copy of any report made by the auditor, shall be submitted to the Minister.

(7) The Minister shall as soon as practicable after receipt of the final report and recommendations, and audited financial statements, of the Commission cause a copy of each to be laid before both Houses of the Legislature.

PART 5 MISCELLANEOUS

Immunity from suit

15 (1) No action, suit, prosecution or other proceeding shall be brought or instituted personally against an officer, employee or agent of the SAGE Commission, or any member of the SAGE Commission, or the Minister, in respect of any act done bona fide in pursuance or execution or intended execution of their functions under this Act and Regulations made thereunder.

(2) Where any member of the SAGE Commission is exempt from liability by reason only of subsection (1), the Commission shall be liable to the extent that it would be if that member were an employee or agent of the Commission.

Offences

16 (1) A person commits an offence if he intentionally—

- (a) makes a false statement to, misleads or attempts to mislead the SAGE Commission or another person in the exercise of any function under this Act, or otherwise obstructs the work of the Commission; or
- (b) discloses information or documents in contravention of section 11.

(2) Any person who commits an offence contrary to subsection (1) is liable on summary conviction to a fine not exceeding \$5,000.

(3) Notwithstanding anything in any other provision of law, proceedings in respect of an offence against this Act shall be commenced within three years after the date of the commission of the offence.

Statutory Instruments

17 (1) The Minister may make statutory instruments for the purposes of this Act prescribing anything that is necessary or convenient to be prescribed for the carrying out of the provisions of this Act or to give effect to it.

(2) Statutory instruments made under this section shall be subject to the negative resolution procedure.

[Assent Date: 26 March 2013]

SAGE COMMISSION ACT 2013

[Operative Date: 26 March 2013]