

# AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

## MUNICIPALITIES AMENDMENT ACT 2013

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### SCHEDULE 1

Revived Provisions

### SCHEDULE 2

Revived Act and Ordinances

WHEREAS it is expedient to amend the Municipalities Act 1923, the Municipalities Reform Act 2010 and related legislation, to make provision regarding the constitution of the Corporations, municipal elections, disposition of land, Corporation powers, and to restore the power of the Corporations to levy wharfage and port dues, and to make consequential amendments;

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:

## PRELIMINARY

### Citation

1 This Act, which amends the Municipalities Act 1923 ("the principal Act") and related legislation, may be cited as the Municipalities Amendment Act 2013.

## PART 1

### CONSTITUTION, ELECTIONS AND GENERAL PROVISIONS

Coming into operation of this Part

2 (1) The definition of "Member" in section 3, and sections 5 (fees payable to Members and good governance provisions) and 6 (which amends section 9 of the principal Act) shall come into operation when this Act receives the Governor's assent.

(2) All the other provisions of this Part shall—

- (a) have effect to the extent necessary to prepare municipal registers for, and to conduct, the ordinary municipal election to be held in May 2015; and
- (b) come into full operation immediately after all the results of that ordinary municipal election are declared.

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Amends section 1

3 Section 1 of the principal Act is amended by—

(a) repealing the definition of “Corporation of Hamilton” and substituting—

“ “Corporation of Hamilton” means the Mayor and Councillors of the City of Hamilton;”;

(b) repealing the definition of “Corporation of St. George’s” and substituting—

“ “Corporation of St. George’s” means the Mayor and Councillors of the Town of St. George;”;

(c) inserting the following definitions in their correct alphabetical place—

“ “business ratepayer” means the owner or occupier of a valuation unit within the municipal area of a Corporation—

(a) which is used as business premises; and

(b) in respect of which the owner or occupier is chargeable to rates;

“business ratepayers’ election” means a municipal election in which only business ratepayers are entitled to vote;

“business ratepayers’ register” means the register, prepared and maintained by the Secretary of a Corporation, of all the business ratepayers entitled to vote in a municipal election of that Corporation;

“mayoral election” means a municipal election for the Mayor of a Corporation, and in which both the business ratepayers and the municipal residents of the Corporation are entitled to vote;

“Member” in relation to a Corporation includes the Mayor;

“municipal elector” means a person (being either a business ratepayer or a municipal resident) who is registered to vote in a municipal election;

“municipal resident” means a person who is ordinarily resident in a municipal area;

“municipal register” means a business ratepayers’ register or a municipal residents’ register or both, as the context requires;

“municipal residents’ election” means a municipal election in which only municipal residents are entitled to vote;

“municipal residents’ register” means the register, prepared and maintained by the Parliamentary Registrar, of all the municipal residents entitled to vote in a municipal election of the Corporation of Hamilton or the Corporation of St. George’s, as the case may be;

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“registered business ratepayer” means a business ratepayer who is registered to vote in a municipal election;

“registered municipal resident” means a municipal resident who is registered to vote in a municipal election;” and

(d) repealing the definition of “Senior Alderman”.

Repeals and replaces section 7

4 Section 7 of the principal Act is repealed and replaced by the following—

“Constitution of Corporations

7 (1) The Corporations of Hamilton and St. George’s shall each consist of a Mayor and eight Councillors.

(2) The Mayors shall be ex officio Justices of the Peace for their respective municipalities.

(3) Either Mayor may in writing appoint a Councillor to act as Mayor during any time that he is—

(a) absent from Bermuda; or

(b) for any reason temporarily unavailable or unable to perform the functions of Mayor.

(4) It shall be lawful for at least five Councillors of a Corporation to elect, from amongst themselves, a Councillor to act as Mayor where—

(a) the Mayor has not appointed a Councillor to act in his stead under subsection (3) and he is, by reason of absence from Bermuda, illness or accident, absent from any meeting of the Corporation, or unable to or incapacitated from calling any such meeting, or from doing any act, or executing or signing any deed, instrument or writing, or discharging any other duty, requiring the act, execution or signature of the Mayor; or

(b) the Mayor resigns or dies, until a new Mayor is elected at a municipal election.

(5) A Councillor acting as Mayor under subsection (3) or (4) may call or preside at a meeting, and perform every act, and execute and sign every deed, instrument or writing on the part of the Mayor, and discharge every duty pertaining to the office of Mayor, as fully, validly and effectually to all intents and purposes as the Mayor could do if personally present and acting, and all acts done and all ordinances, deeds and instruments purporting to be executed or signed by such Councillor acting as Mayor shall be of the like force, validity and effect as if executed or signed by the Mayor.

(6) Such execution or signature as is referred to in subsection (5) must be attested by the Secretary of the Corporation.

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(7) The Councillor acting as Mayor shall whenever he signs as such add after his signature, his name and the words "Councillor acting as Mayor".

(8) Every Mayor and Councillor elect, before assuming the duties of his office, shall be sworn before any Justice of the Peace in the form prescribed for the judicial oath within the meaning of the Promissory Oaths Act 1969.

(9) Unless it is, due to the urgency of the matter to be decided, not reasonably practicable, notice (including the proposed agenda) of a Corporation meeting must be given to every Member at least seven days before the meeting.

(10) A quorum for the transaction of business at a Corporation meeting shall be at least five Members of the Corporation.

(11) Every question or matter to be determined by a Corporation at any meeting shall be decided by a majority of the Members present at the meeting but, in the event of an equality of votes, the Mayor (or the person acting as Mayor) shall have the casting vote.

(12) Subject to this Act, a Corporation may regulate its own proceedings."

Inserts sections 7A and 7B

5 The principal Act is amended by inserting after section 7—

"Fees payable to Members

7A The Corporations may pay fees to the Members for attendance at Corporation meetings at a rate not exceeding the amount for the time being prescribed by Part A of Schedule 1 to the Government Authorities Fees Act 1971 up to an annual maximum of 50 meetings per financial year.

Good governance

7B (1) Within three months of the coming into operation of this section, each Corporation shall submit to the Minister for his review—

- (a) a Code of Ethics and Conduct ("Code"), based on the principles of good governance, to be followed by the Members, officers and employees of the Corporation; and
- (b) a Municipal Council Meeting Guide ("Meeting Guide") giving details of—
  - (i) how meetings are to be conducted and minutes kept;
  - (ii) how notice of meetings is to be given; and
  - (iii) the types of meeting (such as public, council or committee) and related procedures.

(2) The Minister may, in respect of the Code and the Meeting Guide—

- (a) approve it without modification;

- (b) approve it with such modifications as the Minister believes are necessary for the good governance of the Corporation; or
- (c) where the Minister believes that it is materially inadequate, he may disregard it and approve an alternative Code or alternative Meeting Guide (as the case may be) for the Corporation,

and the Members, officers and employees of the Corporation shall conduct themselves and act in accordance with the Code and Meeting Guide approved by the Minister.

(3) Where the Government provides a Corporation with a financial grant, the Minister may—

- (a) direct what the grant is to be used for; and
- (b) require proof, such as an audit, showing how the funds have been applied,

and the Corporation shall ensure that the grant is so used and that proof thereof is provided to the Minister.

(4) Each Corporation shall, at the same time as it submits its annual statements of account under section 41, submit to the Minister for his review a Municipal Asset Management Plan (“Management Plan”) of how it will manage its infrastructure in order to provide optimal and sustainable services to residents, businesses and other users in a way that is also financially sustainable.

(5) The Minister may—

- (a) approve the Management Plan without modification; or
- (b) where the Minister believes that the Management Plan is deficient or inadequate he may, before approving it, require changes, improvement or further study to ensure proper maintenance or replacement of assets is feasible,

and the Corporation shall ensure the implementation of the Management Plan.

(6) Where, due to the poor state of any of a Corporation's infrastructure or services (as a result of force majeure, maladministration, disrepair or lack of funding), the Minister believes that it is in the public interest for the Government to temporarily assume stewardship of a Corporation's infrastructure, function or service, in order to repair or maintain it, those particular items may, with the approval of Cabinet, be temporarily removed from the stewardship of the Corporation.

(7) Financial Instructions (issued by the Minister of Finance under section 3 of the Public Treasury (Administration and Payments) Act 1969) shall, with the necessary changes having been made, apply to a Corporation.

(8) Pursuant to subsection (7), a Corporation shall within three months of the coming into operation of this section submit its Financial Instructions to the

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Minister of Finance for his review, modification (as he thinks necessary) and approval.”.

Amends section 9

6 Section 9 of the principal Act is amended by—

- (a) repealing the heading and substituting “Municipal elections”;
- (b) repealing subsection (1) and substituting—

“(1) In 2015 and in every third calendar year thereafter an ordinary municipal election shall be held for the election of the Mayor and eight Councillors of each Corporation.”; and

- (c) after subsection (1), inserting—

“(1A) An ordinary municipal election consists of a mayoral election, a business ratepayers’ election and municipal residents’ election conducted concurrently.

(1B) Notwithstanding anything in the Parliamentary Election Act 1978 (as modified by the Municipalities (Election) Order 2011), for the purposes of an ordinary municipal election, in the year the election is to be held—

- (a) the registration of municipal electors shall close at 5 pm on the second Monday in March;
  - (b) at least seven days before the date for the close of registration under paragraph (a), the Parliamentary Registrar (“the Registrar”) shall, by notice published in the Gazette and in such other manner as he thinks fit, declare that for the purposes of the ordinary municipal election the registration of municipal electors shall close at 5 pm on the date for the close of registration under paragraph (a);
  - (c) within seven days of the close of registration under paragraph (a), the Secretary of each Corporation shall revise and send the business ratepayers’ register for that Corporation, certified by him as correct, to the Registrar;
  - (d) within 14 days after the close of registration under paragraph (a), the Registrar shall in respect of each Corporation—
    - (i) revise and publish the municipal residents’ register; and
    - (ii) further revise (if necessary) the business ratepayers’ register and publish the register;
- (1C) The Registrar shall publish the registers under subsection (1B)(d)—
- (a) by making copies thereof available—
    - (i) at his office; and

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(ii) at police stations, post offices, and such other places as the Registrar may select in each municipal area; and

(b) at the time of publishing the registers, publish a notice in such manner as the Registrar thinks best calculated to bring them to the attention of municipal electors, drawing attention to the publication of the registers and to the procedures for the making of claims and objections.

(1D) Sections 17, 18, 19 and 24 of the Parliamentary Election Act 1978 (as modified by the Municipalities (Election) Order 2011) and further modified by subsection (1E) shall apply to the registers published under subsection (1B)(d) as they apply to the parliamentary register published under section 8(1) of the Parliamentary Election Act 1978 (as modified by the Municipalities (Election) Order 2011).

(1E) For the purposes of subsection (1D), sections 17 and 18 of the Parliamentary Election Act 1978 (as modified by the Municipalities (Election) Order 2011) are further modified as follows—

(a) in section 17(2), by substituting the words “seven days after publication of the registers under section 9(1B)(d) of the Municipalities Act 1923” for “15 July”;

(b) section 17(4) shall not apply; and

(c) in section 18(2), by substituting the words “seven days after publication of the registers under section 9(1B)(d) of the Municipalities Act 1923” for “15 July”.

(1F) The Registrar shall, not later than 28 days after the close of registration under subsection (1B)(a), publish the revised municipal registers, and shall include therein all corrections made under section 20 of the Parliamentary Election Act 1978 (as modified by the Municipalities (Election) Order 2011).

(1G) The revised registers published under subsection (1F) shall be used for the ordinary municipal election.

(1H) As soon as practicable after the publication of the revised registers under subsection (1F), the Registrar shall calculate and determine the proportion of registered business ratepayers to registered municipal residents in each Corporation, and then publish by notice in the Gazette—

(a) the proportion of the eight Councillors that are to be elected by the registered business ratepayers, subject to a minimum of two; and

(b) the proportion of the eight Councillors that are to be elected by the registered municipal residents, subject to a minimum of two.

(1I) Regulations by the Minister, subject to the negative resolution procedure, shall provide for how the Registrar is to calculate and determine the proportion of registered business ratepayers to registered municipal residents in each Corporation.”.



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Repeals and replaces section 9A

7 Section 9A of the principal Act is repealed and replaced by the following—

“Eligibility to vote in municipal elections

9A In a municipal election—

- (a) in respect of a mayoral election—
  - (i) every registered municipal resident; and
  - (ii) every registered business ratepayer, of the Corporation is entitled to vote, but may vote only once; and
- (b) in respect of the election of Councillors of a Corporation—
  - (i) in a municipal residents’ election, every registered municipal resident of the Corporation is entitled to vote, but may vote only once; and
  - (ii) in a business ratepayers’ election, every registered business ratepayer of the Corporation is entitled to vote, but may vote only once.”.

Amends section 9B

8 Section 9B of the principal Act is amended by inserting after subsection (1)—

“(1A) An order under subsection (1) may make different provision for—

- (a) a business ratepayers’ election;
- (b) a municipal residents’ election; and
- (c) a mayoral election.”.

Inserts section 9C

9 The principal Act is amended by inserting after section 9B—

“Registration of business ratepayers

9C (1) The Secretary of each Corporation shall, in consultation with the Parliamentary Registrar, establish and maintain a register of the business ratepayers in the municipal area of that Corporation.

(2) The Secretary of a Corporation and the Parliamentary Registrar may request such information from the Tax Commissioner as he believes necessary to compile and keep the business ratepayers’ register up-to-date, and the Tax Commissioner shall furnish him with such information.

(3) A business ratepayer—

- (a) is entitled to be registered if—

- (i) subject to subsection (4)(b), he is an individual natural person registered in the parliamentary register for Bermuda; or
  - (ii) a company, partnership, association or body of persons, whether corporate or unincorporate; and
- (4) The following business ratepayers shall be required to appoint an individual as a nominee to vote on their behalf in a municipal election—
  - (a) a company, partnership, association or body of persons, whether corporate or unincorporate; and
  - (b) two or more persons who are joint owners or joint occupiers of the valuation unit.
- (5) The nominee of a business ratepayer in a municipal area shall be an individual natural person registered in the parliamentary register for Bermuda other than a registered municipal resident of the municipal area.
- (6) The nominee of—
  - (a) a company shall be a director, manager, secretary or other similar officer, or (if no such person is available) an employee, of the company;
  - (b) a partnership, association or body shall be a member of the partnership, association or body;
  - (c) the nominee of joint owners or occupiers of a valuation unit shall be one of them; and
  - (d) a business ratepayer who is a sole proprietor of a business but is also a registered municipal resident may be another person.
- (8) Where a valuation unit that is chargeable to rates is owned or occupied jointly by a person or persons disqualified for being registered as a municipal elector or as municipal electors and another person or persons not so disqualified, this section shall apply as though the disqualified person or persons were not a joint owner or joint occupier or joint owners or joint occupiers.
- (9) A person shall be disqualified for being registered as a municipal elector or, even if registered, for voting at a municipal election if—
  - (a) he ceases to be the owner or occupier of a valuation unit which is chargeable to rates;
  - (b) he is disqualified for voting at a municipal election under section 71 of the Parliamentary Election Act 1978 (as modified by the Municipalities (Election) Order 2011);
  - (c) such a person is—
    - (i) a company which is a subsidiary of another business ratepayer;

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- (ii) an exempted company within the meaning of the Companies Act 1981; or
- (iii) an exempted partnership within the meaning of the Exempted Partnerships Act 1992.

(10) The Minister may, by Regulations subject to the affirmative resolution procedure, provide for the establishment and compilation of a business ratepayers' register for each Corporation and, without derogating from the generality of the foregoing, may provide for—

- (a) the procedures to be followed, and the time frame, for finalization and the certification by the Parliamentary Registrar of a business ratepayers' register for—
  - (i) an ordinary municipal election; and
  - (ii) an extraordinary municipal election;
- (b) who may, or may not be, the nominee of a business ratepayer;
- (c) restrictions on multiple registration and voting; and
- (d) when for the purposes of subsection 9(c)(i), a person is a company which is a subsidiary of another business ratepayer.”.

Repeal of Deputy Mayor Act 1935

10 The Deputy Mayor Act 1935 is repealed.

Sections 2 and 3 of the Emancipation Act 1834 have ceased to have effect

11 For the avoidance of doubt, section 2 (which requires a municipal voter to possess certain property rights within the municipal area) and section 3 (which requires an Alderman or Common Councilman for the Corporation to possess certain property rights within the municipal area) of the Emancipation Act 1834 have ceased to have effect and are repealed.

General amendments of references to Alderman, Common Councillor, etc

12 (1) As a consequence of the changes in the constitution of the Corporations, wherever “Alderman”, “Aldermen”, “Common Councillor”, “Common Councilman”, “Common Council”, “Common Councillors”, “Alderman or Common Councillor”, “Aldermen or Common Councillors”, “Alderman and Common Councillor” or “Aldermen and Common Councillors” (or a variation of any such term), appears in—

- (a) the principal Act;
- (b) any other public Act of the Legislature of Bermuda; or
- (c) any statutory instrument made, given or issued in Bermuda, (including, but not limited to, any municipal Ordinance),

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it shall be read as a reference to “Councillor”, “Councillors”, or a specified number of Councillors (as the context requires), and the Minister may make regulations amending the legislation accordingly.

(2) Regulations made under subsection (1) shall be subject to the negative resolution procedure.

### PART 2 DISPOSITION OF LAND

Amends section 20

13 Section 20 of the principal Act is amended—

- (a) in subsection (1), by deleting “The Corporations” and substituting “Subject to subsections (1A) to (1C), the Corporations”; and
- (b) by, after subsection (1), inserting—

“(1A) Any agreement for—

- (a) the sale of land which is the property of the Corporation; or
- (b) a lease, conveyance or other disposition of any interest in land which is the property of the Corporation, being a lease, disposition or conveyance expressed to be for a term exceeding twenty-one years or for terms renewable exceeding in the aggregate twenty-one years,

and any related agreement, must be submitted in draft to the Minister for approval by the Cabinet, and be approved by the Legislature.

(1B) The approval of the Legislature referred to in subsection (1A) shall be expressed by way of resolution passed by both Houses of the Legislature approving the agreement, and communicated to the Governor by message.

(1C) If a Corporation purports to enter into an agreement referred to in subsection (1A), but the agreement was—

- (a) not submitted in advance to the Minister and approved by the Cabinet; and
- (b) not approved by the Legislature,

the agreement, any related agreement, and any sale, lease, conveyance or other disposition in pursuance of the agreement, shall be void ab initio.”.

Approval of Cabinet and Legislature required to validate certain agreements and dispositions

14 (1) Any agreement, entered into by a Corporation on or after 1 January 2012 and before the coming into operation of this section, for—

- (a) the sale of land which is the property of the Corporation; or
- (b) a lease, conveyance or other disposition of any interest in land which is the property of the Corporation, being a lease, disposition or conveyance expressed to be for a term exceeding twenty-one years or for terms renewable exceeding in the aggregate twenty-one years,

and any related agreement entered into by the Corporation on or after 1 January 2012 and before the coming into operation of this section, must be submitted to the Minister by the Corporation within 14 days after the coming into operation of this section.

(2) The Minister shall, as soon as practicable after receiving an agreement submitted to him by a Corporation under subsection (1), publish notice thereof in the Gazette—

- (a) giving such details as the Minister is satisfied identifies the property and the parties to the agreement; and
- (b) advising that if there are any other such agreements as are referred to in subsection (1) they must be submitted to him within 14 days after the publication of the notice, failing which the agreement shall be void ab initio.

(3) Any agreement referred to in subsection (1) that has not been submitted to the Minister before the expiration of the 14 days after the publication of the notice under subsection (2) shall, after the expiration of the 14 days referred to in subsection (2)(b), be void ab initio.

(4) The Minister shall lay any agreement submitted to him under this section as soon as practicable after it is submitted to him before the Legislature for its consideration, and the Legislature shall either approve or reject it.

(5) The approval or rejection of the Legislature shall be expressed by way of resolution passed by both Houses of the Legislature approving or rejecting the agreement, and communicated to the Governor by message.

(6) The Minister shall within seven days of approval or rejection of the agreement by both Houses of the Legislature publish notice thereof in the Gazette.

(7) Any person interested in land which is the subject of an agreement who is aggrieved by the voiding of the agreement under this section shall notify the Minister in writing, within 21 days after such voiding, of the person's estate and interest in the land and of the claim made by the person in respect of the land.

(8) If a person, within the 21 day period referred to in subsection (7), notifies the Minister of the person's estate or interest in the land which is the subject of the agreement and of the claim made by the person in respect of the land, the person may, before the expiration of 42 days after the voiding under this section, agree with the Minister upon the amount of compensation to be paid by the Government for the estate or interest belonging to him, or which he has power to sell, or for any damage which may be sustained by him by reason of the execution of any works.

(9) If any person who notifies the Minister in accordance with subsection (8) fails to agree with the Minister, before the expiration of 42 days after the voiding under this

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section, upon the amount of compensation to be paid by the Government for the estate or interest belonging to him, or which he has power to sell, or for any damage which may be sustained by him by reason of the execution of any works, the question of compensation shall be referred by the Minister to arbitration.

(10) Sections 10, 11, 12, 13, 14 and 15 of the Acquisition of Land Act 1970 shall apply to any question referred to arbitration, and the reference in section 14(4)(c) of that Act to “the notice to treat under section 5” shall be construed as a reference to the voiding of the agreement under this section.

(11) The Minister or any person making a claim under this section who is aggrieved by an award of the arbitrators under section 15 of the Acquisition of Land Act 1970 may, within 21 days of the date of the award, appeal to the Supreme Court on the ground that the amount of compensation awarded has been wrongly determined.

(12) Any person interested in the land which is the subject of the agreement, within 42 days after the voiding of the agreement under this section, appeal to the Supreme Court on the grounds that—

- (a) the extent of the estate, interest or right in the land to be acquired has been wrongly determined; or
- (b) the taking of possession or acquisition of the property, estate, interest or right in the land is not in accordance with this Act or is otherwise unlawful.

(13) In this section “person interested” or “interested in the agreement” in relation to any land, means any person having an estate, interest, right or easement in or over that land.

(14) For the avoidance of doubt, notices under this section are not statutory instruments.

Commencement of this Part

15 This Part shall come into operation when this Act receives the Governor’s assent.

### PART 3

#### POWERS AND DUTIES OF CORPORATIONS

Amends section 37

16 Section 37(1) of the principal Act, after “to borrow”, insert “or guarantee”.

Amends section 38

17 (1) Section 38 of the principal Act is amended by deleting subsection (3) and substituting—

“(3) The conditions subject to which Ordinances may be made are as follows—

- (a) Ordinances shall not be repugnant to any Act;

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- (b) Ordinances shall be submitted in draft to the Minister and the Attorney-General for their review;
- (c) Ordinances shall be passed by a majority of the Members, and the Mayor or Secretary of a Corporation shall signify that it has been so passed;
- (d) the affirmative resolution procedure shall apply to any Ordinance levying any port dues on ships or wharfage on goods, or any shed tax, tax, assessment, fee, charge or toll;
- (e) all other Ordinances shall be subject to the negative resolution procedure.

(4) The Minister may with the approval of the Cabinet, by Order subject to the affirmative resolution procedure, amend or repeal any Ordinance.”.

(2) Any Ordinance made, or purported to be made, by a Municipality at any time before this section comes into operation that has not been duly made, filed and numbered in the office of the Secretary to the Cabinet and published in accordance with the provisions of the Statutory Instruments Act 1977 shall be null and void.

### Commencement of this Part

18 This Part shall come into operation when this Act receives the Governor’s assent.

## PART 4

### WHARFAGE AND PORT DUES

Repeals sections 5 and 11 of the Municipalities Reform Act 2010 and revives the enactments repealed by those sections

19 (1) Sections 5 and 11 of the Municipalities Reform Act 2010 (which repealed the power of the Corporations to levy wharfage and port dues) are repealed.

(2) Notwithstanding section 14(1) of the Interpretation Act 1951, the enactments repealed by sections 5 and 11 of the Municipalities Reform Act 2010 shall be revived from the date on which this Part comes into operation, and are set out in Schedules 1 and 2.

### Amends Customs Tariff Act 1970

20 In the Customs Tariff Act 1970—

- (a) section 2(3) is repealed;
- (b) in section 12(1), delete “and Eighth”; and
- (c) the Eighth Schedule is repealed.

### Amends section 31 of the Municipalities Act 1923 and inserts Third Schedule

21 (1) In section 31 of the Municipalities Act 1923 (which is revived by section 19) at the end insert—

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“(4) The goods listed in the Third Schedule are exempt from wharfage.

(5) The Minister of Finance may by order amend the Third Schedule to add or remove descriptions of goods exempt from wharfage.

(6) An order under subsection (5) shall be made subject to the negative resolution procedure.”.

(2) At the end of the Municipalities Act 1923 insert—

### “THIRD SCHEDULE

(Section 31(4))

#### GOODS EXEMPT FROM WHARFAGE

1 In the First Schedule to the Customs Tariff Act 1970—

- (a) goods of tariff code 1905.901;
- (b) goods of Headings 49.07 and 71.18;
- (c) goods of Heading 98.02;
- (d) goods that are imported by post.

2 Goods imported under the following end-use reliefs in the Fifth Schedule to the Customs Tariff Act 1970: CPCs 4106, 4110, 4124, 4125, 4126, 4132, 4136, 4139, 4140, 4143, 4144, 4145, 4156, 4164, 4172, 4185, 4186, 4201 and 4204.

3 Goods imported under all temporary importation reliefs in the Sixth Schedule to the Customs Tariff Act 1970.

4 Goods imported by the Government of Bermuda.

5 Goods imported by the Corporation of Hamilton or the Corporation of St. George's.

6 Goods relieved from duty under section 27 of the Revenue Act 1898 (commercial travellers' samples).

7 All goods relieved from import duty by or under the following enactments—

Biological Station Act 1927

International Organizations etc (Immunities and Privileges) Act 1948

Consular Relations Act 1971

Bermuda Maritime Museum Association Act 1978

Diplomatic Privileges Act 1980



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Bermuda Underwater Exploration Institute Act 1992  
Visiting Forces Act (Application to Bermuda) Order 2001  
Customs Duty (Merck, Sharp and Dohme) Remission Order  
2005  
Customs Duty (Bermuda Sloop Foundation - Spirit of Bermuda)  
Remission Order 2006  
Customs Duty (Infrasound Equipment) Remission Order 2008  
Customs Duty (Bermuda Zoological Society - Endurance)  
Remission Order 2009

”.

Amends Corporation of St. George’s (Dues on Air Freight) Act 1952

22 After section 2 of the Corporation of St. George’s (Dues on Air Freight) Act 1952 (which is revived by section 19), insert—

“Exemptions

2A For the avoidance of doubt, the goods listed in the Third Schedule to the Municipalities Act 1923 are exempt from dues collected under section 2.”.

Amends Revenue Act 1898

23 Section 52(2) of the Revenue Act 1898 is repealed.

Commencement of this Part

24 This Part shall come into operation on 1 April 2014, or such later date as the Minister responsible for the Municipalities may, on or before that date, appoint by notice published in the Gazette.

## MUNICIPALITIES AMENDMENT ACT 2013

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### SCHEDULE 1

(section 19(2))

#### REVIVED PROVISIONS

Sections 31 to 36 of the Municipalities Act 1923

1 After section 30 of the Municipalities Act 1923, insert the following sections (which were repealed by section 5(1) of the Municipalities Reform Act 2010)—

“Power of Corporation to levy wharfage; payment of wharfage; lien on goods  
31 (1) The Corporations of Hamilton and St. George’s may levy and collect wharfage on all goods imported into and exported from the respective Ports of Hamilton and St. George’s.

(2) The wharfage on imported goods shall be paid by the importer or consignee, and that on exported goods by the shipper.

(3) The Corporation within or from whose Port such goods are imported or exported shall have a lien on the goods for all wharfage payable in respect of such goods, or any part thereof, and may prevent the removal or shipment of such goods, or any part thereof, until all wharfage payable in respect thereof has been paid.

Power of Corporations to levy port dues; liability for payment of port dues

32 (1) The Corporations of Hamilton and St. George’s may levy and collect port dues in respect of every ship lying at, or moored to any Corporation wharf in their respective areas, or loading or unloading goods from or into, or discharging or taking on passengers from or into any other ship, vessel or lighter, or at any wharf or shore in either Port in Bermuda.

(2) The master of any such ship, and the agent entering such ship on her arrival in Bermuda, shall be liable for the port dues payable in respect of such ship.

Duties of masters, owners and agents of ships with respect to manifests, etc., of cargo

33 (1) (a) The master, owner or agent of every ship arriving at the Port of Hamilton or the Port of St. George’s shall, within one hour after the ship has been entered, deliver to the Corporation of the Port where any cargo is intended to be landed a copy of the manifest of all such goods with the marks, numbers and descriptions of all such packages and the names of the consignees so far as such particulars are known to such master, owner or agent;

(b) the person delivering the manifest shall make and subscribe a declaration that such manifest contains a true account of the cargo intended to be landed at such Port; and

(c) if the master, owner or agent does not deliver the manifest within the time required by this subsection, or delivers a false manifest, he commits an offence against this Act:

Provided that whenever the master, owner or agent of any ship makes it appear to the satisfaction of the Corporation that he cannot (for want of sufficient information) specify all the particulars required by this subsection the Corporations may dispense with such particulars if in the judgment of the Corporations such particulars cannot be obtained or furnished.

(2) (a) The owner or agent of every ship bound from Bermuda shall within twenty-four hours after such ship departs deliver to the Corporation of the Port of departure a manifest of all goods shipped from such Port with the number and description of all packages shipped and the names of the shippers so far as such particulars are known to the owner or agent;

(b) the person delivering the manifest shall make and subscribe a declaration that the manifest contains a true account of such cargo; and

(c) if the owner or agent does not deliver that manifest within the time required by this subsection or delivers a false manifest, he commits an offence against this Act.

#### Removal of goods; payment of wharfage

34 (1) The importer or consignee of any goods imported into the respective Ports of Hamilton and St. George's shall not without the written permission of the Corporation to whom any wharfage is payable remove or permit or allow the goods to be removed until the wharfage due thereon has been paid.

(2) Nothing in this Act shall prevent the master, owner or agent of any ship on which any goods have been imported into the respective Ports of Hamilton and St. George's from removing the goods to any warehouse approved by the Corporation before the goods have been delivered to the importer or consignee:

Provided that if for any cause the goods so removed are sold by the master, owner or agent the proceeds of such sale shall be applied first in the payment of freight and charges, next of duties, next of wharfage, and the overplus (if any) shall be paid to the proprietor of the goods or to any other person authorized to receive the same.

(3) The shipper of any goods exported from the respective Ports of Hamilton and St. George's shall pay the wharfage due thereon within forty-eight hours after the ship departs.

(4) Any person who fails to comply with this section commits an offence against this Act.

(5) Nothing in this section shall prevent the Corporation concerned from suing for or recovering with costs any unpaid wharfage under section 36.

## MUNICIPALITIES AMENDMENT ACT 2013

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### Exemption of goods

35 Goods imported into or exported from respective Ports of Hamilton and St. George's by the Government or by Her Majesty Forces and bona fide the property of Her Majesty or of any consular officer of any foreign country which accords similar privileges to Her Majesty's diplomatic and consular officers on satisfactory proof being furnished to that effect shall be exempt from section 34.

### Recovery of wharfage and port dues

36 (1) Wharfage or port dues payable to either Corporation under any provision of law may be sued for and recovered with costs in the name of the Corporation concerned by any person authorized by such Corporation before a court of summary jurisdiction without limit of amount in the manner provided by the Magistrates Act 1948.

(2) A certificate in writing under the hand of the Mayor of the municipality concerned in any suit for recovery of wharfage or port dues, shall be prima facie evidence that the amount of wharfage or port dues charged is in accordance with the rates for the time being in force."

### Section 38 of the Municipalities Act 1923

2 (1) In section 38(2) of the Municipalities Act 1923, after paragraph (n), insert the following paragraph (which was repealed by section 5(2)(a) of the Municipalities Reform Act 2010)—

"(o) the levying and recovery of any shed tax on all agricultural produce of Bermuda shipped from the respective Ports of Hamilton and St. George's;".

(2) Section 38(3)(d) of the Municipalities Act 1923 (which was repealed by section 5(2)(b) of the Municipalities Reform Act 2010) is re-enacted as paragraph (d) of the substituted subsection (3) by section 17 of this Act.

### Amends Marine Board Act 1962

3 (1) In section 71 of the Marine Board Act 1962, after subsection (1) insert the following subsections (which were repealed by section 11(1)(b) of the Municipalities Reform Act 2010)—

"(1C) The owner, master or agent of a boat who berths that boat in Hamilton docks or St. George's docks shall pay to the Corporation of Hamilton, or as the case may be, to the Corporation of St. George's, such fee, in respect of such berthing as may, from time to time, subject to subsection (1D), be prescribed by the Corporation of Hamilton or the Corporation of St. George's, as the case may be; and for the purposes of this subsection the Corporation of Hamilton and the Corporation of St. George's are authorized to prescribe such fees.

(1D) No fees shall be prescribed pursuant to section (1C) except with the prior written approval of the Minister.

## MUNICIPALITIES AMENDMENT ACT 2013

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(1E) In this section and in section 75 “prescribed” means levied by ordinance under the Municipalities Act 1923.”.

(2) Section 75 of the Marine Board Act 1962 (which was substituted by section 11(2) of the Municipalities Reform Act 2010) is repealed and replaced by the following section—

“Port dues and wharfage

75 (1) The Corporation of Hamilton, the Corporation of St. George’s and the West End Development Corporation shall remain responsible for the collection of port dues and wharfage pursuant to any provision of law and the moneys so collected shall, subject to subsection (2), form part of the revenue of the authority so responsible for the collection thereof.

(1A) The Corporation of Hamilton and the Corporation of St. George’s shall be responsible for the collection of fees prescribed pursuant to section 71(1C) in respect of the berthing of boats and the moneys so collected shall form part of the revenue of the authority so responsible for the collection thereof.

(2) The authority responsible for the collection of port dues pursuant to subsection (1) and any other provision of law shall pay to the Accountant-General, at such intervals as the Ports Authority may direct, all port dues so collected other than those referable to the berthing of any ship alongside the docks of that authority.”

### Act and Ordinances

4 The following Act (which was repealed by section 11(1)(a) of the Municipalities Reform Act 2010 and Ordinances (which were revoked by section 11(3) of that Act) shall be revived, and are set out in Schedule 2—

- (a) Corporation of St. George’s (Dues on Air Freight) Act 1952;
- (b) Hamilton Goods Wharfage and Storage Charges Ordinances 1967;
- (c) St. George’s Goods Wharfage and Storage Charges Ordinances 1967;
- (d) Hamilton Port Dues Ordinance 1976; and
- (e) St. George’s Port Dues Ordinance 1981.

## MUNICIPALITIES AMENDMENT ACT 2013

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### SCHEDULE 2

(section 19(2))

#### REVIVED ACT AND ORDINANCES



#### BERMUDA

##### **CORPORATION OF ST. GEORGE'S (DUES ON AIR FREIGHT) ACT 1952**

**1952 : 31**

*[Repealed by 2010 : 45 s. 11 effective 1 April 2011 [preamble and words of enactment omitted]]*

##### **Interpretation**

1 In this Act “the Civil Airport” means the civil airport in St. George’s Parish, comprising that part of Kindley Air Force Base designated by the Government of the United States of America for the use of the Government of Bermuda as a civil airport together with any other land owned or leased by the Government of Bermuda adjacent thereto and used for the purposes of civil aviation.

##### **Corporation may levy and collect dues on goods imported or exported at Civil Air Terminal**

2 (1) The Corporation of St. George’s may levy and collect dues on all goods imported by aircraft into the Civil Airport or exported by aircraft therefrom; and those provisions of the Municipalities Act 1923 [*title 4 item 1*], which relate to the levying and collecting of wharfage on goods imported into and exported from the Port of St. George’s, shall have effect in relation to the levying and collection of dues on goods imported into or exported from the Civil Airport as though such dues were wharfage authorized to be levied or collected under that Act.

##### **Modified effect of Civil Airports Act 1949**

3 The Civil Airports Act 1949 shall have effect—

- (a) as though section 4(1)(b) of that Act extended so as to require the Minister responsible for civil aviation to make arrangements for the systematic coordination of those functions of the Corporation of St. George’s falling to be exercised at the Civil Airport in pursuance of this Act; and

## MUNICIPALITIES AMENDMENT ACT 2013

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### **CORPORATION OF ST. GEORGE'S (DUES ON AIR FREIGHT) ACT 1952**

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- (b) as though section 5(1)(c) of that Act extended so as to relate to the allotment by the Minister responsible for civil aviation of areas, buildings or parts of buildings at the Civil Airport for the use of the Corporation of St. George's; and
- (c) so that nothing in section 6 of that Act shall derogate from or affect any power conferred upon the Corporation of St. George's by this Act to levy and collect dues on goods imported into, or exported from, the Civil Airport.

*[Section 3 paragraphs (a) and (b) amended by BR 5/2011 para. 5 effective 25 February 2011]*

4        *[repealed by 1977 : 17]*

[Assent Date: 20 May 1952]

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*[Amended by:*

1970 304  
1970 520  
1971 113  
1972 157  
1973 108  
1974 : 116  
1975 : 74  
1976 : 56  
1977 : 17  
BR 5 / 2011  
2010 : 45]



**BERMUDA**

**HAMILTON GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE 1967**

**BX 1 / 1967**

*[made under the Municipalities Act 1923 and brought into operation on 7 August 1967]  
[Revoked by 2010 : 45 s. 11 effective 1 April 2011]*

**Citation**

1 This Ordinance may be cited as the Hamilton Goods Wharfage and Storage Charges Ordinance 1967.

**Interpretation**

2 In this Ordinance, unless the context otherwise requires—

- (a) “The Corporation” means the Corporation of Hamilton;
- (b) “goods” includes all kinds of goods, articles, wares, merchandise and livestock, and where the goods are intended for export “goods” shall be deemed to include container boxes;
- (c) (i) “owner” when used with reference to imported goods, means the owner, importer or consignee;
- (ii) “owner” when used with reference to goods intended for export, shall mean the owner, exporter or agent of the ship by which such goods are intended to be shipped;
- (d) (i) “free time” when used with reference to imported goods means a period of 120 hours (exclusive of Sundays and public holidays) reckoned from 0800 hours on the day immediately following the day on which the ship carrying such goods finished discharging her inward cargo in the Port of Hamilton and any extension of this period which the Corporation may grant in the exercise of its powers under paragraph (4) (i) hereof;



**HAMILTON GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE 1967**

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- (ii) “free time” when used with reference to goods intended for export means the time from which such goods enter the Port of Hamilton for export until midnight of the day specified as the time for their removal under the provisions of paragraph 5(2) hereof and such further period as may be allowed by the Corporation in the exercise of its powers under paragraph 5(3) hereof;
- (e) “wharves” means—
  - (i) the wharves south of Front Street in the City of Hamilton, including the spaces occupied by the sheds;
  - (ii) the wharves and spaces belonging to the Corporation west of No. 1 Shed and south of the road running westward from Front Street; and “wharf” has a corresponding meaning.

**Wharfage rates**

3 (1) The wharfage payable on goods (exclusive of agricultural products of Bermuda) landed or discharged in or shipped from the Port of Hamilton, including packaged liquors and wines shipped out as passenger's luggage, shall during the free time be at the rate of 1.11% of the value of such goods (as ascertained for purposes of duty in accordance with section 24 and the Second Schedule to The Revenue Act 1898 [*title 14 item 10*]), save that in respect of oil and other bulk liquids (except fresh water) the wharfage payable shall be at the rate of one dollar per ton:

Provided that the Corporation may from time to time, with the prior written consent of the Minister of Finance, make arrangements for the charging of wharfage in specified cases at a rate not exceeding the rate prevailing on the date immediately preceding the coming into operation of this Ordinance, subject however to a minimum wharfage charge in each case of two dollars and fifty cents, and, accordingly, that rate (subject to such minimum charge) shall apply in relation to those cases.

(2) In addition to the wharfage mentioned in sub-paragraph (1) hereof storage charges shall be payable in respect of goods not removed from the wharves during the free time at the rates specified in this Ordinance.

*[Paragraph 3 amended by BR 28/1999 reg 3 effective 1 May 1999 and by 2004:6 effective 26 March 2004]*

**Removal of imported goods**

4 (1) The Corporation may by written permit extend the time during which any imported goods may remain on the wharves free of charge beyond a period of 120 hours reckoned from 0800 hours on the day immediately following the day on which the ship carrying such goods finished discharging her inward cargo in the Port of Hamilton.

(2) All goods imported into Bermuda and landed on the wharves any ship shall be removed therefrom during the free time.

**HAMILTON GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE 1967**

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(3) If any goods shall remain on any wharf for any period in excess the free time then the Corporation shall charge storage therefor at the following rates, subject however to a minimum storage charge in each case of twenty dollars—

- (a) twenty cents per square foot or any part thereof per day or any part of such day during the three days immediately following the termination of the free time;
- (b) fifty cents per square foot or any part thereof per day or any part of such day during the next three days immediately following the termination of the period of three days mentioned in sub-paragraph (a) hereof;
- (c) one dollar per square foot or any part thereof per day or any part of such day thereafter.

*[Paragraph 4(3) amended by BR 28/1999 reg 4 effective 1 May 1999]*

**Deposit of export cargo**

5 (1) Goods intended for export shall be brought into the Port of Hamilton only at such time and in such manner as the Corporation may designate and shall be deposited in such place as the Corporation may designate.

(2) The owner of such goods, prior to bringing the same into the port of Hamilton shall notify the Corporation of the intended time of removal of such goods therefrom.

(3) Where such goods are not removed from the Port of Hamilton at or before the time specified as provided in sub-paragraph (2) hereof the Corporation may by written permit extend the time during which such goods may remain in the Port of Hamilton free of charge.

(4) If such goods are deposited on any wharf and are not removed therefrom before the expiration of the free time, the Corporation shall charge storage therefor at the following rates subject to a minimum storage charge in each case of twenty dollars—

- (a) twenty cents per square foot or any part thereof per day or any part of such day during the three days immediately following the termination of the free time;
- (b) fifty cents per square foot or any part thereof per day or any part of such day during the next three days immediately following the termination of the period of three days mentioned in sub-paragraph (a) hereof;
- (c) one dollar per square foot or any part thereof per day or any part of such day thereafter.

*[Paragraph 5(4) amended by BR 28/1999 reg 5 effective 1 May 1999]*

**Payment of charges**

6 (1) Wharfage and storage charges payable under paragraphs 3, 45 hereof shall be payable by the owner on the demand of the Treasurer the Corporation or of any person authorised by him in writing to receive same.

**HAMILTON GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE 1967**

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(2) The Corporation shall be entitled to employ, as its agent, any person, agency, organisation or institution resident within the Islands of Bermuda to collect the wharfage charges payable under paragraph 3 hereof, of any of them, upon such terms and conditions as the Corporation and such person, agency, organisation or institution shall mutually determine.

**Fixing of wharfage if none specified**

7 In the case of any goods on which no rate of wharfage is specified, the wharfage shall be fixed by the Wharf Committee of the Corporation, or a majority of them, subject to an appeal to the Corporation if the owner of the goods is dissatisfied with the decision of the Wharf Committee.

**Revocation and transitional**

8 *[omitted]*

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*[Amended by:*

Hamilton Goods Wharfage and Storage Charges Ordinance 1967, Amendment Ordinance 1970  
Hamilton Goods Wharfage and Storage Charges Ordinance 1967, Amendment Ordinance 1985  
Hamilton Goods Wharfage and Storage Charges Amendment Ordinance 1999  
Revenue Amendment Act 2004  
2010 : 45]



**BERMUDA**

**ST. GEORGE'S GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE  
1967**

*[made under section 38 of the Municipalities Act 1923 and brought into operation on 11 September 1967]. [Revoked by 2010 : 45 s. 11 effective 1 April 2011]*

**Citation**

1 This Ordinance may be cited as the St. George's Goods Wharfage and Storage Charges Ordinance 1967.

**Interpretation**

2 In this Ordinance the following words and expressions shall, where not inconsistent with the context have the following meanings—

- (a) "the Corporation" means the Corporation of St. George's;
- (b) "goods" includes all kinds of goods, articles, wares, merchandise and livestock, and where the goods are intended for export "goods" shall be deemed to include container boxes;
- (c) (i) "owner" when used with reference to imported goods, means the owner, importer or consignee;
- (ii) "owner" when used with reference to goods intended for export, shall mean the owner, exporter or agent of the ship by which such goods are intended to be shipped;
- (d) (i) "free time" when used with reference to imported goods means a period of 120 hours (exclusive of Sundays and public holidays) reckoned from 0800 hours on the day immediately following the day on which the ship

**ST. GEORGE'S GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE  
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carrying such goods finished discharging her inward cargo in the Port of St. George, and any extension of this period which the Corporation may grant in the exercise of its powers under paragraph 4(1) hereof;

- (ii) "free time" when used with reference to goods intended for export means the time from which such goods enter the Port of St. George for export until midnight of the day specified as the time for their removal under paragraph 5(2) hereof and such further period as may be allowed by the Corporation in the exercise of its powers under paragraph 5(3) hereof;

- (e) "wharves" means the wharves and spaces belonging to the Corporation within the Town of St. George.

**Wharfage rates**

3 (1) The wharfage payable on goods (exclusive of agricultural products of Bermuda) landed or discharged in or shipped from the Port of St. George, including packaged liquors and wines shipped out as passenger's luggage, shall during the free time be at the rate of 1.01% of the value of such goods (as ascertained for purposes of duty in accordance with section 24 and the Second Schedule to the Revenue Act 1898 ), save that in respect of oil and other bulk liquids (except fresh water) the wharfage payable shall be at the rate of one dollar per ton:

Provided that the Corporation may from time to time, with the prior written consent of the Minister of Finance, make arrangements for the charging of wharfage in specified cases at a rate not exceeding the rate prevailing on the date immediately preceding the coming into operation of this Ordinance, subject however to a minimum wharfage charge in each case of two dollars and fifty cents, and, accordingly, that rate (subject to such minimum charge) shall apply in relation to those cases.

(2) In addition to the wharfage mentioned in sub-paragraph (1) hereof storage charges shall be payable in respect of goods not removed from the wharves during the free time at the rates specified in this Ordinance.

*[Paragraph 3(1) amended by 2004:6 s.19 & Sch 3 effective 26 March 2004]*

**Removal of imported goods**

4 (1) The Corporation may by written permit extend the time during which any imported goods may remain on the wharves free of charge beyond a period of 120 hours reckoned from 0800 hours on the day immediately following the day on which the ship carrying such goods finished discharging her inward cargo in the Port of St. George.

(2) All goods imported into Bermuda and landed on the wharves from any ship shall be removed therefrom during the free time.

(3) If any goods shall remain on any wharf for any period in excess of the free time then the Corporation shall charge storage therefor at the following rates, subject however to a minimum storage charge in each case of five dollars—

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### **ST. GEORGE'S GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE 1967**

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- (a) ten cents per square foot or any part thereof per day or any part of such day during the three days immediately following the termination of the free time;
- (b) twenty-five cents per square foot or any part thereof per day or any part of such day during the next three days immediately following the termination of the period of three days mentioned in sub-paragraph (a) hereof;
- (c) fifty cents per square foot or any part thereof per day or any part of such day thereafter.

#### **Deposit of export cargo**

5 (1) Goods intended for export shall be brought into the Port of St. George only at such time and in such manner as the Corporation may designate and shall be deposited in such place as the Corporation may designate.

(2) The owner of such goods, prior to bringing the same into the Port of St. George, shall notify the Corporation of the intended time of removal of such goods therefrom.

(3) Where such goods are not removed from the Port of St. George at or before the time specified as provided in sub-paragraph (2) hereof the Corporation may by written permit extend the time during which such goods may remain in the Port of St. George free of charge.

(4) If such goods are deposited on any wharf and are not removed therefrom before the expiration of the free time, the Corporation shall charge storage therefor at the following rates, subject however to a minimum charge in each case of five dollars—

- (a) ten cents per square foot or any part thereof per day or any part of such day during the three days immediately following the termination of the free time;
- (b) twenty-five cents per square foot or any part thereof per day or any part of such day during the next three days immediately following the termination of the period of three days mentioned in sub-paragraph (a) hereof;
- (c) fifty cents per square foot or any part thereof per day or any part of such day thereafter.

#### **Payment of charges**

6 (1) Wharfage and storage charges payable under paragraphs 3, 4 and 5 hereof shall be payable by the owner on the demand of the Treasurer of the Corporation or of any person authorized by him in writing to receive the same.

(2) The Corporation shall be entitled to employ, as its agent, any person, agency, organization or institution resident in Bermuda to collect the wharfage charges payable under paragraph 3 hereof, or any of them, upon such terms and conditions as the Corporation and such person, agency, organization or institution shall mutually determine.

**ST. GEORGE'S GOODS WHARFAGE AND STORAGE CHARGES ORDINANCE  
1967**

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**Fixing of wharfage if none specified**

7 In the case of any goods on which no rate of wharfage is specified, the wharfage shall be fixed by the Wharf Committee of the Corporation, or a majority of them, subject to an appeal to the Corporation if the owner of the goods is dissatisfied with the decision of the Wharf Committee.

**Revocation and transitional**

8 [omitted]

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*[Amended by:*

1970

1985

2004 : 6

2010 : 45]



**BERMUDA**

**HAMILTON PORT DUES ORDINANCE 1976**

**BX 2 / 1976**

*[made under section 38 of the Municipalities Act 1923 and brought into operation on 29 March 1976]  
[Revoked by 2010 : 45 s. 11 effective 1 April 2011]*

**Citation**

- 1 This Ordinance may be cited as the Hamilton Port Dues Ordinance 1976.

**Interpretation**

- 2 In this Ordinance, where not inconsistent with the context—
- “the Corporation” means the Corporation of Hamilton;
- “ship” means a sea-going steamer, motor or sailing ship, and includes a hulk or lighter used locally or otherwise; but does not include—
- (i) craft (other than such a hulk or lighter) usually plying in the waters of Bermuda;
  - (ii) Her Majesty’s ships; and
  - (iii) ships of war under commission from any foreign power recognized by Her Majesty;
- “passenger ship” means a ship engaged in carrying passengers to Bermuda from a place outside Bermuda or from a place in Bermuda to a place outside Bermuda, but does not include a ship whose primary function is the transportation of freight where the number of passengers carried does not exceed twelve;
- “wharf” means a wharf belonging to the Corporation which is now designated by reference to any one of the following numbers : 1, 5, 6, 7 or 8.



## MUNICIPALITIES AMENDMENT ACT 2013

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### HAMILTON PORT DUES ORDINANCE 1976

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#### Port dues

3 The port dues payable in respect of any ship using any part of, or lying alongside, any wharf shall, except as hereinafter otherwise provided, be computed by reference to the overall length of such ship at the following respective rates:

- (i) Any passenger ship - \$7.00 per metre (and any fractional part of a metre) per day;
- (ii) Any other ship - \$2.00 per metre (and any fractional part of a metre) per day:

Provided always that:—

- (a) the port dues payable in respect of a ship after the first day, reckoning such day as twenty-four hours from the time of the ship commencing to use part of, or coming alongside, the wharf, shall be one-third of a day's port dues for each hour (and any part of an hour) up to a maximum of three hours for the second or any subsequent day reckoned as above; and
- (b) the minimum daily port dues payable in respect of any ship shall be \$200.00.

*[Paragraph 3 amended by BR 27/1999 reg 3 effective 1 May 1999]*

#### Payment of dues

4 (1) The port dues shall be payable by the owner, master or agent of the ship on the demand of the Treasurer of the Corporation, or of any person authorized by him in writing to receive the same.

(2) The port dues for each day or part of a day shall, if so demanded as hereinbefore provided, be payable at any time after the commencement of such day or part of a day.

#### Revocation

5 *[omitted]*

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*[Amended by:*

BR 27 / 1999

2010 : 45]



**BERMUDA**

**ST. GEORGE'S PORT DUES ORDINANCE 1981**

**BR 7 / 1981**

*[made under section 38 of the Municipalities Act 1923 and brought into operation on 27 February 1981].  
[Revoked by 2010 : 45 s. 11 effective 1 April 2011]*

**Citation**

1 This Ordinance may be cited as the St. George's Port Dues Ordinance 1981.

**Interpretation**

2 In this Ordinance the following words and expression shall, where not inconsistent with the context, have the following respective meanings:

“the Corporation” means the Corporation of St. George's;

“ship” means a sea-going steamer, motor or sailing ship, and includes a hulk or lighter used locally or otherwise: but does not include—

- (i) craft (other than such a hulk or lighter) usually plying in the waters of Bermuda;
- (ii) Her Majesty's ships; and
- (iii) ships of war under commission from any foreign power recognized by Her Majesty;

“passenger ship” means a ship engaged in carrying passengers to Bermuda from a place outside Bermuda or from a place in Bermuda to a place outside Bermuda, but does not include a ship whose primary function is the transportation of freight where the number of passengers carried does not exceed twelve;

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### ST. GEORGE'S PORT DUES ORDINANCE 1981

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“wharf” means any wharf or jetty belonging to the Corporation such wharves including but not limited to Ordnance Island, Penno's Wharf, Hunter's Wharf and Market Wharf.

#### **Port dues**

3 The port dues payable in respect of any ship using any part of, or lying alongside, any wharf shall, except as hereinafter otherwise provided, be computed by reference to the overall length of such ship at the following respective rates:

- (i) any passenger ship - \$6.50 per metre (and any fractional part of a metre) per day:
- (ii) any other ship - \$1.50 per metre (and any fractional part of a metre) per day:

Provided always that:—

- (a) the port dues payable in respect of a ship after the first day, reckoning such day as twenty-four hours from the time of the ship commencing to use part of, or coming alongside, the wharf, shall be one-third of a day's port dues for each hour (and any part of an hour) up to a maximum of three hours for the second or any subsequent day reckoned as above: and
- (b) the minimum daily port dues payable in respect of any ship shall be \$120.00.

#### **Payment of dues**

4 (1) The port dues shall be payable by the owner, master or agent of the ship on the demand of the Treasurer of the Corporation, or of any person authorized by him in writing to receive the same.

(2) The port dues for each day or part of a day shall, if so demanded as hereinbefore provided, be payable at any time after the commencement of such day or part of a day.

#### **Revocation**

5 [omitted]

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[Amended by:  
2010 : 45]

## MUNICIPALITIES AMENDMENT BILL 2013

### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Municipalities Act 1923 (“the principal Act”), the Municipalities Reform Act 2010 and related legislation, to make provision regarding the constitution of the Corporations, municipal elections, disposition of land, Corporation powers, and to restore the power of the Corporations to levy wharfage and port dues, and to make consequential amendments. The Bill is divided into four Parts, each with separate commencement provisions.

Clause 1 is self-explanatory.

Part 1 (Clauses 2 to 12) relates to the Constitution of the Corporations and municipal elections.

Clause 2 provides for the commencement of Part 1.

Clause 3 inserts new definitions into section 1 of the principal Act.

Clause 4 repeals and replaces section 7 of the principal Act to provide that each Corporation will consist of a Mayor and eight Councillors and that five Members constituted a quorum. It also makes provision for an acting Mayor in circumstances where the Mayor is absent or unavailable, is incapacitated, resigns or dies.

Clause 5 inserts new sections 7A and 7B in the principal Act. Section 7A provides for fees to be paid to Members of a Corporation for attendance at meetings. Section 7B contains good governance measures. Under subsections (1) and (2), the Corporations are required to submit to the Minister a Code of Ethics and Conduct and Meeting Guide, both of which the Minister will either approve (with or without modifications) or substitute if he considers the Code or Plan to be inadequate. Subsection (3) allows the Minister to require proof that government grants are used as directed. Subsection (4) requires a Corporation to submit a Municipal Asset Management Plan. Subsection (6) provides for the Minister to assume temporary stewardship of a Corporation's infrastructure, function or service in circumstances as set out. Subsection (7) applies the Financial Instructions to the Corporation with necessary modifications.

Clause 6 replaces section 9 in the principal Act and provides for the next municipal election to be in 2015 and every third year thereafter and makes provision as to the closure of the register.

Clause 7 inserts new section 9A in the principal Act which deals with eligibility to vote.

Clause 8 amends section 9B of the principal Act to provide that the Municipal Order which modifies the Parliamentary Election Act 1978 may make different provision for the different types of municipal election.

Clause 9 inserts new section 9C into the principal Act which relates to registration of business ratepayers.

Clause 10 repeals the Deputy Mayor Act 1935.

## MUNICIPALITIES AMENDMENT BILL 2013

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Clause 11 confirms that two sections of the Emancipation Act (which contained a property qualification for voting) have ceased to have effect and are repealed.

Clause 12 makes general consequential amendments in all enactments to replace expressions such as “Aldermen” and “Common Councillor” as these expressions will no longer be used.

Part 2 (Clauses 13 to 15) relates to the disposition of land.

Clause 13 amends section 20 of the principal Act. New subsections (1A) and (1B) require the Corporations to submit in draft to the Minister any agreement for the sale of land or any lease or other disposition longer than 21 years, and any related agreement. New subsection (1C) provides that if such agreements are entered into without being approved by Cabinet and the Legislature they will be void ab initio.

Clause 14 applies to agreements made by the Corporation for the sale of land and any lease or other disposition longer than 21 years made since the last municipal election on 1 January 2012. Any such agreement will be void ab initio if not submitted to the Minister and approved by the Legislature. Provision is made for persons aggrieved by the voiding to apply to the Minister, and for arbitration of disputes with an appeal to the Supreme Court.

Clause 15 provides for commencement of Part 2.

Part 3 (Clauses 16 to 18) relates to the powers and duties of the Corporations.

Clause 16 amends section 37 of the principal Act to provide that guarantees made by the Corporation and approved by the Legislature do not fall within the statutory borrowing limit (which is set at \$20 million for the Corporation of Hamilton and \$1 million for the Corporation of St. George’s).

Clause 17 amends section 38 of the principal Act by substituting subsection (3) which applies conditions to the making of Ordinances by the Corporations. Ordinances must be submitted in draft to the Minister and the Attorney General and will be subject to parliamentary procedure. Paragraph (d), which applies the affirmative resolution procedure to Ordinances levying wharfage, port dues, taxes etc, was repealed by the Municipalities Reform Act 2010 and is now re-enacted. All other Ordinances will be subject to the negative resolution procedure. The Minister is given a general power to amend or repeal Ordinances. Any Ordinances made or purported to be made before commencement which were not made in accordance with the Statutory Instruments Act 1977 are declared to be null and void.

Clause 18 provides for commencement of Part 3.

Part 4 (Clauses 19 to 24) restore the power of the Corporations to collect wharfage and port dues.

Clause 19, subsection (1) repeals sections 5 and 11 of the Municipalities Reform Act 2010 which repealed the power of the Corporations of Hamilton and St. George’s to levy wharfage and port dues and repealed various enactments in consequence. Subsection (2) provides that, notwithstanding section 14 of the Interpretation Act 1951 (which provides that the effect of the repeal of an enactment which itself repealed another enactment is not to revive that other enactment), the various provisions and Corporation Ordinances repealed by sections 5 and 11 are expressly revived with effect from 1 April 2014 or such

## MUNICIPALITIES AMENDMENT BILL 2013

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later date as the Minister may, on or before that date, appoint by notice published in the Gazette, and are set out in Schedules 1 and 2.

Clause 20 amends the Customs Tariff Act 1970 to repeal section 2(3) inserted by the Customs Tariff Amendment Act 2011, which introduced a 1.25 per centum duty in lieu of wharfage in consequence of the repeal of the power of the Municipalities to levy wharfage. The Eighth Schedule which contained exemptions is also repealed, and a consequential amendment is made to section 12(1).

Clause 21 amends section 31 of the Municipalities Act 1923 (revived by section 2) to provide for exemptions to wharfage for goods specified in the new Third Schedule which re-enacts (with amendments) the exemptions previously listed in the Eighth Schedule to the Customs Tariff Act 1970 (repealed by clause 20). The Minister of Finance is given power to amend the list, by order subject to the negative resolution procedure.

Clause 22 inserts section 2A into the Corporation of St. George's (Dues on Air Freight) Act 1952 (revived by clause 19 and set out in Schedule 2) to apply the exemptions listed in the Third Schedule to the Municipalities Act 1923 (inserted by clause 21).

Clause 23 makes a consequential amendment to the Revenue Act 1898 by repealing section 52(2) (which related to duty in lieu of wharfage).

Clause 24 provides for the commencement of Part 4.