

# AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

AMERICA'S CUP ACT 2014

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SCHEDULE 1  
America's Cup Words

WHEREAS the 35th America's Cup international yachting race will be held in Bermuda;

AND WHEREAS it is anticipated that hosting the 35th America's Cup will have significant economic and reputational benefits for Bermuda;

AND WHEREAS it is in the national interest to support the event by providing relief from certain taxes and fees, and by providing certain other modifications of legislative requirements which would otherwise apply, with a view to facilitating and assisting in the conduct of the 35th America's Cup in Bermuda;

AND WHEREAS it is expedient to provide brand protection to the 35th America's Cup;

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 America's Cup Act 2014.

Interpretation

- 2 In this Act, unless the context otherwise requires—
  - “35th America's Cup” means the Bermuda Events;
  - “ACBDA” means the committee appointed under section 23;
  - “ACEA” means the America's Cup Event Authority LLC, and any of its affiliates (within the meaning of section 86(3) of the Companies Act 1981) which are directly involved in the Bermuda Events;
  - “America's Cup concession order” has the meaning given in section 13(1);

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"America's Cup work permit" means a work permit issued for the purposes of any of the Bermuda Events;

"Bermuda Events" means the 35th America's Cup events to be staged in Bermuda in 2015 - 2017, including—

- (a) the America's Cup World Series event;
- (b) the Youth America's Cup;
- (c) the America's Cup Challenger Playoffs;
- (d) the 35th America's Cup Match;
- (e) the America's Cup Concert Series;
- (f) the America's Cup Superyacht Regatta; and
- (g) such other events as agreed between ACEA and the Government of Bermuda;

"Bermudian labour" means Bermudians, spouses of Bermudians, holders of a permanent resident's certificate under the Bermuda Immigration and Protection Act 1956, and such other persons who are permitted to be engaged in gainful occupation in Bermuda other than by virtue of an America's Cup work permit;

"designated commercial partner" means any person—

- (a) to whom ACEA or a Team grants from time to time any advertising, promotional or marketing rights in relation to any of the Bermuda Events; and
- (b) who is officially authorized in writing as such by ACEA or the Team (as the case may be) as such a commercial partner for the purposes of this Act or a specific section of this Act, and any such authorization shall be copied to ACBDA;

"Economic Development Committee" means the sub-committee of Cabinet by that name;

"event period" means the period from 28 February 2015 to 31 October 2017;

"Minister" means the Minister responsible for business development;

"Regatta Officials" means the Regatta Director, the Measurement Committee, the Umpires, the Arbitration Panel and any other officials presiding over the Bermuda Events who are appointed by the Regatta Director, but does not include any person falling within the definition of Bermudian labour;

"Team" means any sailing team which competes in the 35th America's Cup;

"Team Member" means any individual who is a sailor, manager, employee, contractor, agent, representative or official of a Team—

- (a) whose name is submitted to ACBDA in such manner as ACBDA may require; and
  - (b) who does not fall within the definition of Bermudian labour;
- “work permit” has the meaning given in section 57(2A) of the Bermuda Immigration and Protection Act 1956.

PART 2  
CONCESSIONS & EXEMPTIONS

Advertising

3 In relation to advertising of and at the Bermuda Events, ACEA and its designated commercial partners, and the Teams and their designated commercial partners, shall be exempt from—

- (a) sections 2, 3, 4 and 6(c) of the Advertisements Regulation Act 1911;
- (b) section 14(4) of the Development and Planning Act 1974;
- (c) the Motor Car (Control of Design, Colour and Advertising Matter) Regulations 1952; and
- (d) sections 3 and 4 of the Alcohol Advertisement (Health Warning) Act 1993.

Air navigation

4 (1) This section applies to any helicopter or UAS owned or operated by ACEA or any of its designated commercial partners which is brought to Bermuda for the purposes of any of the Bermuda Events.

(2) No fees shall be payable under the Air Navigation (Fees for Certificates and Services) Regulations 2012 in respect of any helicopter or UAS to which this section applies.

(3) “UAS” means an unmanned aerial system, as defined in those Regulations.

Broadcasting and electronic communications

5 No fees shall be payable by ACEA or any of its designated commercial partners under the Telecommunications Act 1986, the Electronic Communications Act 2011 or the Regulatory Authority Act 2011.

Customs duty

6 (1) Section 5A(5)(b) of the Customs Tariff Act 1970 (duty free allowance on transfer of residence if goods have been in possession of importer for at least six months) shall not apply in relation to any goods imported by a person employed by ACEA or a Team who comes to reside in Bermuda for the purposes of any of the Bermuda Events.

(2) In relation to any racing or exhibition vessels imported by ACEA and any of its designated commercial partners, or a Team or any of its designated commercial partners, for the purposes of any of the Bermuda Events, CPC 5006 in the Sixth Schedule to the

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Customs Tariff Act 1970 (temporary importation relief) shall be read as if for the words "the goods must be exported within one month of the date of importation" there were substituted "the goods must be exported by the end of the event period (as defined in the America's Cup Act 2014)".

(3) In relation to—

- (a) any vessel or aircraft imported by ACEA and any of its designated commercial partners, or a Team or any of its designated commercial partners, or a Regatta Official; and
- (b) any vessel of or exceeding 50 feet in length imported by an islander (as defined in the Customs Tariff Act 1970),

for use in connection with any of the Bermuda Events, CPC 5008 in the Sixth Schedule to that Act (temporary importation relief) shall be read as if for the words "the goods must be exported within three months of the date of importation" there were substituted "the goods must be exported by the end of the event period (as defined in the America's Cup Act 2014)".

(4) In relation to goods imported for use in connection with the Bermuda Events by ACEA and any of its designated commercial partners, or a Team or any of its designated commercial partners, or a Regatta Official, CPC 5022 in the Sixth Schedule to the Customs Tariff Act 1970 (temporary importation relief for goods in connection with sporting events sponsored by Bermuda Tourism Authority) shall be read as if under the heading "Specific Controls/Diversion" there were included the words "The goods must be exported by the end of the event period (as defined in the America's Cup Act 2014)".

(5) No fees shall be payable under the Customs Tariff Act 1970 or the Customs Department Act 1952 (as prescribed in the Government Fees Regulations 1976) in respect of any vessel, aircraft or goods mentioned in subsections (2) to (4).

### Employment

7 (1) Notwithstanding the provisions of any other enactment, ACEA and the Regatta Officials shall be exempt from the requirement to make payments (including taxes and fees) under the statutory provisions listed in subsection (3), which would otherwise be required in relation to any of their relevant employees.

(2) "Relevant employee" means an employee—

- (a) who does not fall within the definition of Bermudian labour; and
- (b) has not been resident in Bermuda at any time in the three years preceding 10 November 2014.

(3) The enactments are—

- (a) the Payroll Tax Act 1995;
- (b) the National Pension Scheme (Occupational Pensions) Act 1998;
- (c) the Health Insurance Act 1970;

(d) Head 6 paragraph (5) of the Government Fees Regulations 1976 (work permit fees).

(4) The exemption in subsection (3)(c) is, in the case of each relevant employee, subject to the employer ensuring that the employee obtains and maintains adequate health care and medical insurance from a private sector insurer to cover any medical expenses in Bermuda.

(5) Notwithstanding the provisions of the Payroll Tax Act 1995, ACEA and the Regatta Officials shall be exempt from paying the employer's share of payroll tax which would otherwise be payable in relation to any of their employees falling within the definition of Bermudian labour.

#### Food and drink

8 (1) If an occasional licence is granted under the Liquor Licence Act 1974 for a Bermuda Event which is to be held in a closed off area of Front Street in Hamilton, it shall not be unlawful for the holder of the occasional licence to sell intoxicating liquor to the public during and at the Event, provided that there is no public access for motor vehicles to that area of Front Street during the Event.

(2) For the avoidance of doubt, nothing in subsection (1) permits the sale of intoxicating liquor to persons under the age of eighteen years.

(3) Where subsection (1) applies, no offence shall be committed by a person under section 10 of the Summary Offences Act 1926 (drinking in a public street).

(4) Where, but for this section, any activity of a designated commercial partner of ACEA would be prohibited under the Prohibited Restaurant Act 1997, that Act shall not apply to such activity carried out in the vicinity of, and during, any of the Bermuda Events.

#### Health practitioners

9 (1) This section applies to a health practitioner—

- (a) who is permitted to engage in gainful occupation in Bermuda by virtue of an America's Cup work permit;
- (b) who is employed by ACEA, the Regatta Officials or any of the Teams to provide health services only to ACEA, the Regatta Officials or a Team Member (as the case may be) for the purposes of the Bermuda Events; and
- (c) who does not provide health services in Bermuda to any person except a person employed by ACEA, the Regatta Officials or a Team Member.

(2) "Health practitioner" means a doctor, nurse, physiotherapist or practitioner of another profession listed in the First Schedule to the Allied Health Professions Act 1973, who is registered and regulated as such a practitioner in a jurisdiction outside Bermuda (whether or not the profession is known by another name in that jurisdiction).

(3) A health practitioner to whom this section applies is exempt (as the case may be) from—

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- (a) section 2 of the Medical Practitioners Act 1950 and shall not be required to register under section 7 of that Act;
- (b) section 8A of the Nursing Act 1997; or
- (c) sections 5, 11 and 13 of the Allied Health Professions Act 1973.

Motor vehicles

10 (1) ACEA and its designated commercial partners may, without paying any licence duty or fee which would otherwise be payable under the Motor Car Act 1951, import and license for use on public roads during the event period—

- (a) a maximum of 12 motor vehicles (in total), the overall length and width of which does not exceed 169 inches by 71 inches; and
- (b) a maximum of 80 motor vehicles (in total), the overall length and width of which does not exceed 210 inches by 77 inches.

(2) Subsection (1) is subject to the following conditions—

- (a) the motor vehicles shall only be used to transport personnel involved in the Bermuda Events and their representatives;
- (b) no person shall be charged a fee in respect of the use of the vehicles;
- (c) the motor vehicles shall be removed from Bermuda no later than the end of the event period; and
- (d) motor vehicles falling within subsection (1)(b) shall only be driven by a person falling within the definition of Bermudian Labour who has a valid Bermuda driver's licence.

(3) ACEA and its designated commercial partners may, without paying any licence duty or fee which would otherwise be payable under the Motor Car Act 1951, import such other motor vehicles as they may reasonably require for promotional purposes, provided that the vehicles—

- (a) are not driven on public roads; and
- (b) are removed from Bermuda no later than the end of the event period.

(4) ACEA and each Team may, without paying any licence duty or fee which would otherwise be payable under the Motor Car Act 1951, import and licence for use on public roads during the event period, a maximum of five light, intermediate or heavy trucks with trailers or boat trailers (as defined in the Motor Car Act 1951).

(5) Subsection (4) is subject to the following conditions—

- (a) the trucks and trailers shall only be used for the purposes of the Bermuda Events;
- (b) no person shall be charged a fee in respect of the use of the trucks and trailers; and

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- (c) the trucks and trailers shall be removed from Bermuda no later than the end of the event period.

Ships and boats: port dues, registration and mooring fees

11 (1) In this section, "exempted person" means—

- (a) ACEA or any of its designated commercial partners;
- (b) a Team or any of its designated commercial partners;
- (c) a Regatta Official.

(2) Port dues shall not be payable under the Marine & Ports Authority (Port Dues) Regulations 1969 in respect of any ship owned by an exempted person.

(3) No fee shall be payable under the Registration of Boats Regulations 1990 where the applicant for registration is an exempted person.

(4) No fee shall be payable under section 5 of the Marine Board (Mooring) Regulations 2000 in relation to a licence granted under those Regulations to an exempted person.

Ships: compulsory pilotage

12 (1) This section applies to a ship which is chartered or plying for hire or reward for the purpose of any of the Bermuda Events during the period beginning one month before that Event and ending one month after that Event, and which is not an excepted ship within the meaning of section 48(3) of the Marine Board Act 1962.

(2) The Minister charged with responsibility for marine and ports services may issue a certificate excepting such a ship from section 48(1) of the Marine Board Act 1962 (requirement for branch pilot) if, on the advice of the Warden of Pilots, he is satisfied—

- (a) that the master of the ship is competent to navigate the ship in the waters of Bermuda without a pilot on board;
- (b) as to the safety and navigational equipment on the ship;
- (c) as to the extent of public liability insurance held in respect of the ship.

(3) The Minister may issue a certificate under subsection (2) subject to such terms and conditions as he considers appropriate.

(4) No fee shall be payable for the issue of a certificate under subsection (2).

PART 3

AMERICA'S CUP CONCESSION ORDERS

Application to the Minister for an America's Cup concession order

13 (1) ACEA or the manager of a Team may apply in writing to the Minister for the making of an order (an "America's Cup concession order") modifying the effect of any statutory provision (other than one relating to national security or health and safety) so as



to grant a tax concession or other exemption from the law of Bermuda during the event period in relation to the Bermuda Events to such of the following as may be specified in the application—

- (a) ACEA or any of its designated commercial partners;
- (b) a Team or any of its designated commercial partners;
- (c) the Regatta Officials.

(2) The application shall contain full details of the tax concession or other exemption requested, reasons for the request, and such other information as the Minister may require.

America's Cup concession orders

14 (1) The Minister shall consider an application under section 13 in consultation with—

- (a) the Economic Development Committee; and
- (b) any Minister whose portfolio responsibilities may be affected by the making of the America's Cup concession order.

(2) The Minister shall consider whether the concession or exemption applied for is necessary for the proper conduct and operation of the 35th America's Cup and whether it is in the best interests of Bermuda, taking into account all relevant circumstances including such of the following factors as may be relevant to the application—

- (a) whether the requested concession or exemption is fair, reasonable and proportional to the operational and administrative circumstances of the Bermuda Events;
- (b) the possible or likely impact on the proper operations, administrative conduct and management of the Bermuda Events if the requested concession or exemption is not granted;
- (c) the likely impact of the requested concession or exemption on persons or property in Bermuda;
- (d) whether there are any detrimental consequences or implications of the requested concession or exemption for Bermuda, and the duration of such consequences;
- (e) whether the concession or exemption is likely to benefit the tourism industry and the economy generally; and
- (f) whether the concession or exemption is likely to create employment and entrepreneurial opportunities for Bermudians.

(3) If, after such consideration, the Minister determines that granting the application is necessary for the proper conduct and operation of the Bermuda Events and in the best interests of Bermuda, he may make an America's Cup concession order under this section modifying the effect of any statutory provision so as to grant a tax concession

or other exemption from the law of Bermuda during the event period in relation to the Bermuda Events to any of the following—

- (a) ACEA or any of its designated commercial partners;
- (b) a Team or any of its designated commercial partners;
- (c) the Regatta Officials.

(4) But an America's Cup concession order shall not modify any statutory provision relating to national security or health and safety.

(5) An America's Cup concession order may be made subject to such terms and conditions as the Minister thinks fit.

(6) The Minister need not give any reasons for not making an America's Cup concession order in response to an application under section 13, or for attaching terms and conditions to an order.

(7) The decision of the Minister to make an America's Cup concession order, or to make an order subject to terms and conditions, or not to make an order, is final for all purposes and is not subject to any appeal.

#### Application to amend America's Cup concession order

15 (1) ACEA or the manager of a Team may make a written application to the Minister for the amendment of an America's Cup concession order, which shall be supported by such information as the Minister may require.

(2) Section 14 applies, with the necessary modifications, to an application under this section as it applies to an application under section 13.

#### Minister's power to amend or revoke an America's Cup concession order

16 (1) The Minister may amend or revoke an America's Cup concession order—

- (a) if there has been any breach of the terms and conditions contained in the order;
- (b) if any false declarations are made to the Collector of Customs in respect of goods to which any customs duty relief applies;
- (c) if any goods which were imported subject to customs duty relief by virtue of the order are used for purposes which do not relate directly to the Bermuda Events; or
- (d) where any offence under section 8 of the Hotels Concession Act 2000 as applied by section 17 of this Act is committed.

(2) Before the Minister amends or revokes an America's Cup concession order he shall—

- (a) consult the Economic Development Committee and any Minister whose portfolio responsibilities are or may be affected by the America's Cup concession order or its amendment or revocation;

- (b) give ACEA and the manager of a Team which benefits from the America's Cup concession order notice in writing of the reasons why he is minded to amend or revoke the America's Cup concession order;
- (c) afford those persons an opportunity to make objection in writing within the period of 14 days after receipt of the notice; and
- (d) take any such objection into account.

(3) If the Minister thereafter decides to amend or revoke the America's Cup concession order, he shall serve an order on ACEA and the manager of a Team which benefits from the America's Cup concession order amending or revoking the America's Cup concession order from such date as may be specified.

(4) An order under subsection (3) shall be final for all purposes and is not subject to any appeal.

Application of sections 6 to 9 of the Hotels Concession Act 2000

17 Sections 6 to 9 of the Hotels Concession Act 2000 (relief from customs duty, payment of duty on diversion, offences and penalties) apply, with the necessary modifications, in relation to an America's Cup concession order made under this Part as those provisions apply to a hotels concession order made under that Act.

PART 4

BRAND PROTECTION

Unauthorized representation of association with 35th America's Cup

18 (1) Subject to section 20, no unauthorized person may, during the event period, make any representation in a way likely to suggest to a reasonable person that there is an association between the 35th America's Cup and—

- (a) goods or services;
- (b) a brand of goods or services; or
- (c) a person who provides goods or services.

(2) A person who makes a representation includes a person who—

- (a) pays for, commissions or authorizes the representation; or
- (b) receives consideration for the placement or the location of the representation.

(3) A representation is in breach of this section if it includes any of the following—

- (a) America's Cup words, including those in Schedule 1;
- (b) an America's Cup emblem;

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- (c) a representation that so closely resembles America's Cup words or an America's Cup emblem as to be likely to deceive or confuse a reasonable person.

(4) Subsection (3) applies even if the representation is qualified by the word "unauthorized" or "unofficial", or other words that are intended to defeat the purpose of this section.

(5) The Minister may by order amend this Act to insert a Schedule of America's Cup emblems for the purposes of subsection (3)(b).

### Exceptions to section 18

19 (1) Section 18 does not apply if—

- (a) the association between the 35th America's Cup and the goods, services, brand of goods or services, or person who provides goods or services has the written authorization of ACEA;
- (b) the representation has the written authorization of ACEA;
- (c) the representation is of a personal opinion made by an individual for no commercial gain; or
- (d) in accordance with honest practices in industrial or commercial matters, the representation—
  - (i) is necessary to indicate the intended purpose of goods or services;
  - (ii) is made by an organization in existence before the commencement date of this Act which is continuing to carry out its ordinary activities;
  - (iii) is for the purposes of reporting news, information, criticism, or a review (including promoting that news, information, criticism, or review) in a newspaper or magazine, or by means of television, radio, film, the internet, or other means of reporting; or
  - (iv) in the case of a word or emblem (provided that the word or emblem is not being used in combination with other words or emblems with the intention of suggesting an association that breaches section 18), comprises the whole or part of—
    - (A) the legal or trade name of the person making the representation (provided that it is not being used for the purpose of defeating the intention of section 18); or
    - (B) a trade mark registered under the Trade Marks Act 1974 before 10 November 2014.

(2) Nothing in subsection (1)(d)(iii) authorizes a person to make a representation in a way likely to suggest to a reasonable person that there is an association between news, information, criticism, or a review about the 35th America's Cup and—

- (a) goods or services;

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- (b) a brand of goods or services; or
- (c) a person who provides goods or services.

### Restricted marketing order

20 (1) On the application of ACEA, the Minister may make a restricted marketing order—

- (a) in relation to such areas (“restricted areas”); and
- (b) for such periods,

as may be specified by the Minister in the order for the purposes of the Bermuda Events.

(2) Before making an order under this section, the Minister must consult the Economic Development Committee and take into account the extent to which the restrictions are required in order to—

- (a) obtain maximum benefits for Bermudians; whilst
- (b) preventing unauthorized commercial exploitation at the expense of ACEA or any of its designated commercial partners.

### Restricted street trading and advertising

21 (1) A restricted marketing order may prohibit or limit the extent to which a person may engage in street trading in a restricted area without the written authorization of ACEA.

(2) “Street trading” means selling or giving away goods or services, but does not include operating an existing business out of existing permanent premises of that business.

(3) A restricted marketing order may prohibit or limit the extent to which a person may—

- (a) advertise in a restricted area; or
- (b) advertise in a manner that is clearly visible from anywhere within the restricted area,

without the written authorization of ACEA.

### Offences and penalties

22 (1) A person commits an offence if he knowingly breaches section 18.

(2) A person commits an offence if, knowing that a representation that breaches section 18 has been made in relation to or applied to goods, he—

- (a) imports those goods into Bermuda for the purpose of trade or manufacture;
- (b) sells those goods, or offers or exposes those goods for sale; or
- (c) possesses those goods for the purpose of trade or manufacture.

(3) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding \$20,000, and is liable to forfeiture of the goods to which the offence relates.

(4) It is a defence to a charge of an offence under subsection (1), in relation to a representation that is an advertisement, if the defendant proves—

- (a) that the defendant's business includes publishing or arranging for the publication of advertisements; and
- (b) that the defendant received the representation in the ordinary course of that business and did not know, and had no reason to believe, that publishing it would constitute such a breach.

(5) A person who knowingly engages in any activity in breach of a restricted marketing order made under section 20 shall be liable on summary conviction to a fine not exceeding \$20,000.

## PART 5

### MISCELLANEOUS & FINAL PROVISIONS

#### 35th America's Cup Host Committee

23 (1) The Minister may appoint such number of public officers and other persons as he considers appropriate to a committee, to be known as the Bermuda AC35 Host Committee ("ACBDA"), which shall have such advisory, consultative and administrative functions as the Minister considers necessary to facilitate and promote the successful planning, preparation for, and hosting of, the Bermuda Events.

(2) The ACBDA shall be subject to the directions of the Minister.

(3) The ACBDA shall be funded by such sums as may be appropriated by the Legislature for its purposes.

#### Parliamentary scrutiny

24 Any order made by the Minister under this Act shall be made subject to the negative resolution procedure.

#### Offences by corporations

25 Where an individual who has committed an offence against this Act was at the time he committed the offence a director, manager, secretary or other similar functionary of a body corporate and committed the offence in that capacity, then the body corporate also is guilty of the offence and liable to be proceeded against and punished accordingly.

#### Commencement, and duration of concessions and exemptions

26 (1) This Act shall come into operation on 28 February 2015.

(2) Any concession or exemption which is—

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- (a) provided by Part 2; or
- (b) granted under an America's Cup concession order made under Part 3 and which has not been amended or revoked,

shall cease to have effect at the end of the event period.

SCHEDULE 1

(Section 18(3)(a) )

AMERICA'S CUP WORDS

"America's Cup", and any expression using those words

"ACEA"

"ACRM"

"ACWS"

"AC35"

"AC45"

"AC62"



## AMERICA'S CUP BILL 2014

### EXPLANATORY MEMORANDUM

This Bill seeks to support the 35th America's Cup to be held in Bermuda in 2015-2017, by providing ACEA, the Teams, their designated commercial partners and the Regatta Officials with relief from certain taxes and fees and by providing certain other modifications of legislative requirements which would otherwise apply, and by providing brand protection to the 35th America's Cup.

Part 1 contains the citation and sets out definitions used in the Bill.

Part 2 provides a number of concessions and exemptions from legislative requirements which would otherwise apply to ACEA, the Teams, their designated commercial partners and the Regatta Officials (or to some of those persons as specified).

Clause 3 exempts ACEA and its designated commercial partners and the Teams and their designated commercial partners from specified sections of legislation relating to advertising, in relation to advertising of and at the Bermuda Events.

Clause 4 exempts ACEA and its designated commercial partners from any fees payable under the Air Navigation (Fees for Certificates and Services) Regulations 2012 in relation to helicopters and drones brought to Bermuda for the purposes of the Bermuda events.

Clause 5 exempts ACEA and its designated commercial partners from any fees under the Telecommunications Act 1986, the Electronic Communications Act 2011 and the Regulatory Authority Act 2011.

Clause 6 subsection (1) modifies the effect of section 5A(5)(b) of the Customs Tariff Act 1970 so that ACEA and Team employees may benefit even on new goods from the duty free allowance on transfer of residence. Subsection (2) modifies CPC 5006 in the Sixth Schedule to the Customs Tariff Act 1970 (temporary importation relief) so that the relief on racing and exhibition vessels imported by ACEA, the Teams and their designated commercial partners can extend until the end of the event period. Subsection (3) makes a similar modification of CPC 5008 in relation to vessels and aircraft imported by ACEA, the Teams and any of their designated commercial partners, and the Regatta Officials, and to vessels of or exceeding 50 feet in length imported by a person entitled to reside in Bermuda. Subsection (4) makes a similar modification of CPC 5022 for goods imported for use in connection with the Bermuda Events. Subsection (5) exempts fees under the Customs Tariff Act 1970 and the Customs Department Act 1952 in respect of any such vessels, aircraft or goods.

Clause 7 exempts ACEA and the Regatta Officials from the requirement to make payments (including taxes and fees) which would otherwise be required in relation to any of their relevant employees (as defined in subsection (2)) under the Payroll Tax Act 1995, the National Pension Scheme (Occupational Pensions) Act 1998, the Health Insurance Act 1970 and Head 6 paragraph (5) of the Government Fees Regulations 1976 (work permit fees). Subsection (4) contains a condition in relation to the health insurance exemption. Subsection (5) exempts ACEA and the Regatta Officials from paying the employer's share of

payroll tax which would otherwise be payable in relation to any of their employees falling within the definition of Bermudian labour.

Clause 8 clarifies that if an occasional licence is granted for a closed off area of Front Street in Hamilton for a Bermuda Event, alcohol sales will be permitted in that area provided that there is no public access for motor vehicles to that area, and section 10 of the Summary Offences Act 1926 is disappplied (offence of drinking in a public street). Subsection (4) disappplies the Prohibited Restaurants Act 1997 if it would otherwise apply to activities of a designated commercial partner of ACEA during and in the vicinity of a Bermuda Event.

Clause 9 exempts from registration under the Medical Practitioners Act 1950, the Nursing Act 1997 or the Allied Health Professions Act 1973 (as the case may be) certain health practitioners employed by ACEA, the Teams or the Regatta Officials and providing health services to those persons only.

Clause 10 subsection (1) permits ACEA and its designated commercial partners to import and licence for use on the road without paying any licence duty or fee which would otherwise be payable under the Motor Car Act 1951, a total of 12 motor vehicles up to Class H size and 80 motor vehicles up to limousine size. This is subject to conditions in subsection (2), including the condition that no fee is to be charged in respect of the use of the vehicles and that the 80 vehicles are driven only by a person falling within the definition of Bermudian labour. Subsection (3) allows the importation of additional motor vehicles for promotional purposes, provided that they are not driven on public roads. Subsection (4) permits ACEA and each Team to import and licence for use on the road a maximum of five trucks and trailers as described, subject to conditions in subsection (5).

Clause 11 exempts ACEA, the Teams and their designated commercial partners and the Regatta Officials from port dues, boat registration and mooring fees under the specified legislation.

Clause 12 allows the Minister with responsibility for marine and ports services, on the advice of the Warden of Pilots, to issue a certificate excepting from section 48(1) of the Marine Board Act 1962 (requirement for branch pilot) ships chartered or plying for hire or reward for the purpose of any of the Bermuda Events during the period beginning one month before that Event and ending one month after that Event.

Part 3 sets out a procedure by which ACEA or a Team can apply to the Minister responsible for business development for an America's Cup concession order granting further concessions and exemptions from legislative requirements which would otherwise apply. This is based on the procedure set out in the Hotels Concession Act 2000.

Clause 13 permits ACEA or a Team to apply to the Minister for an America's Cup concession order granting tax concessions or other exemptions in relation to the Bermuda Events to ACEA and its designated commercial partners, a Team and its designated commercial partners and the Regatta Officials, as specified in the application.

Clause 14 requires the Minister to consider the application in consultation with the Economic Development Committee and any Minister whose portfolio responsibilities may be affected. The Minister must consider whether the concession or exemption is necessary and in the best interests of Bermuda, taking into account all relevant circumstances, including the factors listed in subsection (2). Subsection (4) provides that an America's Cup

concession order may not make any modification of the law relating to national security or health and safety. Subsection (5) provides that an America's Cup concession order may be made subject to terms and conditions. Subsection (6) states that the Minister need not give any reasons for not making an America's Cup concession order or for attaching any terms and conditions. Subsection (7) provides that the Minister's decision is final and not subject to appeal.

Clause 15 provides for ACEA or a Team to apply to the Minister for the amendment of an America's Cup concession order.

Clause 16 sets out the Minister's power to amend revoke an America's Cup concession order in specified circumstances.

Clause 17 applies sections 6 to 9 of the Hotels Concession Act 2000 (relief from customs duty, payment of duty on diversion, offences and penalties) to America's Cup concession orders.

Part 4 contains brand protection for the 35th America's Cup, and provides for the making of restricted marketing orders to prohibit or regulate street trading and advertising in certain areas with a view to preventing ambush marketing.

Clause 18 prohibits unauthorized representation of an association between the 35th America's Cup and goods or services. Subsection (3)(a) introduces Schedule 1 which lists protected America's Cup words, and the Minister is empowered by subsection (5) to amend the Act by order to insert a Schedule of protected America's Cup emblems.

Clause 19 contains exceptions to clause 18, in particular if a person has the written authorization of ACEA.

Clause 20 empowers the Minister, on the application of ACEA, to make a restricted marketing order.

Clause 21 provides that a restricted marketing order may prohibit or limit the extent to which a person may engage in unauthorized street trading and advertising.

Clause 22 provides for offences and penalties in relation to Part 4.

Part 5 contains miscellaneous and final provisions.

Clause 23 permits the Minister to establish a committee ("ACBDA") with such advisory, consultative and administrative functions as the Minister considers necessary to facilitate and promote the successful planning, preparation for, and hosting of, the Bermuda Events.

Clause 24 provides that the negative resolution procedure applies to orders made by the Minister.

Clause 25 is a standard provision dealing with offences by corporations.

Clause 26 provides for commencement, and provides that any concessions and exemptions will cease to have effect at the end of the event period.