



BERMUDA

INTERPRETATION ACT 1951

1951 : 68

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[preamble and words of enactment omitted]

Application of provisions of Act

1 (1) Subject to this section, this Act shall have effect in relation to the interpretation and construction of every Act of the Legislature of Bermuda, whether enacted before or after 19 July 1951, and of every statutory instrument made, given or issued in Bermuda, whether made, given or issued before or after 19 July 1951—

- (a) so as to assign to any expression used in any such Act or in any such statutory instrument the meaning assigned to that expression by this Act; and
- (b) so as to apply in respect of any such Act or statutory instrument the rules of construction declared in this Act.

(2) Notwithstanding anything in subsection (1), any provision of this Act—

- (a) which assigns a particular meaning to any expression; or
- (b) which applies a particular rule of construction,

shall not have effect so as to assign that meaning or, as the case may be, so as to apply that rule of construction, in relation to any other Act or to any statutory instrument—

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- (i) where there is in that other Act or statutory instrument any express provision to the contrary; or
 - (ii) where in that other Act or statutory instrument the context otherwise requires.
- (3) In this section “statutory instrument” has the meaning given in section 2.

Definitions of legislative expressions

2 In every Act and in every statutory instrument—

“Act” means an Act of the Legislature of Bermuda;

“affirmative resolution procedure” means the procedure described in section 7 of the Statutory Instruments Act 1977 [*title 1 item 3*];

“amending Act”, in relation to any other Act, means an Act which amends that other Act;

“commencement”, in relation to an Act or to any enactment in an Act or to any statutory instrument or to any provision of a statutory instrument, means the time at which the Act, enactment, statutory instrument or provision comes into operation;

“negative resolution procedure” means the procedure described in section 8 of the Statutory Instruments Act 1977 [*title 1 item 3*];

“private Act” means an Act which, not being a Government measure, affects or benefits some particular person, association or corporate body;

“provision of law” means any provision of law which has effect for the time being in Bermuda, including any statutory provision, any provision of the common law, any provision of the Constitution, and any right or power which may be exercised by virtue of the Royal Prerogative;

“public Act” means any Act which is not a private Act;

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

“statutory provision” means a provision—

- (i) of any Act; or
- (ii) of any statutory instrument.

Definitions of official designations

3 In every Act and in every statutory instrument—

“the Cabinet” means the Cabinet for Bermuda constituted in accordance with section 57 of the Constitution;

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- “the Constitution” means the Constitution of Bermuda set out in Schedule 2 to the Bermuda Constitution Order 1968 [*title 2 item 1*], as the same may from time to time be amended and any Constitution for Bermuda set out in any enactment replacing that Order;
- “consular officer” includes consul-general, consul, vice-consul, consular agent, and any person for the time being authorized to discharge the duties of consul-general, consul, vice-consul or consular agent;
- “the Crown Agents” means the persons for the time being acting as the Crown Agents for Oversea Governments and Administrations, or any of such persons;
- “the Deputy Governor” means the person appointed by the Governor under section 18 of the Constitution to be the Deputy Governor;
- “the Government” means the Government of Bermuda;
- “Government Board” means any board or body of persons having the supervision or control of a Government Department or administering under any Act on behalf of the Government any undertaking or activity of the Government; but does not include a board of enquiry or board of survey;
- “Government Department” means a Ministry, department or branch of the Government of Bermuda;
- “the Governor” means the Governor and Commander-in-Chief of Bermuda or other Officer for the time being administering the Government;
- “Her Majesty” or “the Queen” includes Her Majesty the Queen, Her Heirs and Successors;
- “Her Majesty’s Forces” means any of the naval, military or air forces of Her Majesty;
- “House of the Legislature” means the Senate or the House of Assembly;
- “Justice of the Peace” or “Justice” means any Justice of the Peace appointed by the Governor under the Magistrates Act 1948 [*title 8 item 15*];
- “Law Officer” means the Attorney-General, the Director of Public Prosecutions or the Solicitor-General;
- “Minister” means the Minister in the Cabinet charged under the Constitution with responsibility for the conduct of the Government business to which the subject matter of the Act or statutory instrument relates or, if no Minister has been so charged, the Minister whose responsibility under the Constitution is most closely related to the context in which the expression is used;
- “Municipality” means the Corporation of the City of Hamilton or the Corporation of the Town of St. George; and “municipal” shall be construed accordingly;
- “Opposition Leader” means the member of the House of Assembly appointed by the Governor to be Opposition Leader in accordance with section 72 of the Constitution;

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“Parish Council” means a Parish Council within the meaning of the Parish Councils Act 1971 [title 4 item 40];

“police officer” means any member of the Bermuda Police Service and includes any member of the Reserve Police when called out for police duty;

“Premier” means the member of the House of Assembly—

- (a) appointed by the Governor to be the Premier under section 58 of the Constitution; or
- (b) authorized by the Governor under section 60 of the Constitution to perform the functions conferred on the Premier by the Constitution;

“public authority” means any designated person or body of persons (whether corporate or unincorporate) required or authorized to discharge any public function—

- (i) under any Act; or
- (ii) under any Act of the Parliament of the United Kingdom which is expressed to have effect, or whose provisions are otherwise applied, in respect of Bermuda; or
- (iii) under any statutory instrument;

“public officer” means the holder of any office of emolument in the public service and includes any person appointed to act in any such office;

“public service” means the service of the Crown in a civil capacity in respect of the government of Bermuda;

“the Royal Instructions” means the Instructions passed from time to time under the Royal Sign Manual and Signet to the Governor;

“Secretary of State” means one of Her Majesty’s Principal Secretaries of State;

“the United States Forces” means any of the military, naval or air forces of the United States of America.

[Section 3 amended by 1997:37 effective 6 May 1999; “law officer” amended by 1999:8 s.3 & Sch 2 effective 1 April 1999]

Definitions of judicial expressions and designations.

4 (1) In every Act and in every statutory instrument—

“Assistant Justice” means a person who is appointed under section 73 of the Constitution, to be an Assistant Justice of the Supreme Court;

“barrister”, “barrister and attorney”, or “counsel”, means a person duly admitted under the Supreme Court Act 1905 [title 8 item 1], to practise as a barrister and attorney in the Supreme Court;

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“commissioner for oaths” means a person appointed under the Commissioners for Oaths and Notaries Public 1972 [*title 8 item 22*], to be a commissioner for taking affidavits, declarations and affirmations;

“court” does not include a Coroner’s court, a court martial or a court of enquiry;

“Court of Appeal” means the Court of Appeal for Bermuda constituted by the Constitution;

“court of summary jurisdiction” means a court composed of a magistrate sitting alone, or, as the case may be, a Special Court composed and sitting in accordance with the Magistrates Act 1948 [*title 8 item 15*];

“Judge” means the Chief Justice, Puisne Judge, or any Assistant Justice;

“magistrate” means a person appointed to be a magistrate under the Magistrates Act 1948 [*title 8 item 15*];

“Registrar” means the Registrar of the Supreme Court;

“Registry” means the Registry of the Supreme Court;

“Senior Magistrate” means the magistrate appointed to be the Senior Magistrate under the Magistrates Act 1948 [*title 8 item 15*];

“Supreme Court” means the Supreme Court of Bermuda constituted by the Constitution.

(2) In every Act and in every statutory instrument—

“common law” means so much of the common law of England (disregarding any supersession, modification or variation as respects its operation or effect in England by reason of any enactment of the Parliament of the United Kingdom) as has effect for the time being in Bermuda;

“conviction”, in relation to any person, includes a conviction upon a plea of guilty by such person as well as upon a finding of guilt by a court or jury;

“corrective training”, in relation to any person, means corrective training imposed on, or ordered in respect of, that person under the Young Offenders Act 1950 [*title 10 item 33*];

“imprisonment”, in relation to any person, means imprisonment imposed on, or ordered in respect of, that person under any Act;

“offence” means any act or omission which is punishable by or under any statutory provision;

“rules of court”, in relation to any court, means rules made by the public authority having for the time being power to make rules or orders regulating the practice and procedure of that court.

(3) In every Act and in every statutory instrument—

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- (a) “indictable offence” means an offence which is triable on indictment, whether it is exclusively so triable or triable either way;
- (b) “summary offence” means an offence which is triable only summarily;
- (c) “offence triable either way” means an offence which is triable either on indictment or summarily,

and the terms “indictable”, “summary” and “triable either way”, in their application to offences, are to be construed accordingly;

- (d) “on conviction on indictment”, in relation to any offence or to the punishment for any offence, shall be taken to imply that a person charged with that offence is triable in respect of that offence before the Supreme Court, and that the offence so charged is an indictable offence; and cognate expressions shall be construed accordingly;
- (e) “on summary conviction” or “on conviction by a court of summary jurisdiction”, in relation to any offence or to the punishment for any offence, shall be taken to imply that a person charged with that offence is triable in respect of that offence by a court of summary jurisdiction; and cognate expressions shall be construed accordingly;

(4) In the definitions in subsections (3)(a), (b) and (c), references to the way or ways in which an offence is triable are to be construed without regard to the effect, if any, of the provisions of the Criminal Jurisdiction and Procedure Act 2015, on the mode of trial in a particular case.

[Section 4 subsection (2) “preventive detention” deleted by 2001:29 s.11(1) & Sch effective 29 October 2001; subsection (1) “indictable offence”, “on conviction on indictment” and “on summary conviction” deleted, and subsections (3) and (4) inserted, by 2005:43 s.3 effective 30 December 2005; subsection (4) amended by 2015 : 38 s. 91 effective 6 November 2015]

Topographical definitions

5 In every Act and in every statutory instrument—

“the City of Hamilton” or “Hamilton” means the City of Hamilton within the meaning of the Municipalities Act 1923 [*title 4 item 1*];

“parish” means any one of the nine parishes of Bermuda;

“the Town of St. George” or “St. George’s” means the Town of St. George within the meaning of the Municipalities Act 1923 [*title 4 item 1*];

“United Kingdom” means—

- (a) the United Kingdom of Great Britain and Northern Ireland; or
- (b) when used with reference to citizenship or nationality, Great Britain, Northern Ireland, the Channel Islands and the Isle of Man;

[definition of “United Kingdom” substituted by the Computerization and Revision of Laws Act 1989 section 18 and Schedule 2 Part I]

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“waters of Bermuda” or “territorial waters”, (used in relation to Bermuda), includes all bays, sounds, anchorages, harbours and creeks, and that part of the sea which is situated within twelve nautical miles measured from the baselines as established by the Bermuda (Territorial Sea) Order in Council 1988 [*title 2 item 6*].

[Section 5 “leased area” repealed by 2002:6 s.4 & Sch 3 effective 18 June 2002]

Definition of Commonwealth; etc.

- 6 (1) In any Act or statutory instrument “Commonwealth” means collectively—
- (a) the United Kingdom;
 - (b) the Channel Islands;
 - (c) the Isle of Man;
 - (d) Antigua and Barbuda; Australia; The Bahamas; Bangladesh; Barbados; Belize; Botswana; Brunei; Canada; Republic of Cyprus; Dominica; The Gambia; Ghana; Grenada; Guyana; India; Jamaica; Kenya; Kiribati; Lesotho; Malawi; Malaysia; Maldives; Malta; Mauritius; Nauru; New Zealand; Nigeria; Pakistan; Papua New Guinea; Saint Christopher and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Seychelles; Sierra Leone; Singapore; Solomon Islands; Sri Lanka; Swaziland; Tanzania; Tonga; Trinidad and Tobago; Tuvalu; Uganda; Vanuatu; Western Samoa; Zambia; Zimbabwe;
 - (e) Anguilla; Bermuda; British Antarctic Territory; British Indian Ocean Territory; Cayman Islands; Falkland Islands and Dependencies; Gibraltar; Hong Kong; Montserrat; Pitcairn, Henderson, Ducie and Oeno Islands; St Helena and Dependencies; The Sovereign Base Areas of Akrotiri and Dhekelia (that is to say the areas mentioned in section 2(1) of the Cyprus Act 1960); Turks and Caicos Islands; Virgin Islands.
- (2) In any Act or statutory instrument “Commonwealth country” means a country specified in subsection (1).

[This section substituted by the Computerization and Revision of Laws Act 1989 section 18 and Schedule 2 Part I]

Definitions of miscellaneous expressions

- 7 (1) In every Act and in every statutory instrument—
- “Admiralty chart”, in relation to the waters and shores of Bermuda, means a chart of those waters and shores prepared for the purposes of Her Majesty’s Government in the United Kingdom by direction of the Lords Commissioners of the Admiralty;
- “aircraft” includes seaplanes, flying boats, airships and balloons;
- “alien” means a person who is neither a Commonwealth citizen nor a British protected person nor a citizen of the Republic of Ireland;

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“British citizen” means a person who has the status of a British citizen under the British Nationality Act 1981;

“British Dependent Territories citizen” means a person who has the status of a British Dependent Territories citizen under the British Nationality Act 1981;

“British Overseas citizen” means a person who has the status of a British Overseas citizen under the British Nationality Act 1981;

“British protected person” means a person who has the status of a British protected person under the British Nationality Act 1981;

“British subject” means a person who has the status of a British subject under the British Nationality Act 1981;

“Christian name” means any name prefixed to a surname whether received in Christian baptism or otherwise;

“Commonwealth citizen” means a person who has the status of a Commonwealth citizen under the British Nationality Act 1981.

[definitions from “alien” to “British subject” inclusive, and “Commonwealth citizen” substituted by the Computerization and Revision of Laws Act 1989 section 18 and Schedule 2 Part I]

“financial year”, in relation to any year means the twelve months ending the thirty-first day of December of that year;

“functions”, in relation to a public authority or public officer, means powers conferred, or duties imposed, on the authority or officer by or under any provision of law;

“the Gazette” has the meaning given in section 7A;

“highway” includes any land, yard, court, square or wharf communicating with a highway and over or to which the public have a right of way or right of access;

“inquest” means an inquest held by a Coroner upon a dead body, or in respect of a fire, or upon treasure trove and includes an inquest as aforesaid adjourned into the Supreme Court;

“land” includes land covered by water and any building erected on land and any estate, interest, right or easement in or over any land or building;

“master”, in relation to a ship, means the person in command of the ship; but does not include the person for the time being piloting the ship unless he is also the master;

“month” means calendar month;

“oath” and “affidavit”, in relation to a person allowed by any provision of law to affirm or declare instead of swearing, include affirmation and declaration; and “swear” in the like case includes “affirm” and “declare”;

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“ordnance map”, in relation to Bermuda, includes any map made under the authority of an Act and any map made by the appropriate authority for the purposes of Her Majesty’s Government in the United Kingdom;

“parent” in relation to a child means the biological mother or father of the child except that where an adoption order has been made, “parent” means the adopting parent;

“person” includes any company or association or body of persons, whether corporate or unincorporate;

“prison” means any place declared to be one of Her Majesty’s Prisons under the Prisons Act 1979 [title 10 item 32];

“public holiday” means any day which is, or is kept as, a public holiday by virtue of the Public Holidays Act 1947 [title 28 item 8];

“public place” includes—

- (i) any place to which the public for the time being have access, whether by right or by permission and whether on payment or otherwise;
- (ii) any foreshore, beach or open space belonging to the Government of Bermuda;

“record” includes a record created, stored, generated, received or communicated by electronic, magnetic, optical or other similar means;

“the senior training school” means the senior training school established under the Young Offenders Act 1950 [title 8 item 33];

“ship” includes every description of ocean-going vessel;

“vessel” includes any ship, yacht, boat, lighter or other craft used for transport by water;

“will” includes codicil.

(2) Any expression defined in section 102 of the Constitution shall, unless otherwise defined in this Act or in the Act or statutory instrument in which the expression occurs, have the meaning assigned to it in that section.

[Section 102 of the Constitution among other things also defines “election”, “high judicial office”, “House”, “law”, “Legislature”, “the Police Force”, “public office”, “the Public Seal”, “session”, and “sitting”]

[Section 7(1) “record” inserted by 1999:26 s.33 & Sch effective 4 October 1999; “US Bases Agreement” deleted by 2002:6 s.4 & Sch 3 effective 18 June 2002; “parent” inserted by 2002:36 Sch para 10 effective 19 January 2004; subsection (1) definition “the Gazette” deleted and substituted by 2018 : 24 s. 2 effective 12 October 2018]

The Gazette

7A (1) In every Act and in every statutory instrument, “the Gazette” means—

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- (a) the Official Gazette of Bermuda (including any Special Gazette or Gazette Extraordinary) published by authority; or
- (b) the publication (whether printed or electronic) appointed for the time being by the Government by notice in the Gazette to be the publication in which Government notices are to be published by authority; and different publications may be appointed for—
 - (i) statutory instruments published in accordance with the Statutory Instruments Act 1977; and
 - (ii) other Government notices,and any reference in any enactment to the Gazette being a newspaper shall be read as including other types of publication so appointed.

(2) Where by or under any Act or other provision of law it is required (whatever words are used) that a Government notice shall be published—

- (a) in a newspaper or in more than one newspaper; or
- (b) in the Gazette and in a newspaper or newspapers,

then, notwithstanding such requirement, it shall be deemed sufficient in law if that Government notice is published in the Gazette and not in any newspaper.

(3) In this section, "Government notice" means any instrument, notice, or announcement, of whatever kind or description, published by or under the authority of the Governor or of any other public authority.

[Section 7A inserted by 2018 : 24 s. 3 effective 12 October 2018]

Construction of certain expressions

8 In every Act and in every statutory instrument—

"absence", in relation to a public officer, means the absence of the public officer from Bermuda or his absence from duty by reason of illness, the grant of leave or any other cause; and a public officer who is required or authorized to perform any function at any meeting of himself together with any other public officer shall, in relation to that meeting, be deemed to be absent if he fails to attend thereat or is for any reason disqualified for duly performing that function at any such meeting; and where a public office is vacant it shall be treated as if the office were not vacant but the holder were absent;

"act", in relation to an offence or civil wrong, includes—

- (i) a series of acts; and
- (ii) an omission or a series of omissions;

"contravention", in relation to any provision of law, includes a failure to comply with that provision; and cognate expressions shall be construed accordingly;

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“may”, in relation to any statutory provision whereby a power is conferred, shall be construed as permissive;

“shall”, in relation to any statutory provision whereby a duty is imposed, shall be construed as imperative;

“sign”, in relation to a person who is unable to write his name, includes mark; and cognate expressions shall be construed accordingly;

“words” includes figures, punctuation marks and typographical, monetary and mathematical symbols;

“writing” includes any method of producing words in visible form; and cognate expressions shall be construed accordingly.

Construction of certain provisions

9 In every Act and in every statutory instrument—

- (a) words in the singular include the plural and words in the plural include the singular;
- (b) words importing the masculine gender include females;
- (c) in the measurement of any distance, that distance shall be measured in a straight line on a horizontal plane;
- (d) where any act or thing is required to be done by more than two persons, a majority of them may do it;
- (e) in computing time—
 - (i) a period of days from the happening of an event or the doing of any act or thing shall be exclusive of the day on which the event happened or the act or thing was done;
 - (ii) if the last day of a period of days from the happening of an event or the doing of any act or thing is a Sunday or other public holiday (which days are hereinafter in this paragraph referred to as “excluded days”) then such period shall include the next following day which is not an excluded day;
 - (iii) where any act or proceeding is required or authorized to be done or taken on a certain day, then, if that day is an excluded day, the act or proceeding shall be deemed to have been done or taken in due time if it is done or taken on the next following day which is not an excluded day;
 - (iv) where an act or proceeding is required or authorized to be done or taken within any period not exceeding six days, then an excluded day falling within such period shall not be reckoned in computing the passage of time;

- (f) a reference to a part, section, regulation, rule or Schedule shall, unless the contrary intention appears, be read as a reference to a part, section, regulation, rule or Schedule of or to that Act or statutory instrument, as the case may be, and a reference to a subsection, paragraph or sub-paragraph shall, unless the contrary intention appears, be read as a reference to a subsection, paragraph or sub-paragraph of the section, subsection or paragraph, as the case may be, in which the said reference occurs.

Application of English law in interpreting and construing statutory provisions

10 Except as otherwise expressly provided in this or in any other Act, a court or other public authority constituted in Bermuda shall, in interpreting or construing any statutory provision, apply as nearly as practicable the rules for the interpretation and construction of provisions of law for the time being binding upon the Supreme Court of Judicature in England.

Effect of sections of an Act as substantive enactments

11 Every section of an Act shall have effect as a substantive enactment without any introductory words.

Citation of Acts and subsidiary legislation

- 12 (1) Where reference is to be made to an Act, it shall be sufficient to cite the Act—
- (a) by its title; or
 - (b) by its short title (if any); or
 - (c) by the year in which it was passed together with its number among the Acts of that year.

(2) Where it is provided in an Act that two or more Acts may together be cited by a collective short title containing in the citation the years of the first and last of such Acts, then in any such case such short title shall be construed to include all of the Acts covered by the short title, or any of them.

- (3) (a) Where reference is to be made to a statutory instrument, it shall be sufficient to cite the statutory instrument by its title, or by its short title.
- (b) A statutory instrument may be cited or referred to as “Bermuda Regulation” or “BR” or “B.R.” followed by its filing number, a virgule and either the last two figures or all four figures of the year of its filing.

(4) If in any year the Governor shall have reserved for the signification of Her Majesty’s pleasure a Bill for an Act containing a title by which it may be cited, and if Assent shall have been given to such a Bill in a year subsequent to the year in which it passed the two Houses of the Legislature, the Act so passed and assented to shall be read and construed as if it had been passed in the year in which Assent was given to the Bill, and in all editions of the Act the said title shall be printed accordingly.

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Date of commencement of Act

12A (1) Subject to section 35(3) of the Constitution (assent by Her Majesty), an Act shall be deemed and taken to come into operation from the day on which it is assented to by the Governor, unless—

- (a) a different commencement date is expressed in the Act; or
- (b) there is provision for the Act to be brought into operation on a date appointed by a commencement notice.

(2) Where an Act contains provision for it to be brought into operation on a date appointed by a commencement notice, different dates may be appointed for different provisions of the Act.

[Section 12A inserted by 2018 : 24 s. 4 effective 12 October 2018]

Time of commencement of Act

13 Where any Act, or any Part of an Act, or any enactment contained in an Act, or any statutory instrument, is expressed to come or to have come into operation on a particular day, it shall be deemed to come into operation (or, as the case may be, to have come into operation) immediately after the expiration of the day last preceding that particular day.

Effect of repeal of repealing Act, etc.

14 (1) Where any Act, or any enactment contained in an Act which repeals any former Act or enactment, is itself repealed, then such last repeal shall not have effect so as to revive the Act or enactment first repealed unless a provision appears expressly reviving such repealed former Act or enactment.

(2) Where any Act repeals any former Act or any enactment contained in a former Act and substitutes any provisions for the former Act or enactment so repealed, then the former Act or enactment so repealed shall, unless the contrary intention appears in the repealing Act, remain in operation until the substituted provisions come into operation.

(3) The provisions of subsections (1) and (2) shall apply, with necessary modifications, in relation to statutory instruments as those provisions apply in relation to Acts and enactments contained in Acts.

Repeal and re-enactment

15 (1) Where any Act repeals and re-enacts, without substantial modification, any provision of a former Act, then references in any other Act to the provision so repealed shall, if the context of that other Act so requires and unless the contrary intention appears in that other Act, be construed as references to the provision so re-enacted.

(2) The provisions of subsection (1) shall apply, with necessary modifications, in relation to statutory instruments as those provisions apply in relation to Acts.

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Effect of repeal on rights, liabilities, etc., under repealed Act

16 (1) Where an Act repeals any other Act or any enactment contained in any Act then, unless the contrary intention appears in the repealing Act, the repeal shall not have effect—

- (a) so as to revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) so as to affect the previous operation of the Act or enactment so repealed, or so as to affect anything done or suffered under or by virtue of or in pursuance of the repealed Act or enactment; or
- (c) so as to affect any right, privilege, obligation or liability acquired, accrued or incurred under or by virtue of the Act or enactment so repealed; or
- (d) so as to affect any judgment, sentence or order duly given, imposed or made, or any punishment, forfeiture or disability duly incurred, in respect of any offence committed against the Act or enactment so repealed; or
- (e) so as to affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, judgment, sentence, order, punishment, forfeiture or disability as is mentioned in paragraph (c) or (d); and—
 - (i) any such investigation, legal proceeding or remedy may be instituted, continued or enforced; and
 - (ii) any such judgment, sentence or order may be given, imposed or made; and
 - (iii) any such punishment, forfeiture or disability may be imposed, as if the repealing Act had not come into operation.

(2) The provisions of subsection (1) shall apply, with necessary modifications, in relation to statutory instruments as they apply in relation to Acts and to enactments contained in Acts.

Effect of repealing Act on statutory instruments made, etc., under repealed Act

17 Where an Act is repealed by another Act and other provisions are substituted by the repealing Act for the provisions of the Act so repealed, then any statutory instrument made, given or issued under or in pursuance of the Act so repealed, and in force immediately prior to such repeal, shall, unless the contrary intention appears in the repealing Act, remain in force, to the extent that it is not inconsistent with the provisions of the repealing Act, until such time as the statutory instrument is revoked, expires or otherwise ceases to have effect.

Construction of amending Act. etc., with Act, etc., amended thereby

18 (1) Where an Act amends another Act then the amending Act shall, as far as is consistent with the provisions thereof, and unless the contrary intention appears, be construed as one with the Act so amended.

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(2) Where any statutory instrument amends another statutory instrument, the amending statutory instrument shall, as far as is consistent with the provisions thereof and unless the contrary intention appears, be construed as one with the statutory instrument so amended.

(3) Any reference to an Act or to a statutory instrument shall be construed as referring to that Act or instrument as amended from time to time.

Modification of Acts of the Parliament of the United Kingdom, etc., to meet local circumstances

19 Any Act of the Parliament of the United Kingdom which is expressed to have effect, or whose provisions are otherwise applied, in respect of Bermuda, and any legislative instrument (not being a statutory instrument within the meaning of this Act) made, given or issued thereunder, which is expressed to have effect in Bermuda, shall be read with such formal alterations as to names, localities, courts, officers, persons, moneys, punishments and otherwise as may be necessary to make the Act of the Parliament of the United Kingdom or legislative instrument as aforesaid applicable to the circumstances of Bermuda.

Citation of United Kingdom statutes

19A United Kingdom legislation may be cited by a short title or citation, if any, or by reference to the regnal or calendar year in which it was passed or by the number assigned to any statutory instrument or statutory rule and order.

[added by the Computerization and Revision of Laws Act 1989 section 18 and Schedule 2 Part I]

Construction of reference to United Kingdom legislation

19B A reference in any enactment to particular United Kingdom legislation or to any provision, part or division thereof shall be construed as a reference to the same as the same may be from time to time amended and as a reference to the particular United Kingdom legislation or to any provision, part or division thereof substituted therefor.

[added by the Computerization and Revision of Laws Act 1989 section 18 and Schedule 2 Part I]

Interpretation of expressions in statutory instruments

20 In any case where an expression is defined in an Act then in any such case that expression shall, if used in any statutory instrument made, given or issued under or in pursuance of that Act, have the meaning assigned to the expression by the Act unless—

- (a) the expression is otherwise defined in the statutory instrument; or
- (b) there is anything in the subject or context of the statutory instrument inconsistent with that meaning.

Appointment of officers by name or office

21 Where by or under any Act any public authority is empowered to appoint or to name a person to exercise any powers or perform any duties, the public authority may either appoint a person by name or direct the person for the time being holding the public office designated by the public authority to exercise such powers and to perform such duties; and

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thereupon or from the date specified by the public authority the person appointed by name or the person holding the office as aforesaid may exercise such powers and shall perform such duties accordingly.

Provisions relating to construction of powers of appointment

22 Where by or under any Act any public authority is empowered to appoint a person to any public office then the public authority, unless the contrary intention appears, may remove or suspend any person so appointed, and may reappoint or reinstate such person, and may appoint another person temporarily in the place of any person so removed or suspended or in place of any holder of the office, who has died or is ill or absent, and may appoint another person temporarily to fill any vacancy in the office arising from any other cause:

Provided that where the power of the public authority to make any such appointment is only exercisable upon the recommendation or subject to the approval, consent or concurrence of some other public authority then the power of removal, reappointment or reinstatement shall, unless the contrary intention appears, be exercisable only upon the recommendation or subject to the approval, consent or concurrence of that other public authority.

Official designation to include person performing functions

23 Where in any Act or in any statutory instrument reference is made to any public officer holding any public office by the designation of his office then such reference shall be construed so as to include any person for the time being duly performing the functions of the office and any person from time to time appointed to perform any part of such functions.

Changes in the title of public officers and public authorities, etc

24 Whenever any change in title of any public officer or public office or of any public authority is effected by or under any Act, any reference in any other Act or in any statutory instrument to the public officer, public office or public authority by the former title shall be construed as a reference to that public officer, public office or public authority by the new title.

Change in style of a Minister

24A (1) Where the Governor, by virtue of the powers vested in him by section 61 of the Constitution, alters the style by which any Minister shall be known and notification of such alteration is given in the Gazette, references to such Minister in any statutory provision or to his Ministry or department (other than references in any statutory provision which has become spent or which has had its effect) shall be read and construed as referring to the Minister or his Ministry or department according to the style by which he or they shall thenceforward be known.

(2) In this section "department" means a Government Department known by the style of the Minister responsible for it.

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Construction of provisions as to exercise of powers and duties

25 (1) Where any Act or statutory instrument confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where any Act or statutory instrument confers a power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office or by a person duly appointed to act in that office.

Governor in exercising functions to act on advice of Cabinet

26 Except where otherwise expressly provided, the Governor in exercising any function vested in him by any provision of law shall obtain and act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of Cabinet:

Provided that this section shall not apply to the exercise by the Governor of any function relative to any business of the Government for which he is responsible under section 62 of the Constitution.

Powers to delegate functions

27 (1) Where by any provision of law any function is vested in the Governor, Minister or other public authority, the Governor, Minister or other public authority, as the case may be, may, unless expressly prohibited from so doing, by notice published in the Gazette, depute any public officer by name or the person for the time being holding any public office, to exercise such function on his or its behalf, subject to such conditions, exceptions and qualifications as the Governor, the Minister or public authority in whom the function is vested may prescribe, and thereupon or from a date specified in the notice, the person so designated shall exercise such function vested in him or it subject as aforesaid:

Provided that nothing in this section shall authorize the Governor, Minister or any public authority to depute any function vested in him or it to make any statutory instrument or to hear any appeal.

(2) Where by any provision of law any function is vested in the Governor and, by any provision of the Constitution, he is obliged to exercise that function in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet, the Governor, acting upon the recommendation of the Premier, may by notice published in the Gazette designate any particular Minister in the Cabinet to exercise that function in his place, and thereupon the exercise of that function by the Minister so designated shall be as valid and effectual as if it had been exercised by the Governor acting as aforesaid.

(3) Notices under this section are not subject to Parliamentary scrutiny under the Statutory Instruments Act 1977.

[Section 27 subsection (3) inserted by 2018 : 24 s. 5 effective 12 October 2018]

Signification of statutory instruments, etc

28 (1) Where by any provision of law the Governor is given power to make any statutory instrument, authorize any matter to be done, grant any exemption, remit any fee

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or penalty or exercise any other power, it shall be sufficient if the exercise of such power is signified by the Secretary to the Cabinet.

(2) Where by any provision of law the Governor or a Minister is given power to make any statutory instrument, authorize any matter to be done, grant any exemption, remit any fee or penalty or exercise any other power, it shall be sufficient if the exercise of such power be signified by a public officer designated by the Governor or Minister, as the case may be, as having power to signify such exercise:

Provided that the foregoing provisions shall not apply to the power to issue any warrant or proclamation.

(3) Where by any provision of law any public authority is given power to make any statutory instrument, authorize any matter to be done, grant any exemption, remit any fee or penalty or exercise any other power, it shall be sufficient if the exercise of such power be signified by the secretary or clerk of that public authority or such other public officer as that public authority may designate as having power to signify such exercise.

Exercise of functions after obtaining advice

29 Where any person is directed by any provision of law to act on the advice of any person or public authority in exercising any function vested in him he shall obtain such advice before exercising such function and shall act in accordance with such advice:

Provided that—

- (a) where the Governor is required to act on the advice of any person or public authority he may act otherwise than in accordance with that advice if in his judgment it is necessary or expedient so to act in the interests of any of the matters for which he is responsible under section 62 of the Constitution; and
- (b) notwithstanding that a provision of law requires a person to act on the advice of another person or public authority he may act otherwise than in accordance with that advice if the provision of law specifies that he may act in his discretion.

Exercise of functions after consultation

30 Where any person is directed by any provision of law to exercise any function after consultation with any other person or public authority he shall, if practicable, consult with such other person or public authority before exercising the function but he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

Exercise of functions in accordance with recommendation

31 Where any person is directed by any provision of law to exercise any function on or in accordance with the recommendation of any public authority or other person, then—

- (a) before he acts on or in accordance therewith, he may, acting in his discretion, once refer the recommendation back for reconsideration by the public authority or other person concerned; and

- (b) if that public authority or other person, having reconsidered the original recommendation under paragraph (a), substitutes therefor a different recommendation, the provisions of this section shall apply to that different recommendation as they apply to the original recommendations.

Procedure on appeals to Governor, etc.

32 (1) Where by any Act or statutory instrument a right of appeal to the Governor or a Minister against any decision of a public authority is given to any person, such person may, in the absence of any express provision to the contrary—

- (a) within thirty days after the notification of the decision submit for the consideration of the person to whom the right of appeal lies a written memorandum setting out the grounds of appeal on which he relies; and
- (b) if he so desires, with the consent of the person to whom the appeal lies, appear in person or by counsel on such date and at such time as the person to whom the appeal lies may determine.

(2) It shall be lawful for the Governor or a Minister, when any appeal is made to him, to appoint a committee or a competent person for the purpose of hearing such appeal and advising him in writing as to the decision which should be made thereon; and in that event, the committee or person so appointed shall be deemed to be the person to whom the appeal lies for the purpose of subsection (1)(b).

(3) Where a committee or person has been appointed under subsection (2) the Governor or Minister shall consider any advice tendered by such Committee or person before coming to a decision on the appeal but may act in his discretion.

Effect of transferring functions from one functionary to another

33 (1) Where by or under any provision of law the functions of any functionary are transferred to another functionary, then, unless the context otherwise requires, the transfer shall not have effect—

- (a) so as to affect the previous operation of any statutory provision affected by the transfer or affect anything done or suffered under or by virtue or in pursuance of any such statutory provision; or
- (b) so as to affect any right, privilege, obligation or liability acquired, accrued or incurred under or by virtue or in pursuance of any such statutory provision, and the functionary to whom the function is transferred shall be subrogated in every respect to all the rights, privileges, obligations or liabilities of the former functionary and may vary, revoke, enforce or otherwise deal therewith, as by law provided, accordingly and, without prejudice to the generality of the foregoing, the functionary to whom the function is transferred may vary or revoke or replace any statutory or other instrument made by the former functionary to the same extent and in the same manner as by law provided in relation to the former functionary.

(2) In this section “functionary” includes the Governor, Minister, Government Board, court, tribunal and any other public authority or public officer.

Exercise of statutory power between passing and commencement of Act

34 In any case where an Act which is expressed not to come into operation immediately on the passing thereof, confers a power to make any appointment, or to make any statutory instrument, or to give any notice, or to do any other thing for the purposes of the implementation of the Act, then in any such case any power as aforesaid may, unless the contrary intention appears, be exercised at any time after the passing of the Act so far as may be necessary or expedient for the purpose of effectively bringing the provisions of the Act into force at the date of the commencement thereof, subject to the restriction that any appointment, statutory instrument, notice or thing, made, given, or done, under such power shall not, unless the contrary intention appears in the Act, or the appointment, notice or thing is necessary for bringing the Act into force, have any effect until after the commencement of the Act.

Powers in respect of making, etc., statutory instruments

35 Where an Act confers power on any public authority to make, give or issue any statutory instrument the following provisions shall, unless the contrary intention appears, have effect with reference to the making, giving or issuing of any statutory instrument, that is to say—

- (a) any statutory instrument made, given or issued as aforesaid may be at any time amended, varied, modified, suspended, rescinded or revoked by the same statutory authority and in the same manner and subject to the like conditions as it was made;
- (b) where any Act confers power on any public authority to make, give or issue any statutory instrument for any general purpose and also for any special purposes, the enumeration of the special purposes shall not be deemed to derogate from the generality of the power conferred with reference to the general purpose;
- (c) no provision of any statutory instrument shall be inconsistent—
 - (i) with any provision of the Act under which it is made, given or issued; or
 - (ii) with any provision of any other Act which is not overridden or impliedly repealed by or under the authority of the Act under which it is made, given or issued; or
 - (iii) with any provision of any Act of the Parliament of the United Kingdom which is expressed to have effect, or whose provisions are otherwise applied, in respect of Bermuda.

Acts done under statutory instrument to be deemed to be done under Act by which statutory instrument authorized

36 An act shall be deemed to be done under any Act or under any Act of the Parliament of the United Kingdom or by virtue of the powers conferred by any Act or by any Act of the Parliament of the United Kingdom or in pursuance or in execution of the powers or under the authority of any Act of the Parliament of the United Kingdom if the act is done under or

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by virtue or in pursuance of any statutory instrument made, given or issued under any provision of that Act or, as the case may be, of that Act of the Parliament of the United Kingdom.

Provision where no time prescribed

37 Where in any Act or statutory instrument any thing is required to be done and no time is specified, required, prescribed or allowed within which that thing shall be done, then such thing shall be done with all convenient speed, and as often as the appropriate occasion arises.

Deviations from forms

38 Except as otherwise expressly provided, whenever in any Act or statutory instrument any form is specified, required or prescribed, then slight deviations therefrom, not affecting the substance or calculated to mislead, shall not vitiate anything done in connection with the use of any such modified form.

Disposal of forfeits

39 (1) Where under the authority of any Act or statutory instrument any animal or any thing is ordered by any court or other public authority to be confiscated or forfeited, it shall, unless it is otherwise provided, be deemed to be forfeited to the Crown.

(2) Any provision in an Act whereby any animal or thing ordered to be forfeited to the Crown may be sold by a public authority shall, unless it is otherwise provided, be construed as requiring the public authority to pay the net proceeds of any such sale into the Consolidated Fund and as requiring any such sum to be treated as forming part of the public revenue.

(3) Nothing in the foregoing provisions of this section shall have effect so as to derogate from or abridge any provision in any Act whereby any portion of any fine, penalty or forfeit, or of the proceeds of any forfeit, is expressed to be recoverable by any person or may be granted by any court or other statutory authority to any person.

Punishments

40 Where in any Act or statutory instrument a punishment is provided in respect of an offence against that Act or statutory instrument such provision shall be deemed to indicate that, unless the contrary intention appears, the offence shall be punishable by a punishment not exceeding the punishment specified.

Effect of setting out punishment in section of Act or in provision of statutory instrument

41 Where in any Act or statutory instrument a punishment is specified in any section of the Act or in any provision of the statutory instrument then the section or provision shall be deemed of to indicate that any contravention of the provisions of the section or provision shall be an offence against that Act or statutory instrument.

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Effect, etc., of suspension of operation until Her Majesty's pleasure is made known

42 In any case where an Act contains an enactment substantially to the effect that the operation of the Act is suspended until Her Majesty's pleasure is made known, then in any such case the Act shall not come into operation until the Governor, by order published in the Gazette, gives notice that it is Her Majesty's pleasure not to disallow the Act; and where the Governor so gives notice then the Act shall come into operation on such day as may be specified in the order.

Rights of the Crown

43 No Act shall in any manner whatsoever affect the rights of the Crown unless it is therein expressly provided or unless it appears by necessary implication that the Crown is bound thereby.

Declaration that Government is a corporation sole

44 For the avoidance of doubt it is hereby declared that for the purpose of acquiring, holding or disposing of any real or personal property or entering into any contractual or similar arrangement creating any rights or obligations or for enforcing any right or obligation the Government shall be deemed to be a corporation sole.

[Assent Date: 9 July 1951]

[This Act was brought into operation on 19 July 1951 by GN 29/1951]

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