



BERMUDA

MUNICIPALITIES (ELECTION) ORDER 2015

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MUNICIPALITIES (ELECTION) ORDER 2015

The Minister responsible for municipalities, in exercise of the powers conferred by section 9B(1) and (1A) of the Municipalities Act 1923 and section 10 of the Municipalities Amendment Act 2015, makes the following Order:

Citation

1 This Order may be cited as the Municipalities (Election) Order 2015.

Application of Parliamentary Election Act 1978 to municipal elections

2 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

3 (1) Section 1(1) of the Parliamentary Election Act 1978 is modified by inserting, each in its correct alphabetical place, the following definitions—

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

“business ratepayers’ Councillor” has the meaning assigned to it in the Municipalities Act 1923;

“business ratepayers’ register” has the meaning assigned to it in the Municipalities Act 1923;

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

“Corporation of Hamilton” means the Mayor and Councillors (business ratepayers’ Councillors and residents’ Councillors) of the City of Hamilton;

“Corporation of St. George’s” means the Mayor and Councillors (business ratepayers’ Councillors and residents’ Councillors) of the Town of St. George;

“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;

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

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

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“residents’ Councillor” has the meaning assigned to it in the Municipalities Act 1923;”.

(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) “member” is to be read as a reference to the Mayor or a Councillor (a business ratepayers’ Councillor or a residents’ Councillor, as the case may be) of a Corporation;
- (d) “parliamentary election” is to be read as a reference to a municipal election;
- (e) “parliamentary elector” or “elector” is to be read as a reference to a municipal elector (a business ratepayer or a municipal resident, as the case may be, who is registered to vote in a municipal election); and
- (f) “parliamentary register” is to be read as a reference to a business ratepayers’ register or a municipal residents’ register, as the case may be.

Modifies section 3 of Parliamentary Election Act 1978

4 Section 3 of the Parliamentary Election Act 1978 (qualifications and disqualifications for registration) is modified by inserting, 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 municipal residents’ register for that Corporation.

(6) A person is qualified for registration in the business ratepayers’ register for a municipal area if he is so qualified under the Municipalities Act 1923.”.

Modifies section 4

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

Modifies section 5

6 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”;

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(ii) by replacing paragraph (a) with the following—

“(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”;

(b) 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

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

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

“(1A) The Registrar shall establish a register of municipal residents in the municipal area of each Corporation, and shall thereafter revise and maintain such registers.”;

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

(c) by inserting, after subsection (6), the following—

“(7) The Registrar shall, in accordance with the Municipalities Act 1923, establish and maintain a register of the business ratepayers in the municipal area of each Corporation, and shall thereafter revise and maintain such registers.”.

Modifies section 10

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

Modifies section 14

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

Modifies section 26A

10 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 “Registrar”.

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Modifies section 27

11 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 “Registrar of a writ of election”; and
- (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 Registrar 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

12 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 “Registrar”;
- (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 30

13 Section 30 of the Parliamentary Election Act 1978 (notice of election) is modified by deleting the words “the Deputy Governor shall notify the Registrar and”.

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;

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- (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;”; and
- (b) by deleting subsections (3) and (4).

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 the nomination of candidates at a municipal election the number of persons duly nominated as candidates for Mayor, business ratepayers’ Councillor or residents’ 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 Registrar 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 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, business ratepayers’ Councillor or residents’ 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.”.

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Modifies section 37

17 Section 37 of the Parliamentary Election Act 1978 (withdrawal of candidate) is modified in subsection (3) by deleting the words “Deputy Governor” and substituting “Registrar”.

Modifies section 38

18 Section 38 of the Parliamentary Election Act 1978 (death of candidate) is modified in subsection (2) by deleting the words “the Deputy Governor and”.

Modifies section 46

19 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 business ratepayers’ Councillor, and a page listing in alphabetical order the full names of all the nominated candidates for residents’ 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).”;

(b) in subsection (2), by deleting paragraph (c); and

(c) in subsection (3) by, after the words “back of”, inserting the words “each page of”.

Modifies section 51

20 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, business ratepayers’ Councillor or residents’ Councillor respectively) to be filled at that municipal election.”.

Modifies section 54

21 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, business ratepayers’ Councillor or residents’ Councillor respectively) to be filled at the municipal election concerned;”.

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Modifies section 57

22 Section 57 of the Parliamentary Election Act 1978 (procedure in the event of a tie) is modified—

- (a) in subsection (1) by deleting “Deputy Governor” and substituting “Registrar”.
- (b) in subsection (2) by, after the word “void”, inserting the words “in respect of the vacancy for which the report has been made”.

Modifies section 58

23 Section 58 of the Parliamentary Election Act 1978 (return of writ of election) is modified by deleting “Deputy Governor” and substituting “Registrar”.

Modifies section 71

24 Section 71 of the Parliamentary Election Act 1978 (disqualifications) is modified by, after the words “House of Assembly”, inserting the words “, or of a Corporation,”.

Modifies the Schedule

25 The Schedule to the Parliamentary Election Act 1978 is to be read as if every candidate at a municipal election were an “independent” candidate.

Revokes Municipalities (Election) Order 2011

- 26 (1) Subject to paragraph (2), the Municipalities (Election) Order 2011 is revoked.
- (2) The Municipalities (Election) Order 2011 shall continue to have effect (and this Order shall not have effect) in respect of any municipal election that may be held before the ordinary municipal election in May 2015.

Made this 4th day of March 2015

Acting Minister of Home Affairs