



BERMUDA

MUNICIPALITIES (ELECTION) ORDER 2011

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The Minister responsible for municipalities, in exercise of the powers conferred by section 9B of the Municipalities Act 1923 (inserted by section 3(1) of the Municipalities Reform Act 2010) and of section 12 of the Municipalities Reform Act 2010, makes the following Order:

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### Citation

1 This Order may be cited as the Municipalities (Election) Order 2011.

### Amends section 9 of Municipalities Act 1923

2 Section 9 of the Municipalities Act 1923 is amended by repealing subsection (3) and substituting the following—

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

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

- (a) a day (other than a Saturday, Sunday or other public holiday) in the week following the first Sunday in May; and
- (b) not earlier than 28 days after the publication of the notice under subsection (3), nor later than two months after the publication of the notice.”.

### Application of Parliamentary Election Act 1978 to municipal elections

3 The Parliamentary Election Act 1978, read with the modifications to that Act set out in this Order, shall apply to municipal elections under section 9 of the Municipalities Act 1923.

### Interpretation of Parliamentary Election Act 1978

4 (1) Section 1(1) of the Parliamentary Election Act 1978 is modified by inserting, in the correct alphabetical sequence, the following definitions—

“ “Corporation” has the meaning assigned to it in the Municipalities Act 1923;

“Corporation of Hamilton” has the meaning assigned to it in the Municipalities Act 1923;

“Corporation of St. George’s” has the meaning assigned to it in the Municipalities Act 1923;

“extraordinary municipal election” has the meaning assigned to it in the Municipalities Act 1923;

“municipal area” has the meaning assigned to it in the Municipalities Act 1923;

“municipal election” has the meaning assigned to it in the Municipalities Act 1923;

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“ordinary municipal election” has the meaning assigned to it in the Municipalities Act 1923;

“Secretary” means the Secretary of a Corporation;”.

(2) The following expressions in the Parliamentary Election Act 1978 are to be construed, in relation to a municipal election, as follows—

- (a) “bye-election” is to be read as a reference to an extraordinary municipal election;
- (b) “constituency” is to be read as a reference to the municipal area of a Corporation;
- (c) “Deputy Governor” is to be read as a reference to the Secretary of a Corporation;
- (d) “member” is to be read as a reference to the Mayor, an Alderman or a Common Councillor of a Corporation;
- (e) “parliamentary election” is to be read as a reference to a municipal election;
- (f) “parliamentary elector” or “elector” is to be read as a reference to a municipal elector (i.e. a person who is entitled to vote at a municipal election in accordance with section 4 of that Act); and
- (g) “parliamentary register” is to be read as a reference to a part of the register relating to the municipal area of a Corporation.

Modifies section 3 of Parliamentary Election Act 1978

5 Section 3 of the Parliamentary Election Act 1978 (qualifications and disqualifications for registration) is modified by inserting, immediately after subsection (4), the following—

“(5) All persons for the time being listed in the parliamentary register as ordinarily resident in a municipal area are qualified to be registered in the register for that Corporation.”.

Modifies section 4

6 Section 4 of the Parliamentary Election Act 1978 (entitlement to vote) is modified by deleting subsection (2)(c).

Modifies section 5

7 (1) Section 5 of the Parliamentary Election Act 1978 (qualification for election) is modified—

- (a) in subsection (1)—
  - (i) by replacing the words “the House of Assembly for a constituency” with the words “a Corporation”;
- (b) by replacing paragraph (a) with the following—

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“(a) he is qualified for nomination as a candidate under section 18(1) of the Municipalities Act 1923 and is not disqualified under section 18(2) of that Act; and”;

(c) by replacing subsection (2) with the following—

“(2) A person is disqualified from being a member of a Corporation if—

(a) he is disqualified from being elected as such a member under section 71 of this Act; or

(b) he is, at the same time, a member of the Legislature or a member of the other Corporation.”.

Modifies section 7

8 Section 7 of the Parliamentary Election Act 1978 (parliamentary register) is modified—

(a) by inserting, immediately after subsection (1), the following—

“(1A) As soon as practicable after 1 April 2011, the Registrar shall prepare a register of electors registered in the municipal area of each Corporation, and shall thereafter revise and maintain such registers.”; and

(b) in subsection (2) by, immediately after the word “constituency”, inserting the words “and for each municipal area”.

Modifies section 10

9 Section 10 of the Parliamentary Election Act 1978 (application for registration) is modified in subsection (4) by replacing the word “Governor” with the word “Secretary”.

Modifies section 14

10 Section 14 of the Parliamentary Election Act 1978 (scrutineers) is modified in subsection (1) by, immediately after the word “Legislature”, inserting the words “, members of a Corporation”.

Modifies section 26A

11 Section 26A of the Parliamentary Election Act 1978 (publication of revised parliamentary register at an election) is modified in subsection (1) by replacing the word “Governor” with the word “Secretary”.

Modifies section 27

12 Section 27 of the Parliamentary Election Act 1978 (issue of writs of election) is modified—

(a) in subsection (1) by replacing the words “Governor of a writ of election under the Public Seal of Bermuda” with the words “Secretary of a writ of election under the seal of the Corporation”; and

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(b) by replacing subsection (5) with the following—

“(5) The polling day appointed for a municipal election shall not be an excepted day and shall, subject to section 27A—

- (a) in the case of an ordinary municipal election, be the day appointed for the holding of the election by notice of the Secretary pursuant to section 9(3) of the Municipalities Act 1923;
- (b) in the case of an extraordinary municipal election, be a day not earlier than 28 days after the issue of the writ nor later than two months after the occurrence of the vacancy which occasioned the issue of the writ.”.

Modifies section 27A

13 Section 27A of the Parliamentary Election Act 1978 (power to postpone elections) is modified—

- (a) by replacing the word “Governor”, wherever it appears in the section, with the word “Secretary”;
- (b) by replacing the word “proclamation”, wherever it appears in the section, with the word “notice”; and
- (c) by deleting, in subsection (1), the words “(but subject in any event to the limits set forth in section 51(1) and (2) of the Constitution)”.

Modifies section 32

14 Section 32 of the Parliamentary Election Act 1978 (nomination of candidates) is modified—

(a) in subsection (2) by replacing paragraph (e) with the following—

“(e) the intended candidate is not, at the same time—

- (i) nominated as a candidate for any other vacancy in the Corporation;
- (ii) in the case of an extraordinary municipal election, a member of the Corporation;
- (iii) nominated as a candidate for the other Corporation, the House of Assembly or the Senate; or
- (iv) a member of the other Corporation, the House of Assembly or the Senate;”;

(b) by deleting subsections (3) and (4).

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Modifies section 33

15 Section 33 of the Parliamentary Election Act 1978 (uncontested election) is modified by replacing it with the following—

“Uncontested election

33 Where at the close of the period for the acceptance of nomination of candidates at a municipal election the number of persons duly nominated as candidates for mayor, alderman or common councillor does not exceed the number of vacancies to be filled at that election, then the Returning Officer shall forthwith declare such duly nominated person or persons to be elected and shall return their name or names, as the case may be, to the office of the Secretary with the writ of election duly completed and signed by him.

Extraordinary municipal election to fill unfilled vacancy

34 (1) Where the number, if any, of persons returned uncontested as members in accordance with section 33 is less than the number of vacancies to be filled at the municipal election concerned, then an extraordinary municipal election shall ensue within the next succeeding period of two months to fill any vacancy not duly filled at such municipal election.

(2) The Returning Officer shall forthwith report to the Secretary and the Registrar the circumstances giving rise to an extraordinary municipal election under subsection (1).”.

Modifies section 36

16 Section 36 of the Parliamentary Election Act 1978 (taking a poll in contested election) is modified by replacing subsection (1) with the following—

“(1) Subject to section 38, where at the close of the period for the acceptance of nomination of candidates at a municipal election the number of persons duly nominated as candidates for mayor, alderman or common councillor exceeds the number of vacancies to be filled at that election, then a poll shall be taken at the election room on the polling day therefor.”.

Modifies section 46

17 Section 46 of the Parliamentary Election Act 1978 (ballot papers) is modified—

(a) by replacing subsection (1) with the following—

“(1) The ballot of each voter at a municipal election (hereinafter called a “ballot paper”) shall consist of, as necessary, a page listing in alphabetical order the full names of all the nominated candidates for mayor, a page listing in alphabetical order the full names of all the nominated candidates for alderman, and a page listing in alphabetical order the full names of all the nominated candidates for common councillor, in a form that is as close as practicable to that prescribed for parliamentary elections, each page impressed with the official mark in accordance with subsection (3).”;

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- (b) in subsection (2), by deleting paragraph (c); and
- (c) in subsection (3) by, immediately after the words “back of”, inserting the words “each page of”.

Modifies section 51

18 Section 51 of the Parliamentary Election Act 1978 (marking the ballot paper) is modified by replacing subsection (2) with the following—

“(2) A person voting at a municipal election shall not be entitled to vote on a ballot paper for more of the candidates than there are vacancies (for mayor, alderman or common councillor respectively) to be filled at that municipal election.”.

Modifies section 54

19 Section 54 of the Parliamentary Election Act 1978 (void ballot papers) is modified in subsection (1) by replacing paragraph (b) with the following—

“(b) on which votes are given for more candidates than there are vacancies (for mayor, alderman or common councillor respectively) to be filled at the municipal election concerned;”.

Modifies section 57

20 Section 57 of the Parliamentary Election Act 1978 (procedure in the event of a tie) is modified in subsection (2) by, immediately after the word “void”, inserting the words “in respect of the vacancy for which the report has been made”.

Modifies section 71

21 Section 71 of the Parliamentary Election Act 1978 (disqualifications) is modified by—

- (a) immediately after the words “parliamentary election”, inserting the words “or municipal election”; and
- (b) immediately after the words “House of Assembly”, inserting the words “, or of a Corporation,”.

Made this 5th day of April 2011

Minister of Public Works