



BERMUDA

STATUTORY INSTRUMENTS ACT 1977

1977 : 35

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[Preamble and words of enactment omitted]

Interpretation

- 1 (1) In this Act, unless the context otherwise requires—
- “enabling Act” means an Act conferring power to make a statutory instrument;
- “Parliamentary procedure” means either affirmative resolution procedure or negative resolution procedure under this Act;
- “publication” includes the deposit of copies for public inspection where that procedure is authorized by this or the enabling Act;

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“Secretary” means the Secretary to the Cabinet;

“statutory instrument” means any proclamation, rule, regulation, order, rule of court, by-law, notice or other instrument made in Bermuda under or by virtue of any provision of law and having legislative effect.

(2) In any proceedings a certificate from the Attorney-General stating whether or not a document constitutes a statutory instrument within the meaning of this Act shall be conclusive evidence of the facts stated therein.

(3) In this and every other Act unless the context otherwise requires—

“affirmative resolution procedure” means the procedure described in section 7;

“negative resolution procedure” means the procedure described in section 8.

Filing of all statutory instruments with Secretary to the Cabinet

2 (1) Every statutory instrument shall be filed by the maker thereof with the Secretary.

(2) The Secretary shall be responsible for the numbering and indexing of all statutory instruments filed in his office and for their publication.

(3) Where a map or plan—

(a) forms part of a statutory instrument for the purpose of illustrating a description of land;

(b) is identified in the statutory instrument by a number given to it by the Secretary,

and the statutory instrument states that the map or plan is filed in the office of the Secretary, he may in his discretion file the map or plan in his office in numerical order.

(4) When under subsection (3) a map or plan is to be filed in the office of the Secretary, a copy of the map or plan shall be kept for a period of one year in a place where it may be inspected at all reasonable hours by members of the public and the statutory instrument shall specify such place.

(5) “maker” for the purpose of this section shall mean in the case of a statutory instrument requiring the consent or approval of the Governor or a Minister, the Governor or the Minister, as the case may be.

Numbering of statutory instruments

3 Statutory instruments shall be numbered in the order in which they are filed and a new series shall be commenced each year.

Citation of statutory instruments

4 *[Deleted—see title 1 item 1 section 12 of the Interpretation Act 1951.]*

Publication of statutory instruments

5 (1) Subject to subsections (6) to (13), every statutory instrument shall be published in the Gazette within one month of its filing, unless publication by deposit for public inspection is authorized by the enabling Act.

(2) The Premier may at any time by order extend the time for the publication of a statutory instrument and the order shall be published with the statutory instrument.

(3) An order made under subsection (2) shall not be subject to Parliamentary scrutiny under this Act.

(4) A statutory instrument shall not have effect until published.

(5) A statutory instrument shall have effect when published unless in the enabling Act or in the instrument another date is specified.

(6) Notwithstanding subsection (1), the following provisions of this section shall apply to every statutory instrument made under an Act listed in the Second Schedule.

(7) Any interested person may apply, in writing, to the Premier to have an Act listed in the Second Schedule and the Premier may, if he is satisfied that it is appropriate so to do, by order list such Act in the said Schedule.

(8) An application made under subsection (7) shall be accompanied by a copy of the statutory instrument proposed to be made.

(9) For the purposes of subsections (7) and (8) the Premier shall have regard to—

- (a) the extent of the application of the statutory instrument;
- (b) the nature of the statutory instrument;
- (c) the number of pages comprised in the statutory instrument; and
- (d) such other matters as the Premier may consider appropriate in the public interest.

(10) A statutory instrument made under an Act referred to in subsection (7) shall, within one month of its filing, be published by deposit for public inspection at such place as may be specified in the order referred to in that subsection.

(11) The Premier may, from time to time, by order add to or delete Acts listed in the Second Schedule.

(12) Every statutory instrument made—

- (a) under an Act referred to in subsection (7); and
- (b) prior to the coming into operation of this Act,

shall, notwithstanding non-compliance with subsection (1), upon such coming into operation, have effect as though that subsection had been complied with and everything purportedly done under or by virtue of such statutory instrument which, but for such non-compliance would be lawfully done, shall have full force and effect.

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(13) An order made under this section shall be subject to negative resolution procedure.

[Section 5 subsection (1) amended, and (6)-(13) added, by 2003:21 s.2 effective 15 December 2003]

Parliamentary scrutiny of statutory instruments

6 (1) Every statutory instrument made by the Governor or a Minister under an enabling Act, or which though made by some other person or authority requires the consent or approval of the Governor or a Minister, shall, unless specifically provided to the contrary in such Act, be subject to Parliamentary scrutiny by way of affirmative resolution procedure or negative resolution procedure as required by subsection (2).

(2) The procedure applicable for Parliamentary scrutiny shall be the affirmative resolution procedure, unless the enabling Act specifically applies the negative resolution procedure.

(3) Nothing in this section shall apply to a statutory instrument appointing a day for the commencement or expiry of an Act or part of an Act.

Affirmative resolution procedure

7 Where the affirmative resolution procedure applies no statutory instrument shall be made unless a draft of the statutory instrument has been laid before both Houses of the Legislature and a resolution approving the draft has been passed by each House of the Legislature and communicated to the Governor by message.

Negative resolution procedure

8 Where the negative resolution procedure applies—

- (a) copies of the statutory instrument shall be laid before both Houses of the Legislature as soon as practicable after the statutory instrument is made;
- (b) if either House of the Legislature, within the period of twenty-one days (beginning with the day on which a copy is laid before it) or before the expiration of the third sitting day (including the day on which a copy is laid before it), whichever is the later, resolves that a message be sent to the Governor requesting that the statutory instrument or any part thereof be annulled—
 - (i) no further proceedings shall be taken under the statutory instrument or such part thereof after the date of the resolution;
 - (ii) the maker shall as soon as practicable by notice in the Gazette declare the statutory instrument or such part thereof to be annulled in pursuance of the resolution;

and as from the date of publication of the notice the statutory instrument or such part thereof shall cease to have effect, but without prejudice to anything done or omitted to be done thereunder.

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Copies of messages to the Governor to be filed with the Secretary to the Cabinet

9 The Deputy Governor shall file with the Secretary a copy of every message from either House of the Legislature to the Governor under this Act.

Power to modify the application of this Act to Acts passed before 20 July 1977

10 (1) If with respect to any Act passed before 20 July 1977 it appears to the Premier that by reason of the exceptional nature of the provisions of that Act conferring power to make a statutory instrument, the application of section 6 would be inexpedient, the Premier may by order direct that section 6 shall not apply to statutory instruments made under those provisions, or shall apply thereto subject to such modifications as may be specified in the order.

(2) The affirmative resolution procedure shall apply to any order made under this section.

Repeals and amendments

11

[omitted]

Saving

12 This Act shall not apply to or affect the provisions of law specified in the First Schedule.

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FIRST SCHEDULE

The Constitution [*title 2 item 1*]

Parliament Act 1957 [*title 2 item 13*]

Defence Act 1965 [*title 7 item 21*]

Trading with the Enemy Act 1939 [*title 7 item 53*]

Bermuda Monetary Authority Act 1969 [*title 16 item 11*]

[First Schedule amended by 2015 : 48 s. 26 effective 1 November 2017; First Schedule amended by 2020 : 21 s. 3 effective 1 June 2022]

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SECOND SCHEDULE

[Second Schedule amended by BR 43 / 2005 effective 30 September 2005; Second Schedule amended by BR 105 / 2018 para. 2 effective 25 September 2018; Second Schedule amended by BR 11 / 2021 para. 2 effective 29 January 2021; Second Schedule amended by 2021 : 23 s. 54(5) effective 1 August 2021]

[Assent Date: 20 July 1977]

[Amended by:

1984 : 47
2003 : 21
BR 43 / 2005
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BR 105 / 2018
BR 11 / 2021
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