



BERMUDA

MUNICIPALITIES ACT 1923

1923 : 33

TABLE OF CONTENTS

PRELIMINARY

- 1 Interpretation and construction
- 2 Savings for Dockyard Port Act 1905

MUNICIPAL AREAS

- 3 Municipal area of City of Hamilton; definition of expressions relating thereto
- 4 Municipal area of Town of St. George; definition of expressions relating thereto
- 5 Inclusion of foreshore encroachments in areas of the City of Hamilton and the Town of St. George
- 6 Maps of municipal areas

CONSTITUTION AND STATUS OF MUNICIPAL CORPORATIONS

- 7 Constitution of Corporations
- 7A Fees payable to Members
- 7B Good governance
- 8 Legal status of Corporations etc.

MUNICIPAL ELECTIONS

- 9 Municipal elections
- 9A Eligibility to vote in municipal elections
- 9B Application of Parliamentary Election Act 1978 as modified by order
- 10 Electoral provisions contained in the First Schedule *[repealed]*
- 11 Punishment for corrupt practices *[repealed]*
- 12 Standing for election and voting of unqualified persons *[repealed]*
- 13 False statements etc. *[repealed]*
- 14 Offences relating to ballot papers etc. *[repealed]*
- 15 Misconduct at municipal election, etc. *[repealed]*

MUNICIPALITIES ACT 1923

- 16 Supplying intoxicating liquor by way of organized treating *[repealed]*
- GENERAL PROVISIONS AS TO THE MAYORS, ALDERMEN AND COMMON COUNCILLORS
- 17 Tenure of office
- 18 Qualifications and disqualifications
- 19 Vacancies
- HOLDINGS, ETC., OF REAL AND PERSONAL PROPERTY
- 20 Powers of Corporations with respect to real and personal property, etc.
- 21 Vesting of unsold land in municipal areas in Corporations
- COMPULSORY ACQUISITION OF LAND
- 22 Powers of Corporations compulsorily to acquire land
- MUNICIPAL RATES
- 23 General power of Corporations to levy rates
- 24 Appointment, powers, etc., of assessors to value rateable property
- 25 Assessment
- 26 Lien on property for rates
- 27 Power to assess occupier of real property in certain cases
- 28 Recovery of rates
- 29 Registration of property
- 30 Rating in relation to expenditure
- WHARFAGE AND PORT DUES
- 31 Power of Corporations to levy wharfage; payment of wharfage; lien on goods
- 32 Power of Corporations to levy port dues; liability for payment of port dues
- 33 Duties of masters, owners and agents of ships with respect to manifests, etc., of cargo
- 34 Removal of goods; payment of wharfage
- 35 Exemption of goods
- 36 Recovery of wharfage and port dues
- POWERS OF CORPORATION WITH RESPECT TO BORROWING
- 37 Limit on powers of Corporations to borrow money
- CORPORATION ORDINANCES
- 38 Corporation Ordinances
- SUPPLEMENTAL POWERS AND DUTIES OF CORPORATIONS
- 39 Power of Corporations to employ, etc., officers and employees
- 40 Power of Corporations with respect to building wharves, etc., on foreshores
- 41 Submission of annual statements of account
- RESTRICTION ON CONSTRUCTION OF WOODEN BUILDINGS
- 42 Restriction on construction of wooden buildings
- POWERS OF BERMUDA FIRE AND RESCUE SERVICE

MUNICIPALITIES ACT 1923

- 43 Powers of officers of Bermuda Fire and Rescue Service with respect to extinguishing fires
44 Conferment of powers of police officers on fire officers

NOTARIAL FEES

- 45 Fees payable to Mayors for notarial services

OFFENCES AGAINST ACT AND ORDINANCES

- 46 Trial and punishment of offences against Act or against Ordinances

SCHEDULE A1

Map of Municipal Area of the City of Hamilton

SCHEDULE B1

Map of Municipal Area of the Town of St. George

FIRST SCHEDULE

SECOND SCHEDULE

Notarial Fees Payable to Mayors

THIRD SCHEDULE

Goods exempt from Wharfage

ANNEXURE

[preamble and words of enactment omitted]

PRELIMINARY

Interpretation and construction

- 1 (1) In this Act, where not inconsistent with the context—

“annual rental value” means the rent at which a valuation unit might reasonably be expected to let from year to year if the tenant undertook to bear the cost of internal repairs, and the landlord to bear all other reasonable expenses necessary to maintain the valuation unit in a state to command that rent, but disregarding any element attributable to any tax or rates payable under this Act, the Land Valuation and Tax Act 1967 [*title 14 item 31*], or other statutory provision;

“business premises” means any valuation unit which is used for the purpose of—

- (i) any business, trade, profession or industry; or
- (ii) any activity carried on by any body of persons whether corporate or incorporate;

“Corporation” means the Corporation of Hamilton or, as the case may be, the Corporation of St. George’s;

MUNICIPALITIES ACT 1923

“Corporation of Hamilton” means the Mayor, Aldermen, and Common Council of the City of Hamilton;

“Corporation of St. George’s” means the Mayor, Aldermen, and Common Council of the Town of St. George;

“dangerous commodity” includes—

- (a) petroleum, rock oil, Rangoon oil, Burmah oil, benzine, petrol, naphtha, gasoline, and any oil made from petroleum, coal, schist, shale, peat, or any bituminous substance;
- (b) every product of petroleum and of the substances mentioned in (a);
- (c) gunpowder, nitroglycerine, cordite, and all other explosives;
- (d) any material, liquid, gas or chemical substance which is highly inflammable or readily combustible;
- (e) any material liable to spontaneous heating or liable to emit dangerous fumes or gases;
- (f) any radioactive substance;

“extraordinary municipal election” means a municipal election that is not an ordinary municipal election;

“goods” includes all kinds of goods, wares, merchandise, and livestock, except the agricultural products of Bermuda;

“joint owner” and “joint occupier” respectively include joint owners or joint occupiers of a valuation unit (whether by virtue of a joint tenancy or a tenancy in common or otherwise howsoever);

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

“Minister” means the Minister responsible for municipalities;

“the municipal area” means the municipal area for the time being of the City of Hamilton or the Town of St. George, as the case may be;

“municipal election” means either an ordinary municipal election or an extraordinary municipal election;

“municipal elector” *[Repealed by 2010 : 45 s. 10.]*

“municipal register” *[Repealed by 2010 : 45 s. 10.]*

“nominee” *[Repealed by 2010 : 45 s. 10.]*

“occupier” in relation to the imposition of a rate on any valuation unit means the person in beneficial occupation of that unit and where there is no such person the owner shall be deemed to be the occupier;

“off-street” parking means parking referred to in section 20(2)(b);

“on-street” parking means parking referred to in section 20(2)(c);

MUNICIPALITIES ACT 1923

“ordinary municipal election” means a municipal election held under section 9(1);

“owner” in relation to the imposition of a rate on any valuation unit means the person who holds any freehold estate in a valuation unit, including a life estate (but excluding any person who holds a future estate):

Provided that—

- (i) where the valuation unit is—
 - (a) leased for a term certain of twenty-one years or more; or
 - (b) leased for a term certain of less than twenty-one years if the term thereof may be extended by the exercise of an option on the part of the lessee without the consent of the lessor, so that the total term thereof is for twenty-one years or more,

(irrespective of how much of such term has expired) the owner of the unit shall be deemed to be the lessee under such lease and, if there is more than one such lease in respect of any valuation unit, the lessee for the shortest such term shall be deemed the owner of the unit;
- (ii) where an estate less than freehold has been granted by the Crown the person whose interest is derived immediately from the Crown shall be deemed the owner of the valuation unit;
- (iii) where a valuation unit is mortgaged the mortgagee, unless he is in possession, shall be deemed not to be the owner, and the mortgagor shall be deemed to hold the estate which he would hold upon redemption;

“parliamentary register” has the meaning given in the Parliamentary Election Act 1978;

“rate” means any rate or assessment or tax which either Corporation is authorized or required under any Act past or future, to make, levy, or collect on real or personal property, in Hamilton or St. George’s respectively;

“rate period” means the period in relation to which rates are assessed by virtue of a rating Ordinance;

“rating Ordinance” means an Ordinance made under section 38 providing for the imposition of rates or for matters incidental thereto;

“to register” *[Repealed by 2010 : 45 s. 10.]*

“returning officer” *[Repealed by 2010 : 45 s. 10.]*

“secretary”, in relation to a Corporation, means the Secretary;

“Senior Alderman” means the Alderman who has longest served as such, and in case of there being more than one of equal seniority in service, then the elder in age;

“ship” means every description of vessel used in navigation not propelled by oars;

MUNICIPALITIES ACT 1923

“valuation unit” means any land, building or part of a building occupied or capable of beneficial occupation as a separate unit;

“vehicle” has the meaning assigned to that expression by section 1 of the Road Traffic Act 1947;

“wooden building” means any building within municipal areas, (other than such as may be especially excepted by this Act), the exterior walls whereof, and the external covering of the roof whereof, do not consist either of stone or metal or other fireproof material or partly of stone and partly of metal or other fireproof material.

(2) In this Act, where not inconsistent with the context, any reference to a ship shall be construed as including a reference to an aircraft.

(3) *[Repealed by 2010 : 45 s. 10.]*

(4) Where by this Act any obligation is imposed upon any person as being the owner or occupier of any valuation unit and there is more than one such owner or occupier, as the case may be, each such owner or occupier shall be jointly and severally responsible to the municipality for the performance of the obligation.

[Section 1 subsection (1) amended by 2010 : 45 s. 10 effective 10 August 2010; "parliamentary register" inserted by 2010 : 45 s. 10 effective 10 August 2010; subsection (3) repealed by 2010 : 45 s. 10 effective 10 August 2010; subsection (1) "the Minister" deleted and substituted by BR 6 / 2011 para. 2 effective 11 March 2011; subsection (1) "Member" inserted by 2013 : 39 s. 3(c) effective 15 October 2013]

Savings for Dockyard Port Act 1905

2 Nothing contained in this Act shall curtail or affect any right or privilege vested in the Admiralty, the Governor or the Queen's Harbour Master, or any duty or obligation imposed on any person, by the Dockyard Port Act 1905.

MUNICIPAL AREAS

Municipal area of City of Hamilton; definition of expressions relating thereto

3 (1) The area of the City of Hamilton, so called in commemoration of the Diamond Jubilee of the Reign of Her late Majesty Queen Victoria, comprises one hundred and fifty-five acres or thereabouts marked by boundary stones and situate in Pembroke Parish on the northern side of Hamilton Harbour, and also certain lands and shores running westward from the Front Street of the said City purchased by the Corporation of the said City from Solomon Sears Masters and others under an indenture bearing date the 22nd day of May, 1819, and from Samuel Saltus and another under an indenture bearing date the 14th day of July, 1868, and also White's Island in Hamilton Harbour.¹

(2) “Front Street”, when used in any Ordinance of the Corporation of Hamilton, means the public highway in Hamilton bounded on the north by the northern edge of the pavement on the north side of Front Street, on the east by the eastern boundary line of the City of Hamilton, on the south as regards that portion which lies—

¹ The municipal area of the City of Hamilton has been extended by the Hamilton Extension Act 1951 .

MUNICIPALITIES ACT 1923

- (a) between the eastern boundary line of the City of Hamilton and the north-eastern corner of Shed No. 4 by the extreme southern limits of the roadway;
- (b) between the north-eastern corner of Shed No. 4 and the western boundary line of the City of Hamilton by the northern line of concrete blocks running east and west, embedded in the roadway, the surface thereof being level with the roadway, and thence by a line drawn in a westerly direction from the most western of such blocks until it meets a point thirty-seven feet from the southern edge of the pavement at the south-eastern corner of Queen Street, and on the west by an imaginary line drawn in a southerly direction from the south-eastern corner of Queen Street to a point in the said line thirty-seven feet from the southern edge of the pavement on the northern side of Front Street.

(3) "the Port of Hamilton" means the wharves, quays, piers or other landing places, serving ships within Hamilton Harbour, belonging to or under the control of the Corporation of Hamilton and includes the dock area adjacent thereto comprising the buildings and other structures providing facilities for passenger traffic, the handling, storage and clearance of cargo and services ancillary thereto, within the municipal boundaries of the Corporation of Hamilton and belonging to or under the control of that Corporation.

(4) "Hamilton Harbour" means all the sea to the eastward of Ports Island and from high water mark on the shores of Pembroke Parish on the north to high water mark on the shores of Paget and Warwick Parishes on the south.

Municipal area of Town of St. George; definition of expressions relating thereto

4 (1) The limits of the Town of St. George shall extend from the westernmost line of the glebe land to the easternmost line of land formerly of Edwin Stone Burch, Esquire, afterwards of the Honourable A.F. Cockrane, Esquire, and shall include Ordnance Island and the causeway connecting Ordnance Island to St. George's Island.

(2) "the Port of St. George's" means the wharves, quays, piers or other landing places, serving ships within St. George's Harbour, belonging to or under the control of the Corporation of St. George's and includes the dock area adjacent thereto comprising the buildings and other structures providing facilities for passenger traffic, the handling, storage and clearance of cargo and services ancillary thereto, within the municipal boundaries of the Corporation of St. George's and belonging to or under the control of that Corporation.

(3) "St. George's Harbour" means all the sea from the eastern extremity of St. David's Island to the western extremity of St. George's Island, and as far west as Tucker's Town and Walsingham, and extending on the north as far as high water mark on the southern shores of St. George's Island and southwardly as far south as Castle Island, but excludes the area of water at Convict Bay reserved by the Crown for the mooring of Ministry of Defence craft.

MUNICIPALITIES ACT 1923

Inclusion of foreshore encroachments in areas of the City of Hamilton and the Town of St. George

5 (1) The area of the City of Hamilton shall extend to include all foreshore encroachments in Hamilton Harbour which are now or hereafter become contiguous to or attached to property comprising part of that municipal area.

(2) The area of the Town of St. George shall extend to include all foreshore encroachments in the waters surrounding that Town which are now or hereafter become contiguous to or attached to property comprising part of that municipal area.

Maps of municipal areas

6 (1) The maps in Schedules A1 and B1 shall have effect to show the municipal areas of the City of Hamilton and the Town of St. George respectively, with the boundaries marked in red.

(2) The maps shall be prima facie evidence in all courts as to the extent, position and boundaries of municipal limits.

[Section 6 substituted by 2010 : 45 s. 2 effective 10 August 2010]

CONSTITUTION AND STATUS OF MUNICIPAL CORPORATIONS

Constitution of Corporations

7 (1) The Corporations of Hamilton and St. George's shall each consist of a Mayor, three Aldermen and five Common Councillors.

(2) The Mayors and Aldermen for the time being shall be ex officio Justices of the Peace for their respective municipalities, but shall not exercise any judicial functions in any cause or matter wherein the Corporation of which such Justice is a member is a party.

(3) Whenever either Mayor 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, it shall be lawful for the Senior Alderman of the Municipality concerned in Bermuda or present at such meeting, to call or preside at such meeting, and to 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 Senior Alderman acting as Mayor shall be of the like force, validity and effect as if executed or signed by the Mayor:

Provided that such execution or signature must be attested by the Secretary of the Corporation.

(4) The Senior Alderman acting as Mayor shall whenever he signs as such add after his signature the words "Senior Alderman acting as Mayor".

(5) Any Senior Alderman acting as Mayor at any Corporation meeting shall not by reason of his so acting be deprived of his status and vote as Alderman.

MUNICIPALITIES ACT 1923

(6) Every Mayor, Alderman and Common 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 [*title 2 item 21*].

(7) No act or resolution of a Corporation shall be valid unless it is assented to by not less than two Aldermen and by the Mayor.

(8) The Mayor, two Aldermen, and not less than two Common Councillors shall be a quorum for the transaction of business at a Corporation meeting.

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.

[Section 7A inserted by 2013 : 39 s. 5 effective 15 October 2013]

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

MUNICIPALITIES ACT 1923

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

[Section 7B inserted by 2013 : 39 s. 5 effective 15 October 2013]

Legal status of Corporations etc.

8 The Corporations of Hamilton and St. George’s and their successors in office shall be bodies corporate under the names of “The Corporation of Hamilton” and “The Corporation of St. George’s” respectively, and shall have perpetual succession, with power to sue and liability to be sued under the aforesaid names and to have and use common seals respectively, with power to renew, vary or change the same as either such Corporation may from time to time determine.

MUNICIPAL ELECTIONS

Municipal elections

9 (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.

MUNICIPALITIES ACT 1923

(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
 - (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—

MUNICIPALITIES ACT 1923

- (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 “15th 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 “15th 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.

(2) Where a vacancy occurs in the office of Mayor or of an Alderman or Common Councillor, an extraordinary municipal election shall be held to fill the vacancy:

Provided that such a vacancy shall not be filled if it occurs after notice has been given of an ordinary municipal election.

(3) Subject to subsection (4) and to section 27 of the Parliamentary Election Act 1978 (as modified by the Municipalities (Election) Order 2011), the Secretary of a Corporation in consultation with the Parliamentary Registrar shall, by notice published in the Gazette, appoint the polling day for a municipal election.

(4) In the case of an ordinary municipal election, the day appointed as polling day shall be—

- (a) a day (other than a Saturday, Sunday or other public holiday) in the week following the first Sunday in May; and

MUNICIPALITIES ACT 1923

- (b) not earlier than 28 days after the publication of the notice under subsection (3), nor later than two months after the publication of the notice.

[Section 9 subsection (2) amended by 2010 : 45 s. 10 effective 10 August 2010; section 9 amended by BR 21 / 2011 reg. 2 effective 8 April 2011; Section 9 section heading and subsection (1) repealed and substituted and subsections (1A)-(1) inserted by 2013 : 39 s. 6 effective 15 October 2013]

Eligibility to vote in municipal elections

9A (1) All persons for the time being listed in the parliamentary register as resident in the municipal area of Hamilton are entitled to vote in a municipal election for the Mayor, Aldermen and Common Councillors of the Corporation of Hamilton.

(2) All persons for the time being listed in the parliamentary register as resident in the municipal area of St. George are entitled to vote in a municipal election for the Mayor, Aldermen and Common Councillors of the Corporation of St. George's.

[Section 9A inserted by 2010 : 45 s. 3 effective 1 April 2011]

Application of Parliamentary Election Act 1978 as modified by order

9B (1) The Parliamentary Election Act 1978 shall apply to municipal elections as if each municipal area were a constituency, and with such modifications as the Minister responsible for municipalities may by order consider necessary or expedient.

(2) An order under subsection (1) shall be subject to the affirmative resolution procedure.

[Section 9B inserted by 2010 : 45 s. 3 effective 1 April 2011]

Electoral provisions contained in the First Schedule

10 *[Repealed by 2010 : 45 s. 10.]*

[Section 10 repealed by 2010 : 45 s. 10 effective 10 August 2010]

Punishment for corrupt practices

11 *[Repealed by 2010 : 45 s. 10.]*

[Section 11 repealed by 2010 : 45 s. 10 effective 10 August 2010]

Standing for election and voting of unqualified persons

12 *[Repealed by 2010 : 45 s. 10.]*

[Section 12 repealed by 2010 : 45 s. 10 effective 10 August 2010]

False statements etc.

13 *[Repealed by 2010 : 45 s. 10.]*

[Section 13 repealed by 2010 : 45 s. 10 effective 10 August 2010]

MUNICIPALITIES ACT 1923

Offences relating to ballot papers etc.

14 *[Repealed by 2010 : 45 s. 10.]*

[Section 14 repealed by 2010 : 45 s. 10 effective 10 August 2010]

Misconduct at municipal election, etc.

15 *[Repealed by 2010 : 45 s. 10.]*

[Section 15 repealed by 2010 : 45 s. 10 effective 10 August 2010]

Supplying intoxicating liquor by way of organized treating

16 *[Repealed by 2010 : 45 s. 10.]*

[Section 16 repealed by 2010 : 45 s. 10 effective 10 August 2010]

GENERAL PROVISIONS AS TO THE MAYORS, ALDERMEN AND COMMON COUNCILLORS

Tenure of office

17 (1) Subject to this Act, the Mayor, Aldermen and Common Councillors of either Corporation shall hold office from the date of their election until the declaration of the results of the next ordinary municipal election.

(2) A person elected Mayor or an Alderman or Common Councillor shall not be disqualified by reason of such election for being again elected, or nominated for election, as Mayor or an Alderman or Common Councillor.

(3) The Mayor or an Alderman or Common Councillor may at any time resign his office by giving notice of resignation in accordance with subsection (4).

(4) A notice of resignation shall be in writing delivered, in the case of the Mayor, to the secretary and, in the case of an Alderman or Common Councillor, to the Mayor, and shall take effect on the date of its delivery or upon such later date as may be specified in the notice.

Qualifications and disqualifications

18 (1) A person shall, unless disqualified by virtue of this Act or other statutory provision, be qualified for nomination as a candidate in an election for the office of Mayor or an Alderman or Common Councillor of Hamilton or St. George if he is for the time being listed in the parliamentary register for Bermuda.

(2) A person shall be disqualified for being elected or being nominated for election or holding office as Mayor or as an Alderman or Common Councillor if he—

(a) has been adjudged or otherwise declared bankrupt under any law in force in Bermuda and has not been discharged; or

(b) is in prison or detained in a senior training school, or (unless he has been granted a free pardon or has been granted remission under section 10 of the Prisons Act 1979 [title 10 item 32]) is under sentence to a term of

MUNICIPALITIES ACT 1923

imprisonment or corrective training which has not yet expired, whether or not he is at large on licence; or

- (c) is a person who is suffering from mental disorder within the meaning of the Mental Health Act 1968 [*title 11 item 36*] or is otherwise a person adjudged under any statutory provision to be of unsound mind; or
- (d) is disqualified for being so elected or nominated or for holding such office by virtue of any statutory provision by reason of his having been convicted of any offence relating to elections.

(3) The acts and proceedings of any person elected Mayor an Alderman or Common Councillor under the provisions of this Act and acting as such shall, notwithstanding his want of qualification or his disqualification, be as valid and effectual as if he had been qualified.

[Section 18 subsection (2)(b) amended by 2001:29 s.11(1) & Sch effective 29 October 2001; subsection (1) substituted by 2010 : 45 s. 4 effective 1 April 2011]

Vacancies

19 (1) The Mayor or any Alderman or Common Councillor shall cease to hold office as Mayor, Alderman or Common Councillor as the case may be in any of the following events—

- (a) upon becoming disqualified for holding office by reason of section 18(2);
- (b) upon ceasing to be listed in the parliamentary register for Bermuda;
- (c) upon resigning his office in the manner specified in section 17(3) and (4);
- (d) if he is absent from Bermuda for a period in excess of three consecutive months;
- (e) if he fails throughout a period of three consecutive months to attend any meeting of the Corporation, unless the failure was due to some reason approved by the Corporation prior to the end of such period.

(2) Where the Mayor or an Alderman or Common Councillor—

- (a) ceases to be Mayor, Alderman or Common Councillor by reason of anything in subsection (1); or
- (b) dies; or
- (c) is declared by the Supreme Court on an election petition not to have been validly elected,

the secretary, in the case of the Mayor, and the Mayor in any other case, shall forthwith by notice published in the Gazette declare the office to be vacant.

[Section 19 subsection (1)(b) substituted by 2010 : 45 s. 4 effective 1 April 2011]

HOLDINGS, ETC., OF REAL AND PERSONAL PROPERTY

Powers of Corporations with respect to real and personal property, etc.

20 (1) Subject to subsections (1A) to (1C), the Corporations of Hamilton and St. George's, respectively, are hereby empowered—

- (a) to purchase, take, hold, mortgage, pledge, deal with and dispose of, at their own will and pleasure, all manner of goods, chattels and other personal property; and
- (b) to purchase, take, hold, receive and enjoy, and to give, grant, release, demise, assign, sell, mortgage or otherwise dispose of and convey by deed under the seal of the Corporation, any land in Bermuda, in fee simple or for a term of life or lives or years or in any other manner.

(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.

(2) The Corporations of Hamilton and St. George's, respectively, are hereby empowered, subject to the provisions of this Act and to any other enactment passed before or after the coming into operation of this Act—

- (a) to build, construct, erect or cause to be built, constructed or erected, any building, or to carry out any works upon any land owned by, or under the control of, the Corporation, where such works are calculated to facilitate or is conducive or incidental to the discharge of any function of the Corporation;
- (b) to provide off-street parking—
 - (i) whether within the municipal area or otherwise; and

MUNICIPALITIES ACT 1923

- (ii) whether or not consisting of or including buildings,
together with means of entrance and egress from such off-street parking;
and
- (c) to authorize the use as a parking place of any part of a street within the
municipal area.

[Section 20 substituted by 1995:37 effective 14 July 1995; subsection (1) amended and subsections (1A)-(1C) inserted by 2013 : 39 s. 13 effective 15 October 2013]

Vesting of unsold land in municipal areas in Corporations

21 (1) The seisin in all lands, lots of land, tenements and hereditaments within the limits of both municipalities which have not since the incorporation of Hamilton and St. George's respectively been sold and conveyed to private owners is hereby declared to be vested in the Corporations of the respective municipalities in which such lands and hereditaments are situate, for the use, benefit and behoof of the said municipalities respectively.

(2) The seisin in all lands, lots of land, tenements and hereditaments within the limits of both municipalities which have remained unoccupied and unclaimed for twenty years and upwards and shall so remain within five years after the coming into operation of this Act shall be vested in the Corporations of the respective municipalities in which such lands and hereditaments are situate for the use and benefit of the said municipalities:

Provided that this subsection shall not apply—

- (a) to any person who has any claim to any lands or hereditaments in reversion or remainder; or
- (b) to any person non compos mentis, infant, imprisoned, or beyond the seas.

COMPULSORY ACQUISITION OF LAND

Powers of Corporations compulsorily to acquire land

22 (1) The Corporations of Hamilton and St. George's shall have the like powers for taking up any land within their respective municipalities which may be required for the purpose of widening any of the public streets, lanes or alleys in such municipalities as are conferred upon the Government for acquiring land under the Acquisition of Land Act 1970 [*title 19 item 2*]; and the provisions of the Acquisition of Land Act 1970 shall apply, mutatis mutandis, to any taking up of land by either Corporation under this Act.

(2) In construing those provisions of the Acquisition of Land Act 1970 made applicable by subsection (1) to expropriation proceedings under this Act, the following substitutions shall apply—

- (a) "the Corporation concerned" shall be substituted for "the Government", "the Minister", "the Accountant General", "the Consolidated Fund", and (except where grants of the Crown are concerned) "the Crown"; and
- (b) "the legal adviser to the Corporation concerned" shall be substituted for "the Attorney-General".

MUNICIPAL RATES

General power of Corporations to levy rates

23 (1) The Corporations of Hamilton and St. George's may levy and collect annually rates on valuation units within the limits of Hamilton and St. George's respectively, for all or any of the following purposes—

- (a) the maintenance of any force of security guards, traffic wardens or watchmen for duty within the municipal area;
- (b) *[repealed]*
- (c) sanitation or health purposes of all kinds including sewerage disposal and garbage collection, whether within or outside the municipal area;
- (d) the construction, maintenance, upkeep and renewal of any municipal sewerage, drainage or water system;
- (e) the widening, improvement, lighting and maintenance of any street, alley, lane, wharf, landing place, park or other amenity within the municipal area;
- (ee) for the construction, maintenance, upkeep and renewal of off-street parking;
- (f) such municipal purposes, being purposes of an extraordinary nature, as the Minister may in any particular case approve;
- (g) any other purpose which is incidental to the general administration of the municipal area in accordance with this Act.

(2) Rates shall be levied by means of a rating Ordinance.

(3) Any such rate shall be assessed on the annual rental value of the valuation unit to which the rate relates and may, in relation to a valuation unit, be of either or both of the following kinds—

- (a) an owner's rate, that is to say, a rate to be paid by the owner of the unit;
- (b) an occupier's rate, that is to say, a rate to be paid by the person who at the commencement of the rate period is the occupier of the unit (whether or not he is also its owner).

(4) Rates imposed under this section shall not be payable on any valuation unit exempted by any rating Ordinance from the payment of such rates.

(5) A Corporation may provide in a rating Ordinance for different levels of assessment in respect of such different classes of valuation units as are respectively specified in the Ordinance and, in particular, may provide in such an Ordinance, in respect of valuation units that are business premises, for rates to be imposed under either paragraph (a) or paragraph (b) of subsection (3) (or both those paragraphs) that are higher than or lower than rates that are so imposed in respect of valuation units that are not business premises.

MUNICIPALITIES ACT 1923

(6) Nothing in section 38(3)(d) shall apply to a rating Ordinance but a rating Ordinance purporting to levy a rate greater than ten per centum of annual rental value shall, before coming into operation, be subject to confirmation by the Minister.

(7) A rating Ordinance—

(a) may provide for—

- (i) the total or partial exemption from rates or the deferment of the payment thereof in the case of persons of impoverished condition;
- (ii) the payment of rates in instalments or at such times as may be fixed in the Ordinance;
- (iii) rebates for early payment;

(b) shall provide for the remission of the rate referred to in subsection (3)(b) where premises have been unoccupied during any rate period or part thereof.

[Section 23 amended by 1995:37 effective 14 July 1995; subsection (1)(b) deleted by 2007: 23 s.15(1) effective 2 July 2007]

Appointment, powers, etc., of assessors to value rateable property

24 (1) Each Corporation may appoint annually three competent and impartial persons, not being members of the Corporation so appointing, to assess the value of all valuation units within the limits of the municipality concerned.

(2) The assessors so appointed, and when acting as such, shall have the following powers—

- (a) to require any person to produce for their inspection any books, papers or documents relating to the ownership, occupation or value of any valuation unit;
- (b) to enter upon any premises liable to be assessed for the purpose of making a valuation of such premises:

Provided that before entering on premises the assessors shall serve on the owner or occupier thereof at least five clear days' notice in writing of their intention to enter upon such premises for such purpose;

- (c) the notice shall specify the day and time at which the assessors intend to enter upon premises, and no such entry shall be made except between the hours of 10 a.m. and 4 p.m. nor upon any Sunday or other public holiday;
- (d) the notice shall be deemed to be sufficiently served if delivered personally to the owner or occupier of such premises or left for him at his usual or last known place of residence, or at his last place of business, in Bermuda, or sent by post in a prepaid registered letter properly addressed to him at his usual or last known place of residence or at his place of business in Bermuda or, in case of his absence from Bermuda, if delivered or sent by

post in a prepaid registered letter properly addressed to his known agent in Bermuda;

- (e) in proving service by post it shall be sufficient to prove that the letter containing the notice was properly addressed, registered, prepaid and posted.

(3) Any person—

- (a) who refuses to produce any books, papers or documents relative to any assessable valuation unit in his possession when required to do so by the assessors; or
- (b) who refuses to answer any question relating to the ownership or value of any assessable valuation unit; or
- (c) who refuses to permit the entry of the assessors on any premises liable to be assessed; or
- (d) who wilfully gives to the assessors false information relative to any assessable valuation unit,

commits an offence against this Act.

(4) Notwithstanding subsection (1), where a valuation unit for the purposes of any rate is the same as a valuation unit for the purposes of the Land Valuation and Tax Act 1967 [*title 14 item 31*], the valuation of the unit under that Act at the time of the assessment under this section shall be deemed to be the valuation of the unit for the purposes of this section unless the assessors determine otherwise.

(5) In the exercise of their functions under this section the assessors may treat any series or complex of valuation units as a single valuation unit:

Provided that the assessors shall not exercise their discretion under this subsection where such combination would result in any increase in the liability for any rate payable under this Act.

Assessment

25 (1) The assessment made by the assessors shall be entered in a book to be provided and kept for the purpose and shall be signed by the assessors as being correct, and delivered to the Corporation.

(2) Before the assessment is finally adopted by the Corporation, notice of the making thereof shall be published in the Gazette and one other newspaper, if such there be, published in Bermuda, fixing a time not less than fifteen days during which the assessment shall remain open for the inspection of any person liable to assessment.

- (3) (a) If any person so liable to be assessed is dissatisfied with the value at which any of his property is assessed, he may at any time during which the assessment remains open for inspection apply in writing to the Corporation concerned for a revision of such assessment;

MUNICIPALITIES ACT 1923

- (b) if the assessment is not revised by the Corporation to the satisfaction of such person, he may at any time within one month after the expiration of such inspection period apply to any magistrate for a further revision thereof;
- (c) such magistrate may issue a summons to the Corporation to appear before him to show cause why such assessment, or the question whether the property in question is liable to assessment, as the case may be, should not be revised;
- (d) on the hearing the magistrate shall, after hearing such evidence as may be submitted to him in the matter, determine the amount of such assessment and make such order as to the costs of the proceedings as he deems expedient; and
- (e) such proceedings shall as far as practicable be conducted in like manner as a civil case heard under the Magistrates Act 1948 [*title 8 item 15*], and the like costs shall be payable.

Lien on property for rates

26 Municipal rates shall, notwithstanding any trust, mortgage, conveyance, bill of sale, devise or bequest, be a charge or lien on the property in respect of which such rate was levied and on all other real and personal property of the ratepayer within the municipality concerned ranking next after any parish rates due thereon.

Power to assess occupier of real property in certain cases

27 Any person in possession, occupation, or charge of any real property may be assessed in respect thereof instead of the owner in all cases in which—

- (a) the owner, or in the case of several owners any of the owners, of such property is absent from Bermuda;
- (b) it is not certainly known to the Corporation who the owner of such property may be;
- (c) the owner is under age or of unsound mind;
- (d) the property is registered in the Corporation books as the property of the estate of a deceased person;
- (e) the person registered as the owner satisfies the Corporation that he has parted with, disposed of, or ceased to be the owner of, such property;
- (f) in the case of leaseholds when the owner by notice to the Corporation satisfies the Corporation that the lessee has agreed to pay municipal rates:

Provided that nothing herein contained shall be construed to exonerate from liability to such assessment any person who but for this Act would be liable for such assessment.

MUNICIPALITIES ACT 1923

Recovery of rates

28 (1) Any rate shall be deemed to be a simple contract debt and may be sued for and recovered with costs, in the name of the Corporation concerned, by any person authorized by the Corporation for the purpose in the manner provided for the recovery of a debt or liquidated demand by the Magistrates Act 1948 [*title 8 item 15*], or may be sued for and recovered in the Supreme Court.

(2) A certificate in writing under the hand of the Mayor of the municipality concerned shall in any suit for the recovery of any rate be prima facie evidence that such rate was lawfully made and that the amount claimed is payable by the person against whom the claim is brought.

(3) When two or more rates are payable by the same person, they may be sued for and recovered in the same action, and in that event such two or more rates shall be treated as one rate.

Registration of property

29 (1) Any person who acquires a freehold estate (except by way of mortgage) in any land within either municipality shall give written notice thereof to the Corporation of the municipality concerned within three months after such acquisition, and such notice shall contain a description of the land acquired.

(2) Any person who sells or disposes of any freehold estate in any land within either municipality shall give written notice thereof to the Corporation of the municipality concerned within three months after such sale or disposal, and such notice shall contain a description of the land sold or disposed of.

(3) This section shall extend to the acquisition of any estate or interest in any real property by any person who thereby becomes liable, as owner or occupier thereof, to the payment of any rate, as they do to the acquisition of a freehold estate:

Provided that where a person becomes so liable as an occupier by reason of any lease or other grant of rights of occupancy the duty to give written notice to the Corporation in accordance with this section shall be imposed on the lessor or other person making the grant and not on the person who becomes so liable as an occupier.

(4) Any person who fails to give the notice required of him by this section within the requisite time commits an offence against this Act.

Rating in relation to expenditure

30 (1) The rate made for or in respect of any year may cover expenditure for the purpose for which such rate is authorized for the portion of the year prior to the date at which such rate was made and also the estimated expenditure for the portion of the year subsequent to such date and may in any case in which a rate is authorized for any purpose other than annual expenditure, include a sum for or towards such purpose:

Provided that nothing herein contained shall be construed so as to permit a larger sum being raised in any year by any rate than is allowed by the Act under which the rate is authorized.

MUNICIPALITIES ACT 1923

(2) If the amount collected by the Corporation under any rate made for or in respect of any year proves insufficient to meet the expenditure for which such rate was made, the rate for or in respect of the next year may include a sum sufficient to meet the deficiency:

Provided that the total amount raised by the rate in either of such years shall not exceed the maximum amount authorized by the Act under which the rate is made.

(3) If the amount collected by the Corporation under any rate made for or in respect of any year proves more than sufficient to meet the expenditure for which such rate was made, the unexpended portion of the amount collected shall be carried forward to the next year and shall be taken into account in determining the amount to be raised by a similar rate for such year.

WHARFAGE AND PORT DUES

Power of Corporations 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.

(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.

[Section 31 repealed by 2010 : 45 s. 5 effective 1 April 2011; revived by 2013 : 39 s. 19 and subsections (4),(5) and (6) inserted by 2013 : 39 s. 21 effective 1 April 2014]

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.

[Section 32 repealed by 2010 : 45 s. 5 effective 1 April 2011; revived by 2013 : 39 s. 19 effective 1 April 2014]

MUNICIPALITIES ACT 1923

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.

[Section 33 repealed by 2010 : 45 s. 5 effective 1 April 2011; revived by 2013 : 39 s. 19 effective 1 April 2014]

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:

MUNICIPALITIES ACT 1923

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 received 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.

[Section 34 repealed by 2010 : 45 s. 5 effective 1 April 2011; revived by 2013 : 39 s. 19 effective 1 April 2014]

Exemption of goods

35 Goods imported into or exported from the 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.

[Section 35 repealed by 2010 : 45 s. 5 effective 1 April 2011; revived by 2013 : 39 s. 19 effective 1 April 2014]

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 36 repealed by 2010 : 45 s. 5 effective 1 April 2011; revived by 2013 : 39 s. 19 effective 1 April 2014]

POWERS OF CORPORATION WITH RESPECT TO BORROWING

Limit on powers of Corporations to borrow money

37 (1) The Corporations of Hamilton and St. George's respectively shall not borrow, receive or hold upon loan any sums exclusive of any sums which the Legislature has authorized or shall authorize either of such Corporations to borrow or guarantee for specific purposes, in the whole exceeding at one time—

(a) in the case of the Corporation of Hamilton, twenty million dollars; or

MUNICIPALITIES ACT 1923

(b) in the case of the Corporation of St. George's, one million dollars.

(1A) Notwithstanding subsections (2) to (4), but subject to subsection (1), where the Minister of Finance considers it appropriate, the Corporations of Hamilton and St. George's, respectively, may raise money by the issue of bonds—

- (a) secured in such manner and to such extent as the Minister of Finance may, prior to such issue, authorize; and
- (b) subject to such conditions as the Minister of Finance may specify, including a condition requiring the establishment of a Sinking Fund, other than the Sinking Fund referred to in subsection (2), for the purpose of such issue.

(2) Each Corporation shall at such time in each year after the passing of this Act as may be fixed by the Corporation, and during the continuance of any Corporation loan, appropriate out of the Corporation revenue, a sum equal to at least three per cent of the total amount of the Corporation loans for the time being as an annual contribution to the Sinking Fund.

(3) The Sinking Fund shall be appropriated by the Corporation as follows —

- (a) in the purchase of any debentures which, at the time when the annual appropriation is made or shortly thereafter, can be purchased at a price not exceeding the par value thereof, which debentures shall thereupon be cancelled;
- (b) in the redemption of debentures on the respective dates therein specified for payment thereof;
- (c) so much of the Sinking Fund as has not been applied as aforesaid shall be invested by the Corporation in such debentures, stocks, shares, or other securities as may from time to time be approved by the Minister of Finance for the investment of the Sinking Fund, and the Corporation shall have power from time to time to vary such investments for other investments approved as aforesaid;
- (d) all dividends and interest on such investments shall be appropriated by the Corporation to the Sinking Fund, and as far as practicable invested in like manner, and accumulated at compound interest.

(4) If at any date specified in any debenture for payment thereof the Sinking Fund is insufficient to redeem such debenture, the Corporation shall make up the deficiency out of any moneys at their disposal available for such purpose; and if there are no such moneys or if such moneys are insufficient for such purpose, the Corporation shall raise by an equal rate (to be termed "debenture redemption tax"), on all real and personal property within municipal limits such sum of money as is necessary to make up the said deficiency after taking into account such other moneys (if any), at the disposal of the Corporation as are available to meet such deficiency.

[Section 37 amended by 1994:26 effective 18 July 1994; amended by 1995:37 effective 14 July 1995; amended by BR 6 / 2011 para. 2 effective 11 March 2011; subsection (1) amended by 2013 : 39 s. 16 effective 15 October 2013]

CORPORATION ORDINANCES

Corporation Ordinances

38 (1) The making, amendment from time to time, and revocation, of Ordinances by either Corporation for all or any of the purposes, and subject to the conditions, mentioned in this section, are hereby authorized.

(2) The purposes for which Ordinances may provide are—

- (a) the regulation of the use of such wharves, piers and landing-places, within municipal areas as are not bona fide the property of the Government or of the Government of the United Kingdom, or private property;
- (b) the regulation of the use of any shed or building erected upon any such wharf, pier or landing-place within municipal areas;
- (bb) the regulation and control of off-street and on-street parking;
- (c) the control, maintenance, repair and lighting of all streets and highways within municipal areas, and the control of vehicular and pedestrian traffic thereon;
- (d) *[repealed]*
- (e) the general control of markets, fairs, pedlars, hawkers and vendors in public, of goods within municipal areas;
- (f) the regulation of all aspects of building and building operations and the condemnation, demolition and removal of dangerous, sub-standard or unsightly structures;
- (g) the maintenance and use of a sufficient water supply;
- (h) the establishment and maintenance of plant and machinery for supplying any artificial light supplied by such Corporation;
- (i) the control and supervision of theatres, dance halls, concerts, public exhibitions, entertainments and performances, and of the erection of any building intended to be used therefor;
- (j) the regulation or prohibition of dangerous or unhealthy trades or practices and the regulation or prohibition of the shipment, handling, use, storage, transfer and landing within municipal limits of any dangerous commodity or any commodity which constitutes or is likely to constitute a nuisance;
- (k) *[repealed]*
- (l) *[repealed]*
- (m) the regulation of the use of any of the following whether within or without the municipal area, if owned or controlled by the Corporation making such Ordinances, that is to say, parks, gardens, buildings, lands, wharves and landing-places;

- (n) the levying for all or any of the purposes mentioned in this Act of any rate on valuation units, within municipal areas, or any charge, tax or toll for the use by the public of any real property, fixture or chattel vested in or subjected to the control of either Corporation or for off-street or on-street parking, or any wharfage on any goods or port dues on ships;
 - (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;
 - (p) subject to the Advertisement Regulation Act 1911, the control of all forms of advertising which can be heard or seen by any person in a public place.
- (3) The conditions subject to which Ordinances may be made are as follows—
- (a) Ordinances shall not be repugnant to any Act;
 - (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.

[Section 38 amended by 1995:37 effective 14 July 1995; subsection (2)(d), (k) and (l) deleted 2007:23 s. 15(2) effective 2 July 2007; subsection (2)(o) and (3)(d) repealed by 2010 : 45 s. 5 effective 1 April 2011; subsection (3) deleted and substituted and subsection (4) inserted by 2013 : 39 s. 17 effective 15 October 2013; subsection (2)(o) inserted by 2013 : 39 s. 19 effective 1 April 2014]

SUPPLEMENTAL POWERS AND DUTIES OF CORPORATIONS

Power of Corporations to employ, etc., officers and employees

39 Each Corporation may from time to time to employ, commission, or appoint, dismiss or remove, such and so many officers or employees as may be deemed necessary or desirable for putting into force and executing any power or duty conferred on either of the said Corporations by any Act or for administering or executing any Ordinance made under this Act.

Power of Corporations with respect to building wharves, etc., on foreshores

40 It shall be lawful for the Corporations of Hamilton and St. George's respectively, after having obtained the licence of the Governor in respect of each contemplated work, to build and erect within municipal limits or on land belonging to either Corporation outside such limits, wharves and landing-places for public use below high water mark, into the waters of the respective harbours, and extending to such distances into the harbour as shall be found necessary or convenient.

MUNICIPALITIES ACT 1923

Submission of annual statements of account

41 It shall be the duty of each Corporation at any time prior to the thirtieth day of June in each year to forward to the Minister a statement in detail duly audited by some auditor to be approved by the Corporation showing the receipts and expenditure of the Corporation to the end of the previous year.

[Section 41 amended by 2010 : 45 s. 6 effective 10 August 2010; amended by BR 6 / 2011 para. 2 effective 11 March 2011]

RESTRICTION ON CONSTRUCTION OF WOODEN BUILDINGS

Restriction on construction of wooden buildings

42 (1) Subject to this section the erection of any wooden building within municipal areas is hereby prohibited.

(2) This section shall not apply—

- (a) to any wooden gallery or verandah which has a stone or metal covering or roof, and which is attached to a stone building; or
- (b) to any temporary wooden shed for the purpose of containing the material for any stone building about to be erected or in course of erection, the erection whereof has been permitted in writing by the Mayor; or
- (c) to any wooden buildings on White's Island.

(3) This section shall apply to any room or apartment upon the floor of any gallery or verandah attached to any stone building, unless the exterior covering thereof consists either of stone or metal or other fire-proof material, or partly of stone and partly of metal or other fire-proof material.

(4) Any person who contravenes any of the foregoing provisions of this section commits an offence against this Act, and the Mayor may, by warrant under his hand and the municipal seal and directed to the Commissioner of Police, order any wooden building erected or existing in contravention of any such provision forthwith to be pulled down.

(5) The Commissioner of Police shall, on receiving a warrant directed to him under subsection (4), cause the warrant to be executed and shall be empowered, should there not be sufficient police available for the purpose, to call in to his assistance in the execution thereof such persons as he may deem necessary, and such persons whilst so assisting shall have all the powers and immunities conferred upon police officers by the Criminal Code [*title 8 item 31*].

POWERS OF BERMUDA FIRE AND RESCUE SERVICE

Powers of officers of Bermuda Fire and Rescue Service with respect to extinguishing fires

43 In the event of the Bermuda Fire and Rescue Service, established under the Bermuda Fire and Resuce Service Act 1982, being engaged in extinguishing any fire occurring in or near either municipality the officers of the Bermuda Fire and Rescue Service present at such fire may give such orders and directions as they may deem expedient for

MUNICIPALITIES ACT 1923

the purpose of extinguishing such fire, or of preventing the spread thereof, and may adopt such reasonable means for either of these purposes as they may consider necessary.

[Section 43 amended by 2007:23 s.15(3) and (4) effective 2 July 2007]

Conferment of powers of police officers on fire officers

44 All watchmen and fire officers under the Bermuda Fire and Rescue Services Act 1982 shall be deemed to be police officers, and shall be entitled to the like privileges and protection when engaged in the execution of their duty.

[Section 44 amended by 2007:23 s.15(5) effective 2 July 2007]

NOTARIAL FEES

Fees payable to Mayors for notarial services

45 The fees enumerated in the Second Schedule shall be payable to the Mayors of the respective municipalities for the services therein set forth.

OFFENCES AGAINST ACT AND ORDINANCES

Trial and punishment of offences against Act or against Ordinances

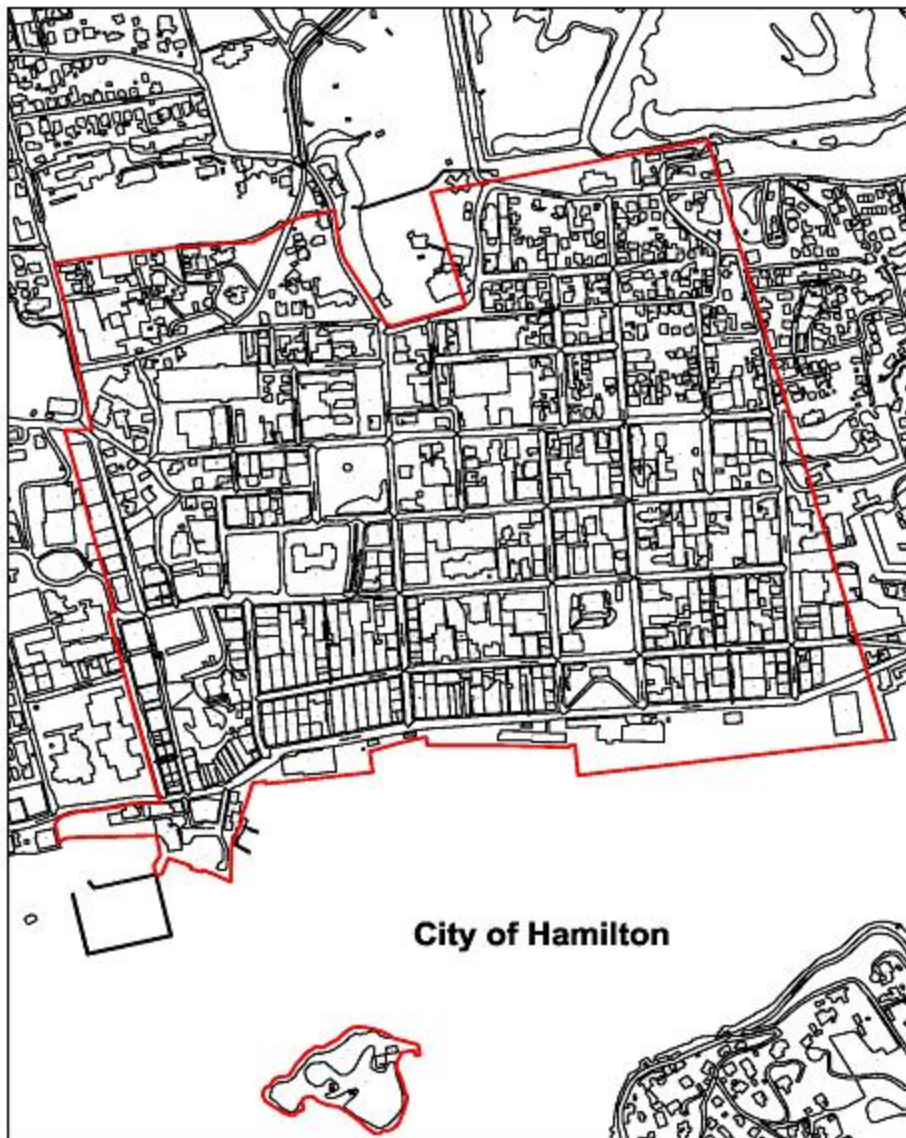
46 (1) Subject to subsection (2), where a person commits an offence against this Act or against any Ordinance made thereunder :

Punishment on summary conviction: imprisonment for 12 months or a fine of \$6,000 or both such imprisonment and fine.

Punishment on conviction on indictment: imprisonment for 2 years or a fine of \$12,000 or both such imprisonment and fine.

(2) A person guilty of an offence against any Ordinance controlling vehicular or pedestrian traffic on streets and highways within municipal areas shall be liable on summary conviction to the penalty specified in Schedule 1 to the Traffic Offences (Penalties) Act 1976 *[title 21 item 13]*.

SCHEDULE A1
MAP OF MUNICIPAL AREA OF THE CITY OF HAMILTON



Date: July 2010

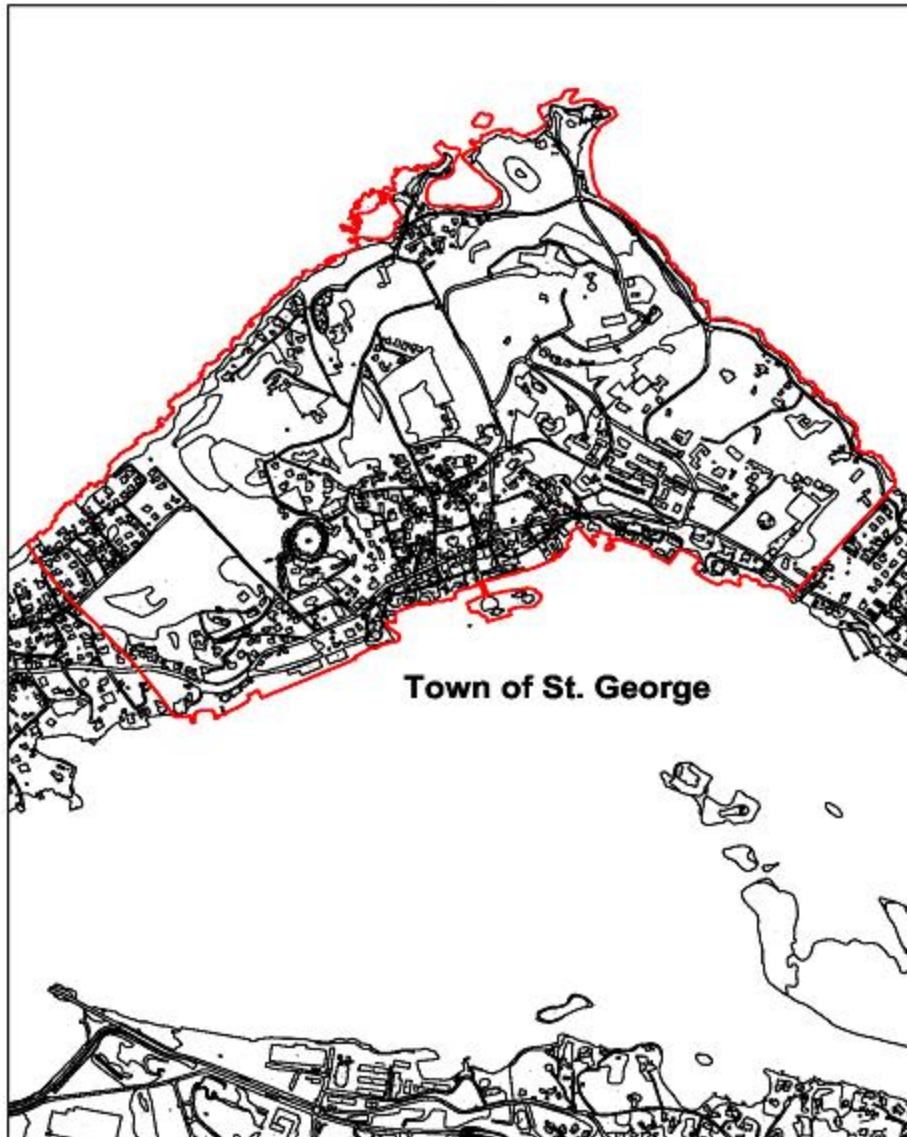
Drawing No. 5510/046/356

Municipal boundaries have been digitized from the Ordnance Map Series E8111 Edition 3 1984,
copies of which may be inspected at the Ministry of Works and Engineering during office hours

MUNICIPALITIES ACT 1923

SCHEDULE B1

MAP OF MUNICIPAL AREA OF THE TOWN OF ST. GEORGE



Date: July 2010

Drawing No. 5510/046/357

Municipal boundaries have been digitized from the Ordnance Map Series E8111 Edition 3 1984,
copies of which may be inspected at the Ministry of Works and Engineering during office hours

MUNICIPALITIES ACT 1923

FIRST SCHEDULE

[Repealed by 2010 : 45 s. 10.]

[First Schedule repealed by 2010 : 45 s. 10 effective 10 August 2010]

MUNICIPALITIES ACT 1923

SECOND SCHEDULE
NOTARIAL FEES PAYABLE TO MAYORS

| | |
|---|--------|
| For drawing any affidavit, in writing per 100 words | \$0.24 |
| For fair copy of same, per 100 words | \$0.12 |
| For administering any oath | \$0.24 |
| For fixing any seal of a Corporation to any paper, and for granting any necessary certificate | \$1.20 |

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 imported under a remission order (made under section 2 of the Customs Duty (Special Remission) Act 1951) which grants complete exemption from the payment of import customs duty on those goods.

- 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
 - Bermuda Underwater Exploration Institute Act 1992
 - Visiting Forces Act (Application to Bermuda) Order 2001

[Third Schedule inserted by 2013 : 39 s. 21 effective 1 April 2014; amended by 2014 : 10 s. 3 effective 1 April 2014]

MUNICIPALITIES ACT 1923

ANNEXURE

[Repealed by 2010 : 45 s. 10.]

[Annexure repealed by 2010 : 45 s. 10 effective 10 August 2010]

[Assent Date: 19 June 1923]

[Amended by:

1925 : 16
1926 : 27
1930 : 8
1932 : 17
1934 : 26
1935 : 16
1936 : 52
1937 : 12
1948 : 25
1949 : 26
1949 : 47
1951 : 68
1951 : 87
1952 : 5
1952 : 11
1953 : 42
1959 : 100
1963 : 184
1963 : 189
1964 : 109
1967 : 46
1967 : 238
1969 : 374
1970 : 178
1970 : 304
1971 : 83
1972 : 90
1976 : 30
1977 : 35
1978 : 46
1992 : 66
1994 : 26
1995 : 37
2001 : 20
2001 : 29
2007 : 23

MUNICIPALITIES ACT 1923

2010 : 45
BR 6 / 2011
BR 21 / 2011
2013 : 39
2014 : 10]