



DRAFTING INSTRUCTIONS

BERMUDA 1923 : 33

MUNICIPALITIES ACT 1923

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[19 June 1923]

[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;

Recommendation: Change the definition to refer to the value as shown on the current valuation list as prepared under the provisions of the Land Valuation and Tax Act 1967.

"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;

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

Recommendation: Change the above to read: "Corporation of Hamilton" means the Mayor and Council of the City of Hamilton.

Discussion: See "Constitution and Status of Municipal Corporations"

"Corporation of St. George's" means the Mayor, Aldermen, and Common Council of the Town of St. George;

Recommendation: Change the above to read: "Corporation of St. George's" means the Mayor and Council of the Town of St. George.

Discussion: See "Constitution and Status of Municipal Corporations"

"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);

"the Minister" means the Minister of Finance;

"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" means a person who has been registered as a municipal elector in accordance with Part II of the First Schedule;

"municipal register" means register for which provision is made in Part II of the First Schedule;

"nominee" means an individual appointed in accordance with Part II of the First Schedule to vote on behalf of a municipal elector;

"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);

"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;

"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" means to enter in the municipal register, and the grammatical variations of "to register" shall have corresponding meanings;

"returning officer" means the official referred to in paragraph 20 of the First Schedule;

"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;

Recommendation: Delete reference to "senior alderman." Replace it with "senior councillor." The definition should refer to the Councillor who has the longest period of continuous service. Delete reference to elder in age.

Discussion: See "Constitution and Status of Municipal Corporations," s.7(3)

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

"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.

Recommendation: Delete the definition of "wooden building."

Discussion: It is no longer required following the introduction of statutory planning and building codes and permitting processes. (See s.42, Restriction on the Construction of Wooden Buildings)

(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) Any reference in this Act to the Parliamentary Election Act 1963 [*repealed by the Parliamentary Election Act 1978*] is a reference to that Act as in force on 1 January 1978.

(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.

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.

(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 —

- (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.

* The municipal area of the City of Hamilton has been extended by the Hamilton Extension Act 1951 [title 4 item 7].

(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.

[Recommendation: 3\(1\),\(2\),\(3\),\(4\) – To expand the City boundaries to include all properties owned by the Corporation of Hamilton as well extending the west boundary to include the area currently serviced by the Corporation for sewage.](#)

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.

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.

Deposit of plans of municipal areas; evidence of municipal limits

6 Within six months after the passing of this Act, the Corporations of Hamilton and St. George's respectively shall each deposit in the Registry of the Supreme Court, for public information and reference, a map or plan of the municipal area of Hamilton and St. George's respectively, and such map or plan shall be certified under the hand of the Mayor and the seal of the Corporation so depositing the same, to be correct, and such map shall be prima facie evidence in all courts as to the extent, position and boundaries of municipal limits.

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.

Recommendation: The Corporation shall consist of a Mayor and 8 Councillors, thereby removing the position of Alderman.

Discussion: When the Municipalities Act was written in the early twentieth century, the constitutional structure of the Corporation reflected the common practice of having a bicameral legislature (e.g., the House of Lords and House of Commons in England, and the House of Assembly and Senate in Bermuda). In the case of Lords, the positions were inherited or appointed (although this is no longer true); in Bermuda's Senate, the positions are appointed. For decades at the Corporation, custom and practice dictated that Councillors would eventually move up to Aldermen according to seniority, and the Mayor would come from the ranks of Aldermen according to seniority, but the concept that privilege should be based on seniority was never supported in law.

The Municipalities Act 1923 is clear: there is nothing to prevent candidates from outside the Corporation from running for a senior Corporation position, including Mayor; it is equally clear that nothing prevents internal candidates from seeking any higher office in the Corporation. Yet the two-tiered structure of Aldermen and Councillors gives some elected Members more privileges than others.

Perhaps the most significant privilege assigned to Aldermen and the Mayor under the Act is related to voting at Corporation meetings. As the Corporation is currently constituted, "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."

It is difficult to justify voting privileges for Members (other than the Mayor) that according to the current Act are not earned through length of service or any other criteria. It seems appropriate, then, and fairer, to create a "flat," or unicameral structure for the Corporation, where all Members except the Mayor would share equally in a simplified decision-making process.

The Deputy Mayor's Act 1935 would require amendment (or incorporation into the Municipalities Act) to reflect the new structure of the Corporation. In order to ensure the orderly devolution of Mayoral authority, the Mayor should be required to appoint a Deputy Mayor from among the Councillors. If neither the Mayor nor Deputy Mayor could perform the duty of Mayor, authority would fall to the Councillor most senior in respect of continuous time served, who would be called Senior Councillor. Should it be impossible to identify the Senior Councillor according to that criteria, the position of Senior Councillor would be assumed by a Councillor elected by a majority vote of the Members of the Corporation. This vote to designate a Senior Councillor should take place at the first properly constituted Corporation meeting of the year, and the Senior Councillor designated thusly would serve for the duration of that calendar year or until the end of his term in office, whichever came first.

(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.

Recommendation: The first line should read "The Mayors and Councillors..."

(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.

Recommendation: Replace reference to Senior Alderman with Senior Councillor.

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

Recommendation: Replace reference to Senior Alderman with Senior Councillor.

(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.

Recommendation: Replace reference to Senior Alderman with Senior Councillor. Replace reference to Alderman with Councillor.

(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].

Recommendation: First line should read "Every Mayor and Councillor..."

(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.

Recommendation: No act or resolution of a Corporation shall be valid unless it is assented to by a majority of the Councillors and by the Mayor.

Recommendation: If the Mayor withholds assent to an act or resolution of a Corporation, at the next meeting of the Corporation a supermajority of 6 Councillors can override the Mayor's veto, and the act or resolution shall be valid.

(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.

Recommendation: The Mayor and four Councillors shall constitute a quorum.

Recommendation: A provision stating that the Mayor and Councillors shall be remunerated for their service should be included in the Act.

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

Election of Mayor, Aldermen and Common Councillors

Recommendation: Change wording to "Election of Mayor and Councillors"

9 (1) In 1979 and in every third calendar year thereafter an ordinary municipal election shall be held for the election of the Mayor, Aldermen and Common Councillors of each Corporation.

Recommendation: Hold an ordinary municipal election for Councillors every three years. Hold a separate ordinary election for Mayor so that candidates who are sitting Councillors are not penalized if they lose and can fulfill their remaining term in office.

Discussion: This change will prevent the Corporations from losing experienced Councillors and will provide greater continuity. In order to make this change, the language of the Act should indicate that following the first ordinary election to take place after revisions to the Act, the Mayor would serve a (one-time-only) four-year term rather than a three-year term, and the Councillors would serve three-year terms, in order to stagger subsequent elections.

(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, under paragraph 21 of the First Schedule, of an ordinary municipal election.

Recommendation: Replace “an Alderman or Common Councillor” with “a Councillor.”

Recommendation: Require an election to be held within 90 days from the date of the vacancy to fill the vacancy.

Discussion: Currently, there is no requirement for a vacancy to be filled within a given time. Having no requirement can lead to political manipulation and can interfere with the proper running of the Corporation (e.g., establishing a quorum and having enough Members to sit on committees).

(3) Elections shall be held on such day as the Corporation may determine.

Electoral provisions contained in the First Schedule

10 The First Schedule shall have effect as follows —

- (a) Part I determines the persons qualified for registration;
- (b) Part II governs the registration of persons qualified under Part I;
- (c) Part III lays down the procedure for the conduct of elections;
- (d) Part IV prescribes the procedure for challenging the result of an election by the presentation of an election petition in the Supreme Court, and specifies the powers of the Court in relation to election petitions.

Punishment for corrupt practices

11 (1) Any person who during or in connection with any municipal election commits any corrupt practice commits an offence:

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

(2) In addition to any punishment that may be imposed under subsection (1), a person convicted under that subsection of a corrupt practice shall, for the period of six years beginning with the date of his conviction, be disqualified

- (a) for voting at a municipal election as a municipal elector or as the nominee of a municipal elector; or
- (b) for being elected Mayor or an Alderman or Common Councillor of either Corporation,

Recommendation: Change “or an Alderman or Common Councillor” to “or a Councillor.”

and if on the day of his conviction he holds office as Mayor or as an Alderman or Common Councillor, he shall cease to hold that office on the expiration of that day.

Recommendation: Change “or as an Alderman or Common Councillor” to “or as a Councillor.”

(3) In this section "corrupt practice" means an act during or in connection with a municipal election which if committed during or in connection with a parliamentary election would be bribery or undue influence as defined in sections 59 and 60 of the Parliamentary Election Act 1963 [repealed].

Standing for election and voting of unqualified persons

12 (1) Any person —

- (a) who, not being qualified under this Act to be elected at a municipal election and knowing that he is not so qualified, allows himself to be nominated as a candidate or to be elected at the election; or
- (b) who, not being entitled under this Act to vote at a municipal election as a municipal elector or as the nominee of a municipal elector and knowing that he is not so entitled, votes at the election,

commits an offence:

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

(2) In addition to any punishment that may be imposed under subsection (1), a person convicted of an offence under that subsection shall, for the period of six years beginning with the date of his conviction, be disqualified —

- (a) for voting at a municipal election as a municipal elector or as the nominee of a municipal elector; or
- (b) for being elected Mayor or an Alderman or Common Councillor of either Corporation,

and if on the day of his conviction he holds office as Mayor or an Alderman or Common Councillor, he shall cease to hold that office on the expiration of that day.

False statements etc.

13 Any person —

- (a) who, whether orally or in writing and whether on oath or not, makes any statement, or furnishes any information, to the secretary, being a statement or information material to the registration or intended registration of himself or any other person in a municipal register, and being a statement or information which he knows to be false in a material particular; or
- (b) who, in making a declaration under section 47 of the Parliamentary Election Act 1963 [*repealed*] as read with paragraph 28(2)(i) of the First Schedule to this Act, knowingly makes a false declaration,

commits an offence:

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

Offences relating to ballot papers etc.

14 (1) Any person —

- (a) who forges or fraudulently defaces or destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing it to be forged; or
- (b) who forges or counterfeits or fraudulently defaces or destroys any ballot paper, or the returning officer's initials or the official mark on any ballot paper, or makes any unauthorized use of the instrument for impressing the official mark or uses any imitation of that instrument or any other unauthorized instrument on a ballot paper; or
- (c) who without authority supplies any ballot paper to any person; or
- (d) who fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (e) who fraudulently takes out of the polling place any ballot paper; or
- (f) who without due authority opens, takes or destroys, or otherwise interferes with, any ballot box or ballot paper then in use for the purpose of a municipal election,

commits an offence:

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

such imprisonment and fine.

(2) An attempt to commit an offence referred to in subsection (1) shall itself be an offence, and may be proceeded against and punished in the same manner as the offence itself.

(3) In any charge for an offence in relation to any nomination paper, ballot paper or ballot box, the property in the paper or box may be stated to be in the returning officer.

Misconduct at municipal election, etc.

15 Any person —

(a) who at any municipal election —

(i) in or about the place of election behaves in a violent, offensive or disorderly manner, or improperly disturbs or impedes the proceedings; or

(ii) interferes with a voter who is engaged in voting in the polling place; or

(iii) obtains or attempts to obtain in the place of election information as to any candidate for whom a voter is about to vote or has voted; or

(iv) directly or indirectly induces or attempts to induce any voter to display his ballot paper so as to show the name of any candidate for whom the voter has voted; or

(b) who in the course of any proceedings before the returning officer behaves in a violent, offensive or disorderly manner, or improperly disturbs or impedes the transaction of business,

Recommendation: Add a prohibition against candidates entering the area where polling is underway.

Discussion: This addition reflects Parliamentary election rules.

commits an offence:

Punishment on summary conviction: imprisonment for 1 year or a fine of \$6,000 or both such imprisonment and fine.

Supplying intoxicating liquor by way of organized treating

16 (1) Any person who on the polling day and before the closing of the poll at any municipal election, by himself or with others, gives or provides by way of organized treating, or pays wholly or in part the expense of giving or providing by way of organized treating, any intoxicating liquor for consumption by municipal electors in connection with the holding of the municipal election, commits an offence:

Punishment on summary conviction: a fine of \$6,000.

(2) In this section "organized treating" means the giving or providing of intoxicating liquor without charge, or at a reduced or unduly small charge, to the persons consuming the liquor, under some arrangement which but for the election would not have been made.

Recommendation: Replace s.16 (1) under "Supplying intoxicating liquor by way of organized treating" with a general prohibition against offering inducements or bribes to influence the outcome of a municipal election.

GENERAL PROVISIONS AS TO THE MAYORS, ALDERMEN AND COMMON COUNCILLORS

Recommendation: Change this to read: GENERAL PROVISIONS AS TO THE MAYORS AND 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.

Recommendation: Replace "Alderman and Common Councillors" with "and Councillors."

(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.

Recommendation: Replace “an Alderman or Common Councillor” with “a 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).

Recommendation: Replace “an Alderman or Common Councillor” with “a Councillor.”

(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.

Recommendation: Replace “an Alderman or Common Councillor” with “a Councillor.”

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 if he is entitled to be registered and is in fact registered as a municipal elector for the Corporation where the election takes place or as the nominee of such an elector.

Recommendation: Replace “an Alderman or Common Councillor” with “a Councillor.”

(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 —

Recommendation: Replace “an Alderman or Common Councillor” with “a Councillor.”

- (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 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.

Recommendation: Add a provision for disqualification by reason of conviction of a serious offense other than relating to elections.

Discussion: If a Mayor or a Councillor has been convicted of a serious crime, including “white collar crime,” there should be a provision for disqualifying that person from holding office.

(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.

Recommendation: Replace “an Alderman or Common Councillor” with “or a Councillor.”

[Section 18 subsection (2)(b) amended by 2001:29 s.11(1) & Sch effective 29 October 2001]

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 —

Recommendation: Replace “an Alderman or Common Councillor” with “or a Councillor.” Include additional acts, behaviour or sentence from a disciplinary council whereby they may cease to hold office. As outlined in the Members Code of Conduct adopted by the Corporation Board in 2009.

- (a) upon becoming disqualified for holding office by reason of section 18(2);

- (b) upon ceasing to be a municipal elector or the nominee of such an elector in the municipal area in which he is Mayor, Alderman or Common Councillor;

Recommendation: Replace “Mayor, Alderman or Common Councillor” with “Mayor or Councillor.”

- (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 —

Recommendation: Replace “an Alderman or Common Councillor” with “a Councillor.”

- (a) ceases to be Mayor, Alderman or Common Councillor by reason of anything in subsection (1); or

Recommendation: Replace “Mayor, Alderman or Common Councillor” with “Mayor or Councillor.”

- (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.

HOLDINGS, ETC., OF REAL AND PERSONAL PROPERTY

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

20 (1) 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.

(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
 - (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]

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.

[Recommendation: Change to include properties in vacant or disrepair to allow the Corporation to provide amenities, services or improve the valuation of surrounding properties as was granted to the Bermuda Housing Corporation.](#)

(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.

(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.

Recommendation: Change to allow for an evaluation assessment of vacant (including private car parks) and dilapidated properties and taxing of same.

Discussion: The Corporation should be allowed through a rating ordinance to provide for tiered residential rates, in order to make the tax more equitable. This may be covered in 23 (5). If not, the Act should reflect the change.

Discussion: See recommendation to allow the Corporation to impose a finance charge on unpaid debt and discussion, under Corporation Ordinances, Section 38.

[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;

(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.

Recommendation: Delete sections 24 and 25 as both pre-date land valuation and are no longer relevant.

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.

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.

(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.

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

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

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

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

33 (1) (a) The master, owner or agent of every ship arriving at the Port of Hamilton or the Port of St. George's shall, within one hour after the ship has been entered, deliver to the

Corporation of the Port where any cargo is intended to be landed a copy of the manifest of all such goods with the marks, numbers and descriptions of all such packages and the names of the consignees so far as such particulars are known to such master, owner or agent;

- (b) the person delivering the manifest shall make and subscribe a declaration that such manifest contains a true account of the cargo intended to be landed at such Port; and
- (c) if the master, owner or agent does not deliver the manifest within the time required by this subsection, or delivers a false manifest, he commits an offence against this Act:

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

- (2) (a) The owner or agent of every ship bound from Bermuda shall within twenty-four hours after such ship departs deliver to the Corporation of the Port of departure a manifest of all goods shipped from such Port with the number and description of all packages shipped and the names of the shippers so far as such particulars are known to the owner or agent;
- (b) the person delivering the manifest shall make and subscribe a declaration that the manifest contains a true account of such cargo; and
- (c) if the owner or agent does not deliver that manifest within the time required by this subsection or delivers a false manifest, he commits an offence against this Act.

Removal of goods; payment of wharfage

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

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

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

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

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

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

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.

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 [title 8 item 15].

(2) A certificate in writing under the hand of the Mayor of the municipality concerned in any suit for the 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.

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 for specific purposes, in the whole exceeding at one time —

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

Recommendation: Raise the limit on borrowing for the Corporation of Hamilton to fifty million dollars. Further increases to be authorized via negative resolution of Parliament.

Discussion: \$20 million dollars is insufficient in today's market to adequately cover the cost of projected capital projects, nor does the amount reflect the current healthy financial statements of the Corporation regarding assets and liabilities.

(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 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 may, prior to such issue, authorize; and

(b) subject to such conditions as the Minister 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 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; and by 1995:37 effective 14 July 1995]

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 [*title 20 item 9*], the control of all forms of advertising which can be heard or seen by any person in a public place.

(3) The conditions subject whereto Ordinances may be made are as follows —

- (a) Ordinances shall not be repugnant to any Act;
- (b) Ordinances shall be passed by a majority of the Common Council and by a majority of the Aldermen and shall be assented to by the Mayor;

Recommendation: Ordinances shall be passed by a majority of the Councillors and shall be assented to by the Mayor.

Discussion: See previous discussion under Constitution of Corporations, 7 (7).

- (c) Ordinances shall, before coming into force, be published in the Gazette;
- (d) the affirmative resolution procedure shall apply to any Ordinance levying port dues on ships or wharfrage on goods, shed tax, tax, assessment, charge or toll.

Recommendation: (d) Change to remove charge and toll (to allow for parking charges and other penalties and fees). Also add that those ordinances requiring parliamentary negative resolution procedure shall have a time limit (suggested 2 months max) before it is placed on the order paper of Parliament.

Recommendation: The Corporation should be given the power through legislative change to impose a finance charge on unpaid debt.

Discussion: See attached opinion from Huw Shephard, Crown Counsel, Attorney General's office, 25th October, 2007. It reads, in part: "The question then becomes whether the words of section 38 of the Municipalities Act are sufficiently wide to contemplate the right of the Corporation to levy interest on unpaid charges, rates, etc. In my view they are not. It is a canon of the construction of statutes that the powers of public authorities to levy charges are to be strictly construed in favour of the payer, and although there are powers in section 38 to make ordinances levying charges, there is no provision for ordinances to levy interest on those charges.

"The change you seek will require primary legislation, and although it is a matter for Parliamentary Counsel as to how the amendment is to be achieved one way would be to amend section 38 of the Municipalities Act..."

[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]

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.

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.

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].

Recommendation: The section "Restriction on Construction of Wooden Buildings" should be deleted.

Discussion: It is no longer required following the introduction of statutory planning and building codes and permitting processes.

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 Rescue 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 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]

Recommendation: Police and City Rangers – This section was replaced previously but we would like to add to authorize the Corporation to hire City Rangers to be able to carry out the duties of the police within the City limits.

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*].

Recommendation: NEW – Planning Authority – Add to authorize the Corporation to have the same powers and authority over planning matters as indicated for the EEZ in the ministerial statements.

Recommendation: NEW – Licensing Authority – Add to authorize the Corporation to licence as in liquor licensing. Carriage license etc. within the City limits.

Recommendation: NEW – Remuneration – Add a mechanism to provide for the Corporation members to set a level of compensation for the members.

Recommendation: NEW – 3 Senior Councillors to be given Honorary title of Alderman. To allow for three councilors to be granted the Honorary title of Alderman either by seniority or vote of the Councillors.

FIRST SCHEDULE

PART I

FRANCHISE

Entitlement to vote

1 (1) Subject to paragraph 4, a person shall be entitled to vote at a municipal election if, and shall not be so entitled unless, having regard to paragraph 2, he is lawfully registered in his own right as a municipal elector, or, alternatively, as the nominee of such an elector, in the municipal register in force on the date of the municipal election.

(2) A person registered as a municipal elector or as a nominee in the municipal register in force on the date of the municipal election shall not be excluded from voting on the ground that, having regard to paragraphs 2 and 3, his name ought not to be on the register; but this subparagraph shall not prevent the rejection of his vote by the Court on an election petition, or affect his liability for any penalty for voting.

Qualification for registration as a municipal elector

2 (1) Subject to paragraphs 4 and 5, a person shall be entitled to be registered if he is the owner or occupier of a valuation unit situate within the municipal area of a Corporation and is either—

(a) the possessor of the following qualifications —

(i) he is a Commonwealth citizen of the age of eighteen years or upwards;

(ii) he either possesses Bermudian status or has been ordinarily resident in Bermuda throughout the immediately preceding period of three years; or

Recommendation: Change the qualifications to reflect the Parliamentary Election rules 1979: Commonwealth citizens, age 18 or over, who are either born Bermudians or have been granted or otherwise obtained Bermudian status; or who were registered electors on 1 May 1976. Any municipal electors, other than nominees, entitled to be registered under the current Act by virtue of s.2(1)(a)(i)(ii) shall remain on the municipal register and be entitled to vote.

(b) a company, partnership, association or body of persons, whether corporate or unincorporate:

Provided that, where the rights of ownership of a valuation unit situate as aforesaid are vested jointly in a husband and wife (without participation in those rights by any other person), each of them shall be entitled to be registered as a municipal elector in respect of that valuation unit if he is qualified under provision (a) of this subparagraph.

Recommendation: The right to vote in municipal elections should be extended to all individuals otherwise qualified (see s.2(1)(a) above) and ordinarily resident within the boundaries of the Corporations, without regard to property ownership, familial relationship or tax status. We suggest that inclusion on the Parliamentary Register at the time of application be required as proof of residency. Inclusion on the Parliamentary Register would also serve as proof that the qualifications required in s.2(1)(a) had been met, since the recommended qualifications reflect the Parliamentary Election rules.

Discussion: The history of suffrage in Western democracies over the last two centuries has been characterized by controversy and struggle to achieve ever-expanding voting rights. Over the years, barriers to voting based on property ownership, taxation, gender, race and religion have fallen, and the age of suffrage has been lowered. In 2008, enfranchisement of virtually all citizens over 18 is the law in Bermuda (specifically, Bermuda Dependent Territory citizens) as well as in the two countries with the closest ties to Bermuda, the United Kingdom and the United States.

We seek to expand the franchise in the Corporation to include all individuals included on the Parliamentary Register and ordinarily resident within the municipal boundaries, therefore removing for these individuals the last link between the right to vote and property ownership or taxation and bringing the municipal franchise into greater alignment with the national franchise.

It is worth considering that the original foundation of British suffrage was the restriction of voting to adult men who owned property. Indeed, following a series of nineteenth-century voting reforms, passage of the Representation of the People Act 1884 in the U.K. still only brought male enfranchisement to 60 percent.

Over a century later, inclusion on the U.K. national electoral register qualifies British citizens to vote in U.K. Parliament, European Parliament and local government elections as long as they are aged 18 or over on polling day and not subject to any legal incapacity to vote. (For simplicity in this discussion, we refer only to voting rights for British citizens resident in the U.K., because their situation most closely parallels Bermudian “citizens” resident within the municipal boundaries; voting rights in the U.K. are actually significantly broader and extend to other groups.)

Under the current provisions of the Municipalities Act 1923, the right of individuals to vote in Corporation elections remains tied to either property ownership or taxation and in one instance familial relationship, but this requirement unfairly disenfranchises many who live within the municipal boundaries. For example, a husband and wife who own a home within the municipal boundaries can vote, but their adult children who still live at home cannot. Two adults who own property jointly but who are not husband and wife only get one vote. The nonresident owners of a rental property within the municipal boundaries get up to two votes, but their tenants—if there is more than one—get only one.

Some would argue that in a municipal government such as the Corporation only those who pay municipal taxes should have the right to vote; support for this argument comes from the concept that only taxpayers share in the burden of government and therefore should be the only group entitled to representation.

However, individuals who pay no direct taxes must still bear the burden of decisions made by municipal government, decisions that do affect their lives; the Corporation decides not only bread-and-butter items such as which roads to pave, where to put streetlights and when garbage is collected, but it also influences the pace and direction of economic development. The disenfranchisement of individuals who do not pay direct taxes means that they have local government imposed on them without representation.

By expanding the municipal franchise to include all individuals included on the Parliamentary Register and ordinarily resident within the municipal boundaries, the Corporation is more closely aligning itself with Bermuda Parliamentary rules governing the right to vote. The expansion also reflects practices in the U.K. and U.S. (and, indeed, many other countries), which long ago abandoned the link between voting rights and property ownership or taxation for both national and municipal elections.

(2) Notwithstanding sub-paragraph (1), the secretary shall not register as a municipal elector a person qualified thereto if payment of the amount of any rate or part of any rate charged upon the valuation unit owned or occupied by him is more than three months in arrears, being an amount which such person so qualified is liable to pay to the Corporation.

Recommendation: The right to vote should not be denied to any municipal elector otherwise qualified because of nonpayment of taxes.

Discussion: If the franchise is no longer exclusively tied to ownership of property, then you cannot disenfranchise a municipal elector for nonpayment of taxes.

(3) In this paragraph "occupier of a valuation unit" means any person who has been an occupier of such a unit throughout the period of three months immediately preceding his application for registration.

Recommendation: Inclusion on the Parliamentary Register at the time of application should be required as proof of residency.

Discussion: If the franchise is no longer tied to ownership of property, the Corporation would require proof of residency to establish eligibility to vote. Using Bermuda's Parliamentary Register reflects the simplicity of voter registration in the U.K., where inclusion on the national register is sufficient to qualify a citizen to vote in both national and municipal elections.

[Paragraph 2(1)(a)(i) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]

Certain municipal electors to be represented by nominees

Recommendation: Change in the Registration of Nominees. To allow for a change of nominee up to the poll date as well as qualifications of who can be a nominee of the company.

3 (1) The following municipal electors shall be required to appoint an individual as a nominee to vote on their behalf in a municipal election —

- (a) a company, partnership, association or body of persons, corporate or unincorporate;
- (b) except where and to the extent that the proviso to sub-paragraph (1) of paragraph 2 applies, two or more persons who are joint owners or joint occupiers of the valuation unit in respect of which they are municipal electors.

(2) The nominee of a municipal elector shall —

- (a) be a Commonwealth citizen of the age of eighteen years or upwards; and
- (b) possess Bermudian status or have been ordinarily resident in Bermuda throughout the period of three years immediately preceding his appointment as nominee,

Recommendation: Change the qualifications for the nominee of a municipal elector to reflect the Parliamentary Election rules 1979: Commonwealth citizens, age 18 or over, who are either born Bermudians or have been granted or otherwise obtained Bermudian status; or who were registered electors on 1 May 1976.

and shall not be disqualified by sub-paragraph (2) of paragraph 4 for appointment as a nominee.

- (3) (a) The nominee of a company shall be a director, manager, secretary or other similar officer, or a senior employee, of the company;
- (b) the nominee of a partnership, association or body shall be a member of the partnership, association or body;
- (c) the nominee of joint owners or occupiers of a valuation unit shall be one of them.

(4) An individual appointed to be the nominee of a body mentioned in provision (a) or (b) of sub-paragraph (3) shall, subject to this Schedule, be deemed to be the duly appointed nominee of a body appearing to the secretary to be the same body, notwithstanding any change in the persons comprising the body; and, where a nominee has been appointed by joint owners or occupiers of a valuation unit (hereafter in this sub-paragraph referred to as "the original joint owners or occupiers"), the appointment shall subject as aforesaid, be deemed to continue in force on behalf of all the joint owners or occupiers for as long as any two of the original joint owners or occupiers continue to be municipal electors.

(5) Where a valuation unit that is chargeable to rates is owned or occupied jointly by a person or persons disqualified for being registered as a municipal elector or as municipal electors and another person or persons not so disqualified, this Schedule shall apply as though the disqualified person or persons were not a joint owner or joint occupier or joint owners or joint occupiers.

[Paragraph 3(2)(a) amended by 2001:20 s.7(1) & Sch 2 effective 1 November 2001]

Disqualifications

4 (1) A person shall be disqualified for being registered as a municipal elector or, even if registered, for voting at a municipal election if—

- (a) he ceases to be the owner or occupier of a valuation unit which is chargeable to rates; or
- (b) he is disqualified for voting at a municipal election under section 11 or 12; or
- (c) being a natural person, he—
 - (i) has ceased to be a Commonwealth citizen; or
 - (ii) has ceased to be ordinarily resident in Bermuda; or
 - (iii) 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 imprisonment or corrective training which has not yet expired, whether or not he is at large on licence; or
 - (iv) 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) such person is —
 - (i) an external company or body, that is to say, a company or body formed outside Bermuda; or
 - (ii) an exempted company within the meaning of the Companies Act 1981 [*title 17 item 5*]; or
 - (iii) an exempted partnership within the meaning of the Exempted Partnerships Act Revision 1992 [*title 17 item 26*].

(2) An individual shall be disqualified for being appointed as a nominee to vote on behalf of a municipal elector or, even if he is so appointed, for voting on behalf of a municipal elector at a municipal election if —

- (a) he would be disqualified for registration as a municipal elector by virtue of subparagraph (1) (b) or (1) (c); or
- (b) he is himself a municipal elector in respect of the municipal area who is entitled to vote otherwise than by his nominee.

[Paragraph 4 amended by 1992:66 effective 8 August 1992; and para (1)(c)(iii) amended by 2001:29 s.11(1) & Sch effective 29 October 2001]

Restrictions on multiple registration and voting

5 (1) This paragraph shall have effect in relation to registration more than once or voting more than once in relation to municipal elections.

(2) A person shall not be entitled to be registered more than once at any one time.

(3) If, notwithstanding sub-paragraph (2), a person's name is with his knowledge or consent entered in a municipal register more than once, he shall be disqualified for voting (whether in his own right or as a nominee) in any municipal election that takes place while his name remains so entered.

(4) Notwithstanding any other statutory provision, no individual shall be entitled to vote more than once in the same municipal election.

(5) The provisions of sub-paragraph (2) of paragraph 4 and of sub-paragraphs (1) to (4) of this paragraph shall have effect separately in relation to the Corporation of Hamilton and the Corporation of St. George's, and accordingly nothing in those provisions shall prevent an individual or other person from being registered in relation to, or entitled to vote in, municipal elections in relation to both Corporations at the same time, if he is otherwise qualified therefor.

PART II

REGISTRATION

Registering officer

6 The secretary shall be the registering officer for the purposes of this Act.

Municipal register

7 (1) It shall be the duty of the secretary to prepare and maintain a true and complete register of municipal electors (including nominees of municipal electors) for the Corporation for which he acts, and he may from time to time prepare a new register or part of the register, in which shall be incorporated the subsisting entries; and on the secretary certifying in writing in the new register or part that it has been prepared in accordance with this paragraph, the new register or part shall be used for the purposes of this Act and shall be as valid and effectual for those purposes as the register or part which it replaces.

(2) In this paragraph "the subsisting entries" means the entries relating to persons who are on the municipal register when the new register or part is prepared.

Requirements for registration in the municipal register

8 (1) The secretary shall not register any person in the municipal register as a municipal elector unless —

- (a) that person applies to the secretary to be registered;
- (b) where the person applying is required by paragraph 3 to appoint a nominee to vote on his behalf, the application is accompanied by evidence of an appointment in the form specified in sub-paragraph (2);
- (c) the secretary is satisfied, or it is adjudged on appeal (as hereafter in this Schedule provided), that the person is entitled to be so registered and, where he has appointed a nominee to vote on his behalf, that such nominee is qualified to be so appointed.

(2) The evidence of the appointment of a nominee required for the purposes of sub-paragraph (1) shall be an instrument in writing setting out the full title or description of the municipal elector, the valuation unit owned or occupied by the municipal elector and the full names of the persons appointed, and shall be authenticated —

- (a) where the municipal elector is a company, by the seal of the company being affixed to the instrument by the proper officer of the company above his signature;
- (b) where the municipal elector is a partnership, by the signatures of not fewer than two of the partners;
- (c) where the municipal elector is an association or other body, by the signature of the chairman, president, secretary or other similar officer of the association or body;
- (d) where the municipal elector consists of joint owners or joint occupiers of a valuation unit, by the signatures of not fewer than two of them.

(3) Where apart from a question of the appointment of a nominee the secretary has doubts whether a person is entitled to be registered, the secretary may, subject to sub-paragraphs (4) and (5), require to be satisfied by such evidence in writing as he thinks fit as to that person's entitlement to be registered.

(4) Without prejudice to sub-paragraph (3), the secretary shall not accept a claim that a person is an occupier of a valuation unit within sub-paragraph (3) of paragraph 2 unless that claim is accompanied by a certificate in writing (in this Schedule called "a landlord's certificate") in Form A in the Annexure to this Schedule, signed by the owner of the valuation unit in respect of which the claim is made.

(5) A landlord's certificate shall be valid for the period of seven days commencing on the

date of its signing, and shall then expire.

Recommendation: If an occupier is entitled to vote by confirmation of residency through the Parliamentary Register, then a landlord's certificate need only be produced by the occupier of a valuation unit whose purpose is business.

Recommendation: In order to make it easier for a citizen to register to vote, change the period of validity of a landlord's certificate from seven days to 30 days.

Registration of persons in municipal register

9 (1) Subject to sub-paragraph (4), a person (in this paragraph referred to as an "applicant") may at any reasonable time apply to the secretary to be registered in a municipal register as a municipal elector.

(2) Where the secretary is satisfied that an applicant is entitled to be so registered, then, subject to sub-paragraph (4), the secretary shall register him by entering the following particulars in the municipal register —

- (a) the name of the applicant;
- (b) the date of registration;
- (c) where the applicant has appointed a nominee, the full name of the nominee;
- (d) a concise description, sufficient to identify it, of the valuation unit in respect of which the applicant claims to be registered.

(3) Subject to sub-paragraph (4), a municipal elector who has appointed a nominee may at any reasonable time apply to the secretary, in accordance with sub-paragraphs (1)(b) and (2) of paragraph 8, to change his nominee.

(4) After notice of a municipal election has been given in accordance with paragraph 21 —

- (a) the secretary shall not register any person in the municipal register as a municipal elector unless, before the notice was given, that person had applied to the secretary for registration and had satisfied the secretary that he fulfilled all the requirements for registration;
- (b) the secretary may, if he thinks fit, refuse to receive any application to be registered or to change a nominee.

(5) The mis-naming of any person in the municipal register, or the inaccurate description of any valuation unit in the register, shall not prejudice the operation of this Schedule in relation to that person or unit if the person or unit is described in such a way as to be commonly recognized.

Maintenance of municipal register

10 (1) Subject to this Part of this Schedule, the secretary may make such additions to and cancellations, substitutions and alterations in the municipal register as may from time to time be required to maintain a true and complete record of the municipal electors and the nominees of municipal electors.

(2) Without prejudice to the generality of sub-paragraph (1) the secretary shall make such alterations in the municipal register as may from time to time be required —

- (a) to remove from the register the name of any person who has died;
- (b) to remove from the register the name of any person who is not qualified or has become disqualified for being registered as a municipal elector or a nominee, or for voting at a municipal election;
- (c) to alter any entry relating to the valuation unit in respect of which any person is registered;
- (d) to substitute for the name of any nominee appointed to vote on behalf of a municipal elector any other such name.

(3) The secretary shall remove from the municipal register the name of any person registered as a municipal elector if payment of the amount of any rate or part of any rate charged

upon the valuation unit owned or occupied by him is more than three months in arrears, being an amount which such person so registered is liable to pay to the Corporation.

Recommendation: This requirement should be deleted. The right to vote should not be denied to any municipal elector otherwise qualified because of nonpayment of taxes.

(4) Where an alteration to the municipal register consists of striking out or writing in the register, or the substitution of other writing for writing there, the secretary shall make the alteration in such a way that the previous writing remains clearly legible.

(5) The secretary shall sign every alteration made by him in the municipal register and shall enter the date on which the alteration was made.

Recommendation: Subparagraphs (4) and (5) should be written to reflect the use of computers to electronically save and alter data, specifically the municipal register.

Duty of secretary to notify person whose name is to be removed from the register

11 Where the secretary intends to remove from the municipal register the name of any person other than a person who has died or become subject to a legal incapacity, he shall notify that person accordingly, if it is practicable so to do and, if that person so desires, shall give him an opportunity to be heard with respect to the removal:

Provided that nothing in this paragraph shall apply to the removal of the name of the nominee of a municipal elector on the application of that municipal elector.

Duty of secretary to make notes

12 Where the secretary makes any alteration in the municipal register otherwise than for the purpose of correcting a clerical error, he shall record in the register a note of his reason for the alteration.

Annual revision

13 (1) For the purpose of facilitating applications for registration in the municipal register and the determination of objections in respect of such registration, and generally for facilitating the revision and maintenance of the municipal register, the secretary shall attend at the municipal offices for not less than five days in the month of September in every year during the hours when those offices are normally open to the public, and the aforesaid period of five days is in this Schedule referred to as "the period of the annual revision".

Recommendation: Delete the requirement for annual revision of the municipal register.

Discussion: As a matter of policy, inspection of or a copy of the register is available to anyone at any time, and a person may apply to be an elector "at any reasonable time." The ongoing maintenance of the register is a matter of internal good governance and can be addressed through resolution.

(2) The secretary shall by notice published in the Gazette and at least one newspaper printed and circulating in Bermuda give at least five days notice of the place, days and times appointed by him for his attendance at the municipal offices in pursuance of sub-paragraph (1).

Objections to registration

14 (1) Subject to this paragraph, any person may at any time submit to the secretary an objection —

- (a) objecting to the registration of any other person who is applying to be registered, or who is registered, in a municipal register; or
- (b) objecting to the appointment of any other person as a nominee; or
- (c) objecting to the particulars intended to be entered or already entered, in a municipal register in respect of any other person,

and if the secretary is satisfied that the grounds of the objection are established, then he shall refuse to register the person to whom the objection relates, or remove the name of that person from the municipal register, or refuse to enter, or alter or cancel, the particulars to which the objection relates, as the case may be.

(2) With respect to any such objection as aforesaid the following provisions shall have effect —

- (a) the secretary shall not determine the objection unless and until the person affected by the objection has been given an opportunity to reply to the objection and, if he so desires, to be heard with respect thereto;
- (b) the secretary shall not consider the objection unless the person submitting the objection deposits with him the sum of ten dollars;
- (c) where the secretary finds that the grounds of the objection are established he shall return the said sum of ten dollars, but where he finds that the grounds of the objection are not established he shall pay the said sum into the funds of the Corporation;

Recommendation: We suggest raising the fee that shall accompany an objection to registration to \$100 in order to discourage frivolous or malicious objections.

- (d) where the objection is submitted to the secretary during the period of the annual revision, the objection may be submitted orally;
- (e) where the objection is not made during the period of the annual revision, the secretary shall not consider the objection unless the person objecting submits to him in writing a statement of the grounds of the objection.

Applications and objections: powers of secretary etc.

15 Where any application or objection relating to the registration of a person registered or the intended registration of a person applying to be registered in the municipal register is submitted to the secretary, the following provisions shall have effect—

- (a) the applicant or the person objecting and any other person appearing to the secretary to be interested shall be entitled to a reasonable opportunity to appear before the secretary and be heard;
- (b) the secretary may require the applicant or the person objecting or the other person interested, as the case may be, to give or produce, or cause to be given or produced, oral or documentary evidence in support of the application or objection or of any representation made by him;
- (c) the secretary may require that the evidence tendered by any person shall be given on oath, and may administer an oath for that purpose, and may take affidavits.

Appeals from secretary to magistrate

16 (1) Where any person is aggrieved —

- (a) by any decision of the secretary on or in respect of any application or objection submitted to him in relation to—
 - (i) the registration of any person registered, or the intended registration of any person applying to be registered, in the municipal register; or
 - (ii) the validity of the appointment of a nominee; or
- (b) by any failure on the part of the secretary to give any such decision within a reasonable time; or
- (c) by any failure on the part of the secretary to give the aggrieved person a reasonable opportunity, to which that person is entitled under this Part of this Schedule, to make or reply to an objection, or to be heard,

then, subject to this paragraph, that person may appeal to a magistrate.

(2) No appeal shall he —

- (a) under this paragraph, in any case where the person aggrieved has not availed himself of a reasonable opportunity given to him to be heard by the secretary;
- (b) under sub-paragraph (1) (a) of this paragraph, unless the person aggrieved within five days after the decision was communicated to him gave notice in writing to the secretary of his intention to appeal;

(c) under sub-paragraph (1) (b) of this paragraph, unless the person aggrieved gave notice in writing to the secretary of his intention to appeal if the secretary should fail to give his decision within ten days of receipt of the notice.

(3) Subject as aforesaid, the magistrate shall hear any appeal under this paragraph at a time appointed by him for the purpose, of which time all persons concerned shall be notified in accordance with his directions.

(4) On a decision being given by the magistrate, the secretary shall forthwith take such steps as may be necessary to carry into effect the terms of the decision.

(5) No person who is for the time being registered in a municipal register shall be prevented from voting at a municipal election by reason only of the fact that an appeal is pending under this paragraph.

(6) The decision of a magistrate under this paragraph shall be final:

Provided that this sub-paragraph shall not prevent the correctness of the magistrate's decision being put in issue in an election petition brought under Part IV of this Schedule.

Inspection of municipal registers; furnishing of lists by secretary

17 (1) Any person, on payment to the secretary of a fee of one dollar for each inspection, may at any reasonable time inspect the municipal register and take extracts therefrom.

(2) Any person, on payment to the secretary of a fee calculated at the rate of one dollar for every hundred or fraction of a hundred names, shall be entitled within three days (excluding any Saturday, Sunday or public holiday) after application therefor to be furnished by the secretary with a list, certified by the secretary under his hand to be correct, of the municipal electors registered in the municipal register.

Custody of register

18 The municipal register shall be and remain in the custody of the secretary:

Provided that where the secretary is not the returning officer the secretary shall supply the returning officer with the municipal register to enable him to perform his duties under this Schedule.

Mode of sending notices, etc.

19 (1) Any notice that is required under this Part of this Schedule to be given by the secretary to any person shall be sufficiently given if sent by post to the address of that person as given by that person for the purpose, or, if there is no such address, to his last known place of abode.

(2) Any application, notice of objection or other written communication intended for the secretary under this Part of this Schedule shall be sufficiently sent if sent by post to his office.

PART III

ELECTIONS

Returning officer

20 (1) A Corporation may appoint a justice of the peace to be the returning officer for the purposes of this Schedule; but, if it does not do so, the secretary shall be deemed to have been so appointed.

Recommendation: This should reflect the Corporation's practice to appoint two justices of the peace to be returning officers at an election.

Discussion: This change will ensure continuous coverage in the polling area and the current standard in national polls.

(2) All expenditure properly incurred by the returning officer or by any other officer or employee of a Corporation in relation to the holding of a municipal election shall be paid by the Corporation.

Recommendation: Change "the returning officer" to "a returning officer" to reflect the presence of more than one.

Notice of election

21 (1) The returning officer shall publish in two issues of the Gazette and at least one newspaper printed and circulating in Bermuda notice of the municipal election stating —

- (a) the day on which nomination papers are to be delivered (in this Schedule referred to as "the nomination day") as required by paragraph 22; and
- (b) the day of the poll in the event of a contest (in this Act referred to as "the polling day"),

and the notice shall also state the time when, and the place where, forms of nomination paper may be obtained.

(2) The nomination day shall not be a Saturday, Sunday or public holiday, and shall be a day not earlier than ten days after the first publication in the Gazette of the notice of the municipal election called for by sub-paragraph (1).

(3) The polling day shall not be a Saturday, Sunday or public holiday, and shall be a day not earlier than three days and not later than seven days after the nomination day.

Recommendation: The polling day shall be a day not earlier than 14 days after nomination day and not later than 17 days after nomination day.

Discussion: This will provide candidates with a more reasonable amount of time to canvass voters.

Nomination of candidates

22 (1) The returning officer shall on the nomination day attend at eleven o'clock in the forenoon at the municipal offices and there until one o'clock in the afternoon, but no later, subject to sub-paragraph (2), accept nominations of candidates for the municipal election.

(2) The returning officer shall not accept the nomination of any person as a candidate unless —

- (a) the returning officer is satisfied that the candidate is a municipal elector and is not disqualified for election to the office of Mayor, Alderman or Common Councillor under section 18;

Recommendation: Change 22(2)(a) to read: the returning officer is satisfied that the candidate is a municipal elector and is not disqualified for election to the office of Mayor or Councillor under section 18;

- (b) the nomination is written on a separate paper (in this Schedule referred to as a "nomination paper") in Form B in the Annexure to this Schedule or is, in the opinion of the returning officer, substantially in that form;
- (c) the candidate is described in the nomination paper in such manner as in the opinion of the returning officer is sufficient to identify him;
- (d) the nomination paper is signed by the candidate to denote his acceptance of the candidature;
- (e) the nomination paper is signed by two municipal electors of the municipality in respect of which the election is to be held, one as proposer and the other as seconder, neither of whom has proposed or seconded the nomination of another candidate at the municipal election;
- (f) the nomination paper is delivered to the returning officer by the candidate or by his proposer or by his seconder;

Recommendation: A nomination paper delivered to the returning officer by facsimile shall be acceptable; the requirement for a deposit (see 22(2)(g)) remains unchanged.

- (g) the nomination paper is accompanied by a deposit of two hundred and fifty dollars.

(3) The returning officer shall make arrangements for supplying forms of nomination papers free of charge to persons seeking nomination as candidates in a municipal election, but failure to make such arrangements shall not affect the validity of any municipal election.

(4) For the purposes of sub-paragraph (2), "municipal elector" means, in the case of a municipal elector who is not required to appoint a nominee, such an elector, and, in any other

case, the nominee of a municipal elector.

Decision as to validity of nomination papers

23 (1) Where the returning officer decides that a nomination paper is invalid, he shall record and sign his decision and the reasons therefor on the back of the paper, and shall send notice of his decision to the candidate.

(2) The decision of the returning officer that a nomination paper is or is not valid shall be final:

Provided that this sub-paragraph shall not prevent the validity of a nomination being questioned in an election petition under Part IV of this Schedule.

Uncontested elections

24 (1) Where after one o'clock in the afternoon of the nomination day the number of duly nominated candidates does not exceed the number of vacancies to be filled in the municipal election, the returning officer shall forthwith declare the candidate or candidates concerned to be elected and give notice thereof in the Gazette.

(2) Where as a result of the withdrawal of a candidate the number of duly nominated candidates does not exceed the vacancies to be filled in the municipal election, the returning officer shall forthwith upon the withdrawal declare the candidate or candidates concerned to be elected, and give notice thereof in the Gazette.

Extraordinary municipal election to fill unfilled vacancies

25 Where the number of persons returned uncontested under paragraph 24 is less than the number of vacancies requiring to be filled in the municipal election, then an extraordinary municipal election shall be held under subsection (2) of section 9 to fill the vacancy or vacancies not duly filled.

Withdrawal of candidates

26 (1) Subject to sub-paragraphs (2) and (3), a candidate may withdraw his candidature by delivering to the returning officer a written notice of withdrawal signed by the candidate and attested by one witness.

(2) A notice of withdrawal shall not have effect unless it is delivered as aforesaid not less than two clear days (excluding any Saturday, Sunday or public holiday) before the polling day, unless the effect of the withdrawal would be to render the taking of a poll unnecessary.

(3) Where the withdrawal of a candidature would have effect as mentioned in sub-paragraph (2), the notice of withdrawal may be delivered to the returning officer at any time before the polling day.

Taking of poll where election is contested

27 Subject to paragraphs 24 and 26, where after one o'clock in the afternoon on nomination day the number of duly nominated candidates exceeds the number of vacancies requiring to be filled in the municipal election, then a poll shall be taken at the place appointed for the election.

Manner of conducting poll

28 (1) The provisions of sections 41 to 55 inclusive of the Parliamentary Election Act 1963 [*repealed*] (hereafter in this Act called "the Act of 1963") and of the Second Schedule to that Act shall mutatis mutandis apply in relation to the taking of a poll for the purposes of this Act as those provisions apply in relation to the taking of a poll for the purposes of that Act.

(2) Without prejudice to the generality of sub-paragraph (1) the said provisions shall have effect in relation to the taking of a poll under this Act with the following modifications —

- (a) references to a returning officer shall be construed as references to the returning officer under this Act;
- (b) references to the election room shall be construed as references to the place appointed for the municipal election;
- (c) references to a parliamentary election shall be construed as references to a

- municipal election;
- (d) references to the Deputy Governor shall be construed as references to the Corporation;
 - (e) references to the parliamentary register shall be construed as references to the municipal register, and references to an electoral district shall be construed as references to the municipal area;
 - (f) references to a parliamentary elector shall be construed as references to a municipal elector or, as the case may be, his nominee;
 - (g) the reference in subsection (1) of section 45 to Form C of the First Schedule to the Act of 1963 shall be construed as a reference to Form C in the Annexure to this Schedule;
 - (h) the references in sections 46 and 47 to section 4 of the Act of 1963 and that Act shall be construed respectively as references to paragraph 4 of this Schedule and this Act;
 - (i) the references in section 47 to Form D in the First Schedule to the Act of 1963 shall be construed as a reference to Form D in the Annexure to this Schedule;
 - (j) the words "and the Returning Officer shall then return their names or his name into the Office of the Deputy Governor with the writ of election duly completed and signed by him" in subsection (1) of section 53 shall be deemed to read "and the returning officer shall then give notice thereof in the Gazette";
 - (k) in section 54 —
 - (i) the words "and return his name into the office of the Deputy Governor" in subsection (1) shall be deemed to read "and give notice thereof in the Gazette";
 - (ii) in subsection (2) the words from "and a bye-election" to the end of the subsection shall be deemed to be deleted and the words "and a vacancy within the meaning of subsection (2) of section 9 shall be deemed to ensue" shall be deemed to be substituted;
 - (l) rule 9 of the Second Schedule to the Act of 1963 shall be construed as requiring the municipality to retain the documents for one year, and providing that the documents may thereafter be destroyed;
 - (m) the directions in the Appendix to the said Second Schedule to the Act of 1963 shall be used with such variations as the circumstances of the case may require.

Recommendation: A provision for voting by proxy should be included.

Discussion: Many voters complain that they are disenfranchised when they cannot be present to vote in a municipal election. A proxy vote will assist them.

The Parliamentary election rules allow for advance polling. However, an advance poll would be less appropriate on a municipal level given (1) the shorter period of time allotted under the Municipalities Act 1923 between the notice of election and polling day and (2) the extra cost of holding two polls on relatively smaller municipal budgets.

A proxy vote could follow a similar provision by the Electoral Commission in the UK, where voters who are unable to vote in person can ask someone to vote on their behalf. In a Corporation election, all electors except nominees could designate someone to vote on their behalf if they are unable to vote due to travel, disability or medical emergency.

Disposal of deposits and certificate of votes cast

29 (1) The following provisions of this sub-paragraph shall have effect with respect to the deposit of two hundred and fifty dollars required to be made under sub-paragraph (2) of paragraph 22 —

- (a) if after the deposit is made the candidate withdraws from election in accordance with paragraph 26, his deposit shall be returned to the person by whom it was made;

- (b) if the candidate dies after his deposit is made, and before the polling commences, the deposit, if made by him, shall be returned to his legal personal representative, and, if not made by him, shall be returned to the person by whom the deposit was made;
- (c) if a candidate is not elected and the number of votes cast for him does not exceed —
 - (i) where the candidate stands for an office in respect of which only one vacancy exists, one eighth of the total number of votes polled;
 - (ii) where the candidate stands for an office in respect of which more than one vacancy exists, one eighth of the total number of votes cast divided by the number of vacancies,
 his deposit shall be forfeited to the Corporation;
- (d) in any other case the deposit shall be returned to the person by whom the deposit was made as soon as may be after the result of the election is declared.

(2) The returning officer shall deliver to each candidate at a municipal election as soon as may be after the conclusion of the election a certificate showing the number of votes cast for each candidate and the total number of votes cast in the election.

PART IV

ELECTION PETITIONS

Power to question municipal election by petition

30 (1) The election of a Mayor, Alderman or Common Councillor may be questioned by an election petition on the ground—

Recommendation: Change the above to read: “The election of a Mayor or Councillor may be questioned by an election petition on the ground—”

- (a) that the election was avoided by general bribery, treating, or undue influence; or
- (b) that corrupt or illegal practices have or may reasonably be supposed to have affected the result of the election; or
- (c) that the person elected was not duly elected by a majority of lawful votes; or
- (d) that the person whose election is questioned was at the time of the election disqualified.

(2) The election of a Mayor, Alderman or Common Councillor shall not be questioned on any of the grounds set out in sub-paragraph (1) save by an election petition.

Recommendation: Change the above to read: “The election of a Mayor or Councillor shall not be questioned on any of the grounds set out in sub-paragraph (1) save by an election petition.”

(3) A practice shall for the purposes of sub-paragraph (1)(b) of this paragraph be a corrupt or illegal practice if it would be a corrupt practice within the definition of that expression in section 11(3).

Presentation of election petition

31 An election petition shall be presented —

- (a) to the Supreme Court;
- (b) within fifteen days of the publication in the Gazette of the result of the election in respect of which the petition is presented; and
- (c) by ten or more persons who had a right to vote in the election, or by a person alleging himself to have been a candidate at the election.

Security for costs

32 (1) At the time of presenting an election petition, or within five days or such longer period

thereafter as the Court may direct, the petitioner or petitioners shall give security for all costs, charges and expenses which may become payable by him or them to any witness summoned on his or their behalf or to any respondent.

(2) The security shall be of such amount, not exceeding ten thousand dollars, and shall be given in such manner and form, as the Court may direct.

Determination of Court

33 (1) At the conclusion of the trial of an election petition the Court shall determine —

(a) in the case of an election which is not contested and in connection with which the decision of the returning officer as to the validity of any nomination is questioned, whether the decision was correct, or whether the election was void; and

(b) in the case of a contested election, whether the person whose election is complained of was validly elected, or whether the election was void,

and shall certify under the hand of a judge and the seal of the Court the determination of the Court, and the determination so certified shall be final as to the matter at issue on the petition.

(2) A copy of the certificate of the Court shall be transmitted to the secretary and, where an election has been held void by the Court, a new election shall be held to supply the vacancy.

Power to make rules for conduct of petition

34 Section 62 of the Supreme Court Act 1905 [*title 8 item 1*] shall be deemed to extend to the making of rules under that section for regulating the practice and procedure to be observed on election petitions brought under this Schedule.

Validation of act done pending a petition

35 Where a Court has determined under paragraph 33 that a person whose election has been questioned was not validly elected, and the Court has certified under sub-paragraph (1) of that paragraph accordingly, any act done by him in the execution of his office before the time when the copy certificate called for by sub-paragraph (2) of that paragraph was received by the secretary shall be deemed valid, notwithstanding the determination.

ANNEXURE

Recommendation: All forms should reflect final constitution of the Corporation.

FORM A

LANDLORD'S CERTIFICATE

I, [blank] (1), owner of valuation unit [blank](2), hereby certify for the purposes of the Municipalities Act 1923 that [blank](3) is now and has since the [blank] day of [blank] 19 [blank] been the occupier of that valuation unit, and is [under notice to quit that unit by the [blank] day of [blank] 19 [blank] (4)] not under notice to quit that unit. (4)

(5)

(1) Insert name of owner.

(2) Insert description of valuation unit.

(3) Insert name of occupier (tenant).

(4) Delete as appropriate.

(5) Record signature of owner and date of signing.

FORM B

NOMINATION FORMS

Mayor

NAME IN FULL [blank] as the Mayor of [blank]

Proposed by:- [blank] (NAME OF PROPOSER IN FULL)

(Signature of Proposer)

Seconded by:- [blank] (NAME OF SECONDER IN FULL)

(Signature of Secunder)

Date:- [blank]

(Signature of Candidate)

Alderman

NAME IN FULL [blank] as an Alderman of [blank]

Proposed by:- [blank] (NAME OF PROPOSER IN FULL)

(Signature of Proposer)

Seconded by:- [blank] (NAME OF SECONDER IN FULL)

(Signature of Secunder)

Date:- [blank]

(Signature of Candidate)

Recommendation: Delete highlighted section above.

Common Councillor

Recommendation: Delete highlighted word above.

NAME IN FULL [blank] as a **Common** Councillor of [blank]

Recommendation: Delete highlighted word above.

Proposed by:- [blank] (NAME OF PROPOSER IN FULL)

(Signature of Proposer)

Seconded by:- [blank] (NAME OF SECONDER IN FULL)

(Signature Of Secunder)

Date:- [blank]

(Signature of Candidate)

Recommendation: Change all references from "Common Councillor" to "Councillor."

FORM C

BALLOT PAPERS

Mayor

The Voter should make one cross only in the space opposite the name of the candidate for whom he wishes to vote. Only one vote should be cast.

Names of Candidates for:

MAYOR

.....
.....
.....
.....
.....

Aldermen

The Voter should make one cross only in the space opposite the name of each candidate for whom he wishes to vote. Votes should be cast for not more than candidates.

Names of Candidates for:

ALDERMEN

.....
.....
.....
.....
.....

Recommendation: Delete highlighted section above.

Common Councillors

Recommendation: Delete highlighted word above.

The Voter should make one cross only in the space opposite the name of each candidate for whom he wishes to vote. Votes should be cast for not more than [blank] candidates.

Names of Candidates for:

COMMON COUNCILLORS

.....
.....
.....
.....
.....

Recommendation: Change reference from "Common Councillor" to "Councillor."

FORM D

DECLARATION OF INTENDING VOTER

I, [blank] (full name) of [blank] (address) do solemnly declare that-

1 I am registered in the municipal register of Hamilton/St. George's as a municipal elector or his nominee.

2 I have read (or have had read to me) and understand the provisions relating to the qualifications and disqualifications of municipal electors and their nominees set out below.

3 I am entitled to vote at this municipal election.

Dated this [blank] day of [blank] 19 [blank]

Signed and declared by the above-named (full name) in the presence of [blank]

(Signature of declarant)

[blank] Returning Officer.

PROVISIONS RELATING TO QUALIFICATIONS AND DISQUALIFICATIONS OF ELECTORS

1 Subject to paragraph 2 below, a person shall be entitled to vote at a municipal election if, on the polling day, he is registered in the municipal register of the municipality where the election is held as a municipal elector or, in the case of a municipal elector who is required to exercise his vote by his nominee, as such a nominee.

2 A person shall not be entitled to vote at a municipal election either as a municipal elector or as the nominee of a municipal elector if —

(a) he is not registered (or, in the case of a nominee, his name is not entered in the register) for the purpose; or

(b) he has ceased to be a Commonwealth citizen; or

(c) he has ceased to be ordinarily resident in Bermuda; or

(d) he 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]) he is under sentence to a term of imprisonment or corrective training which has not yet expired, whether or not he is at large on licence; or

(e) he 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

(f) he is disqualified for voting at a municipal election under section 11 or 12 of the Municipalities Act 1923.

3 A person registered as a municipal elector shall not be entitled to vote at a municipal election either personally or by his nominee if he ceases to be the owner or occupier of a valuation unit which is chargeable to rates.

4 The following persons may not vote at a municipal election by their nominee—

(a) persons who are not entitled to vote for any reason set out in paragraph 2 above;

(b) an external company or an exempted company or partnership or an external body being a company, partnership or body described in paragraph 4(1)(d) of the First Schedule to the Municipalities Act 1923.

[Form D para 2(d) amended by 2001:29 s.11(1) & Sch effective 29 October 2001]

Recommendation: Add Form E, which would be a certificate allowing for a proxy ballot.

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

Recommendation: Review and update these fees to correspond with the practice of the Bermuda Bar Association or other regulatory body.

[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]