

BILL AS TABLED

A BILL

entitled

MUNICIPALITIES REFORM ACT 2010

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WHEREAS it is expedient to amend the Municipalities Act 1923 and related legislation to provide for maps of the municipal areas, to reform the franchise, to repeal the right of the Corporations to levy wharfage and port dues, to provide for a special audit, to remove the Corporations' exemption from paying land tax, and for connected purposes;

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

Preliminary

Citation

1 This Act may be cited as the Municipalities Reform Act 2010.

Municipal areas

Municipal areas

2 (1) For section 6 of the Municipalities Act 1923 ("the principal Act") substitute—

"Maps of municipal areas

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

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

(2) After section 46 of the principal Act there shall be inserted Schedules A1 and B1 (maps of municipal areas) as set out at the end of this Act.

Electoral reform

Electoral reform

3 (1) After section 9 of the principal Act insert—

"Eligibility to vote in municipal elections

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

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

Application of Parliamentary Election Act 1978 as modified by order

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

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

(2) This section comes into operation on 1 April 2011.

Qualification for nomination as Mayor, Alderman or Common Councillor

4 (1) For section 18(1) of the principal Act substitute—

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

(2) For section 19(1)(b) of the principal Act substitute—

“(b) upon ceasing to be listed in the parliamentary register for Bermuda;”.

(3) This section comes into operation on 1 April 2011; but shall not affect the tenure of the persons holding the office of Mayor, Alderman or Common Councillor immediately before the passing of this Act.

Wharfage and port dues

Repeal of power of Corporations to levy wharfage and port dues

5 (1) Sections 31 to 36 of the principal Act (which relate to the power of the Corporations to levy wharfage and port dues etc) are repealed.

(2) In section 38 of the principal Act (Corporation Ordinances) the following provisions are repealed—

- (a) subsection (2)(o) (levying and recovery of shed tax on agricultural produce shipped from the ports); and
- (b) subsection (3)(d) (application of affirmative resolution procedure to Ordinances levying port dues or wharfage).

(3) This section comes into operation on 1 April 2011.

Audit

Annual statement of accounts

6 In section 41 of the principal Act (submission of annual statements of account to Minister), for “Minister” substitute “Minister responsible for municipalities”.

Special audit of the Corporations

7 (1) The Internal Audit Committee established under section 14 of the Internal Audit Act 2010 (in this section referred to as “the Committee”) shall appoint an auditor (“the auditor”) for the purposes of an audit of each Corporation in accordance with this section.

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(2) Each Corporation shall, within three months of the coming into operation of this Act, send to the auditor, a statement of its accounts for the twelve months immediately preceding the coming into operation of this Act.

(3) The statement of the Corporation's accounts shall—

- (a) include full details of all the assets, liabilities, income and expenditure of the Corporation; and
- (b) be in such form and contain such further details as the Committee may direct.

(4) The auditor shall examine the statements of accounts received by him under subsection (2), and shall make a report in writing on the statements to the Committee and to the Minister responsible for municipalities.

(5) It shall be the duty of every officer or employee of the Corporation, upon being required by or on behalf of the auditor, to give to the auditor access to—

- (a) all books, documents, cash and securities or other property in his possession or under his power belonging to the Corporation; and
- (b) all information within his knowledge concerning the operations of the Corporation.

(6) Any person who contravenes subsection (5) commits an offence.

(7) Any person who, in purported compliance with a requirement made of him under this section to supply information to the auditor, supplies any information which he knows to be false in a material particular or recklessly supplies any information which is false in a material particular commits an offence.

(8) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding twelve months, or to both.

Land tax

Amends Land Valuation and Tax Act 1967

8 (1) In section 3(1) of the Land Valuation and Tax Act 1967 (exceptions to valuation units to be included in draft valuation list), in paragraph (f)—

- (a) the words "Municipal Corporation or" shall be repealed (in both places); and
- (b) the words ", as the case may be" shall be repealed.

(2) Notwithstanding—

- (a) the amendment of section 3(1)(f) of the 1967 Act by subsection (1) (which has the effect of including property owned and occupied by a Municipal Corporation in the draft valuation list); and
- (b) section 30 of that Act (collection of tax),

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no tax shall be charged, levied or collected under the 1967 Act in respect of any valuation unit owned or occupied by a Municipal Corporation before 1 April 2011.

Consequential amendments and transitional provision

Consequential repeals : municipal areas

9 The following (which are superseded by new section 6 of the principal Act inserted by section 2) are repealed—

- (a) sections 1 and 2 of the Hamilton Extension Act 1951;
- (b) section 2 of the St. George's Extension Act 1953.

Consequential amendments: electoral reform

10 (1) The following provisions of the principal Act (which relate to elections and are superseded by the amendments made by sections 3 and 4) are repealed—

- (a) in section 1, definitions of “municipal elector”, “municipal register”, “nominee”, “to register” and “returning officer”;
- (b) section 1(3);
- (c) in the proviso to section 9(2), the words “, under paragraph 21 of the First Schedule.”;
- (d) sections 10 to 16;
- (e) the First Schedule and its Annexure.

(2) In section 1 of the principal Act insert the following definition in its appropriate alphabetical position—

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

Consequential repeals, amendments and revocations : wharfage and port dues

11 (1) The following (which relate to wharfage and port dues) are repealed—

- (a) Corporation of St. George's (Dues on Air Freight) Act 1952;
- (b) section 71(1C), (1D) and (1E) of the Marine Board Act 1962.

(2) For section 75 of the Marine Board Act 1962 (collection of port dues and wharfage by Municipal Corporations and West End Development Corporation) substitute—

“Port dues and wharfage

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

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(2) The West End Development Corporation shall pay to the Accountant-General, at such intervals as the Ports Authority may direct, all port dues so collected other than those referable to the berthing of any ship alongside the docks of the Corporation.”

(3) For the avoidance of doubt, the following Municipal Ordinances are revoked in consequence of the repeals effected by section 5—

- (a) Hamilton Goods Wharfage and Storage Charges Ordinance 1967;
- (b) St. George’s Goods Wharfage and Storage Charges Ordinance 1967;
- (c) Hamilton Port Dues Ordinance 1976;
- (d) St. George’s Port Dues Ordinance 1981.

(4) This section comes into operation on 1 April 2011.

Further consequential amendments and transitional provision

12 (1) The Minister responsible for municipalities may, by order, make—

- (a) such further amendments to the principal Act and any other enactment (including by way of repeal); and
- (b) such transitional provision,

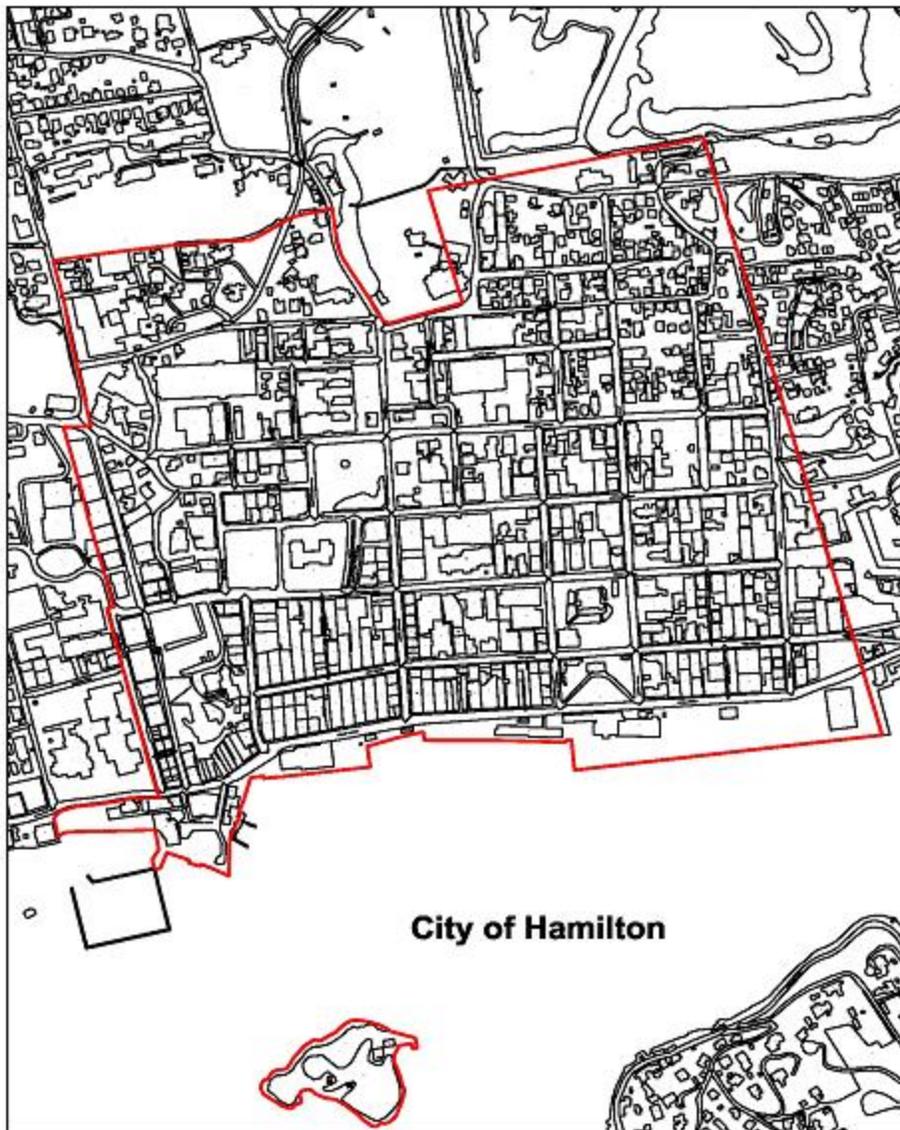
as may be necessary or expedient as a consequence of this Act.

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

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SCHEDULE A1

MAP OF MUNICIPAL AREA OF THE CITY OF HAMILTON



Date: July 2010

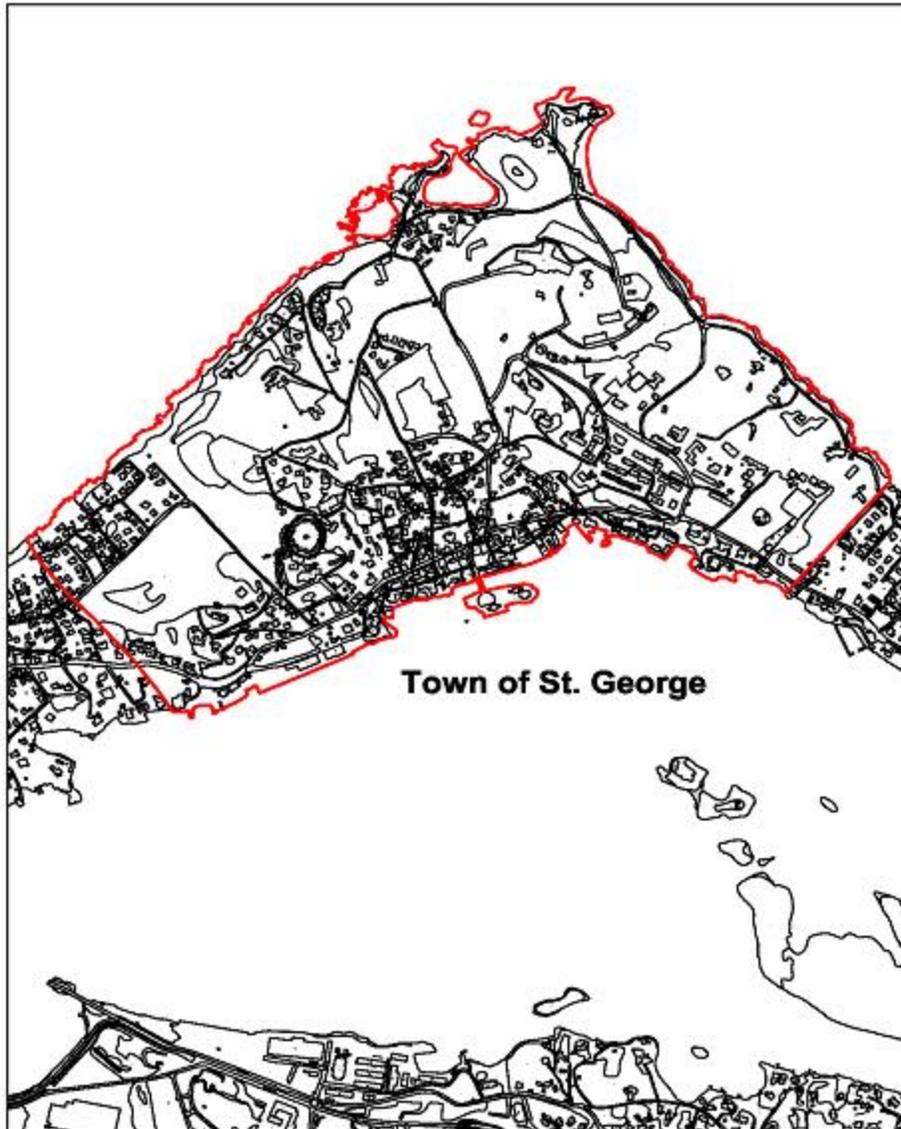
Drawing No. 5510/046/356

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

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SCHEDULE B1

MAP OF MUNICIPAL AREA OF THE TOWN OF ST. GEORGE



Date: July 2010

Drawing No. 5510/046/357

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

MUNICIPALITIES REFORM BILL 2010

EXPLANATORY MEMORANDUM

This Bill seeks to make a number of amendments to the Municipalities Act 1923 (“the principal Act”) and other related legislation.

Clause 1 is self-explanatory.

Clause 2 provides for the municipal areas of the City of Hamilton and Town of St. George to be as shown on the maps in new Schedules A1 and B1 to the principal Act.

Clause 3 reforms the franchise (from 1 April 2011) by inserting new sections 9A and 9B in the principal Act. Section 9A provides that all persons for the time being listed on the parliamentary register as resident in the municipal area of Hamilton or St. George are entitled to vote in a municipal election for the Mayor, Aldermen and Common Councillors of the Corporation of Hamilton or St. George’s (as the case may be). Section 9B applies the Parliamentary Election Act 1978 to municipal elections with such modifications as the Minister responsible for municipalities may provide by order subject to the affirmative resolution procedure.

Clause 4 makes amendments to sections 18 and 19 of the principal Act to provide that persons listed on the parliamentary register for Bermuda (not just in the municipal areas) are eligible for nomination as Mayor, Alderman or Common Councillor of the Corporations. Subsection (3) provides that this clause into operation on 1 April 2011, but not so as to affect the tenure of the current office holders.

Clause 5 repeals, as from 1 April 2011, sections 31 to 36 of the principal Act and related provisions so as to remove the power of the Corporations to levy wharfage and port dues.

Clause 6 amends section 41 of the principal Act so that the annual statements of account are forwarded to the Minister responsible for municipalities instead of the Minister of Finance.

Clause 7 provides for a special audit of the assets, liabilities, income and expenditure of each Corporation to be carried out by an auditor appointed by the Internal Audit Committee within three months of the coming into operation of this Act.

Clause 8 amends section 3(1)(f) of the Land Valuation and Tax Act 1967 so that valuation units owned and occupied by the Corporations are no longer exempt from inclusion in the draft valuation list. Subsection (2) provides that no land tax will be levied or charged on the Corporations before 1 April 2011.

Clauses 9 to 11 repeal and amend various statutory provisions, and revoke specified Municipal Ordinances, in consequence of the amendments made by clauses 2 to 5.

Clause 12 empowers the Minister responsible for municipalities to make such further consequential amendments and repeals, and such transitional provision, as may be necessitated by this Act, by order subject to the affirmative resolution procedure.