

A BILL

entitled

PARLIAMENTARY ELECTION AMENDMENT ACT 2012

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WHEREAS it is expedient to amend the Parliamentary Election Act 1978;

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:

Citation

1 This Act, which amends the Parliamentary Election Act 1978 ("the principal Act"), may be cited as the Parliamentary Election Amendment Act 2012.

Amends section 3

2 Section 3 of the principal Act is amended by repealing subsection (4) and substituting the following—

"(4) For the purposes of section 55(3) of the Constitution and of this Act, the qualifying date shall be—

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- (a) the date on which a person applies for registration as an elector under section 10(1); or
- (b) where a person is registered in the parliamentary register for a constituency—
  - (i) the date on which the Registrar is given notice of any change in the elector's registered particulars in accordance with section 10A or 10C; or
  - (ii) if the Registrar is not given the notice referred to in subparagraph (i), the date on which the Registrar notifies the elector under section 10C that the elector is required to give notice of any change in his registered particulars; or
  - (iii) in a case where the Legislature is dissolved and, upon that dissolution, a constituency boundaries Order comes into operation under section 54(6) of the Constitution, the date that the Order comes into operation.”.

Inserts section 10B and 10C

3 The principal Act is amended by, immediately after section 10A, inserting the following—

“Person occupying premises to give information to the Registrar

10B (1) The Registrar may require any person eighteen years or older who is occupying any premises to give information required for the purposes of revising the parliamentary register.

(2) Without prejudice to the generality of subsection (1), the Registrar may, for the purpose of obtaining the information required for the revision of the parliamentary register, require any person eighteen years or older who is occupying any premises to complete and return to him, within 14 days of its receipt by him, such questionnaire as may be determined by the Registrar.

(3) The duly completed questionnaire referred to in subsection (2) shall be returned to the Registrar—

- (a) by, at the request of the Registrar or a registration officer, giving the questionnaire to him;
- (b) by delivery to the office of the Registrar during the ordinary working hours of that office; or
- (c) by registered post.

(4) A questionnaire returned by registered post under subsection (3)(c) shall be deemed to be delivered on the expiration of two days after it is posted.

(5) Notwithstanding anything in any other provision of law, no postage charge shall be levied on questionnaires sent to the Registrar by virtue of subsection (3)(c).

(6) Any person who without reasonable excuse fails to give any information required under subsection (1) or to complete and return a questionnaire in accordance with this section commits an offence:

Punishment on summary conviction: a fine of \$200.

Transfer of registration

10C (1) Where the Registrar has reasonable grounds to believe that an elector is no longer ordinarily resident in the constituency in which he is registered but is ordinarily resident in another constituency, the Registrar shall give notice that—

- (a) the elector is required to notify him, in the prescribed form, of any change in his registered particulars; and
- (b) if the elector fails to so notify him within 14 days after the Registrar's notice, the Registrar intends to transfer the elector's registration to the constituency in which the elector is qualified to be registered.

(2) Notice under subsection (1) shall—

- (a) be given in such manner as the Registrar believes will best bring the notice to the attention of the elector and, without prejudice to the generality of the foregoing, may be done by publication of a notice in the Gazette;
- (b) inform the elector of the constituency to which it is intended to transfer his registration;
- (c) inform the elector that the elector is required, within 14 days after the Registrar's notice is given, to either—
  - (i) give notice in the prescribed form of any change in his registered particulars; or
  - (ii) object to the intended transfer of his registration; and
- (d) inform the elector—
  - (i) of the manner in which notice under paragraph (c)(i) is to be given;
  - (ii) of the manner in which an objection under paragraph (c)(ii) is to be given; and
  - (iii) that if neither a duly completed notice of change in the elector's registered particulars nor an objection to the transfer in registration is received by the Registrar before the expiration of 14 days after the date on which notice is given under subsection (1), the Registrar intends to transfer the elector's registration accordingly.”.

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Amends section 19

4 Section 19(1) of the principal Act is amended by, immediately after “section”, inserting “10C,”.

Amends section 20

5 Section 20 of the principal Act is amended by—

- (a) in the heading, deleting “draft registers” and substituting “parliamentary register”;
- (b) in paragraph (aa), immediately after “10A”, inserting “or 10C”; and
- (c) immediately after paragraph (aa), inserting the following—

“(ab) to transfer to another constituency the registration of an elector to whom notice has been given under section 10C(1) and from whom neither a completed notice of change in registered particulars nor an objection to the transfer has been received within the 14-day period referred to in section 10C(2)(d)(iii);

- (ac) in accordance with section 26;”.

Amends section 24

6 Section 24(1) of the principal Act is amended by, immediately after “under section”, inserting “10C,”.

Amends section 26

7 Section 26 of the principal Act is amended by renumbering the existing section as subsection (1) and, immediately after that subsection, inserting the following—

“(2) As soon as practicable after the coming into force of the order referred to in subsection (1), the Registrar shall publish, in the Gazette, notice that the order is in operation and that, in consequence, certain constituency boundaries have changed and that a revised parliamentary register for the general election is available for inspection at such places as are specified in the notice.”.

Amends section 32

8 Section 32 of the principal Act is amended—

- (a) in subsection (1), by deleting “the election room appointed for the parliamentary election” and substituting “such place as the Registrar shall, by notice published in the Gazette, appoint”; and
- (b) in subsection (7), by deleting “election rooms” and substituting “place appointed for accepting nominations”.

Amends section 40

9 Section 40 of the principal Act is amended—

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- (a) in the section heading, by deleting “sick, infirm and absent voters” and substituting “voters who are sick, infirm, absent or have polling duties”;
- (b) by, immediately after subsection (2), inserting the following—

“(2A) Where—

- (a) the Registrar, a returning officer, presiding officer, candidate or election agent; or
- (b) a police officer or other person certified by the Registrar to be employed at the polling on polling day,

is duly registered in the parliamentary register for a constituency in which a parliamentary election is pending, it shall be lawful for such parliamentary elector to record his vote at an advanced poll to be held for that purpose at such place on such date as the Registrar appoints.

(2B) The date appointed under subsection (2A) shall be a date not earlier than the publication, under section 26A(5), of the revised parliamentary register for the parliamentary election.”;

- (c) in subsection (3) by deleting “not earlier than seven days prior to the polling day” and substituting “or dates not earlier than the publication of the revised parliamentary register for a parliamentary election under section 26A(5)”; and
- (d) by, immediately after subsection (3), inserting the following—

“(3A) An advanced poll referred to in subsection (3) may be held on one, two or more days.”.

Amends section 44

10 Section 44(1) of the principal Act is amended by deleting “ten o’clock” and substituting “eight o’clock”.

Amends section 61

11 Section 61(2) of the principal Act is amended by—

- (a) deleting the full stop at the end of paragraph (b) and substituting “; or”; and
- (b) immediately after paragraph (b), inserting the following—
  - (c) any person who assembles or congregates in the manner referred to in that subsection, if he so assembles and congregates—
    - (i) on private property; and
    - (ii) that private property is not the property on which the election room is situated.”.

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Amends section 76

12 Section 76(1) of the principal Act is amended by—

- (a) in paragraph (a), deleting “, scrutineers and other persons not in Government service” and substituting “and other persons”; and
- (b) immediately after paragraph (a), inserting the following—

“(aa) the fees to be paid to registration officers and scrutineers in respect of such functions as may be specified in the rules;”.

Amends Parliamentary Election Rules 1979

13 The Parliamentary Election Rules 1979 are amended—

- (a) by repealing rule 3(1) and replacing it with the following—

“(1) The fees set out in the Second Schedule shall be paid to—

- (a) persons who discharge duties in connection with a parliamentary election; and
  - (b) registration officers and scrutineers who discharge duties under the Act.”; and
- (b) in the First Schedule by—
    - (i) in the note at the end of Form 1, deleting “, Parliament Street, Hamilton” both times it occurs;
    - (ii) in paragraph (2) of the notes at the end of Form 1A, deleting “, Parliament Street, Hamilton” both times it occurs;
    - (iii) in the heading of Form 2, immediately after “10A”, inserting “and 10C”; and
    - (iv) at the end of Form 2, inserting the following—

*“WARNING: Section 145 of the Criminal Code makes it a criminal offence for a person to give any public officer information which that person does not believe to be true intending thereby to cause, or knowing it to be likely to cause, any public officer to do or omit to do anything which such public officer would not otherwise do or omit to do.*

*Note: This form may be completed in person at the offices of the Parliamentary Registrar, or may be delivered to the offices of the Parliamentary Registrar.”; and*

- (c) by repealing the Second Schedule and replacing it with the following—

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“SECOND SCHEDULE

(Rule 3(1))

The following persons shall be paid the specified fees for discharging the following duties under the Act—

Scrutineers:	\$15 per meeting
Registration Officers:	\$15 per investigation of a person's registered particulars that is approved as complete by the Registrar.
Returning Officers:	\$500 a contested election.
Returning Officers:	\$150 an uncontested election.
Returning Officers:	\$500 an advanced poll. If the advanced poll is held on more than one day, \$500 in respect of each day of the advanced poll.
Returning Officers:	\$150 for nomination day.
Presiding Officers:	\$20 per hour for discharging duties on polling day, and at an advanced poll, between the hours of 7:00 in the forenoon and 8:00 in the afternoon and thereafter, when requested by the Returning Officer to assist in the counting of ballots, \$25.00 per hour. Presiding officers who are public officers shall be paid fees in respect of only the hours they discharge such duties outside of their normal working hours.
Other persons employed temporarily to assist in the election procedure:	\$10 per hour. Persons so employed who are public officers shall be paid fees in respect of only the hours they are so employed outside of their normal working hours.

## PARLIAMENTARY ELECTION AMENDMENT BILL 2012

### EXPLANATORY MEMORANDUM

This Bill would amend the Parliamentary Election Act 1978 (“the principal Act”) to allow the Registrar, after notifying an elector of his intention to do so and allowing the elector to object, to transfer the elector’s registration to the constituency in which he is qualified to be registered. This requires the refinement of the definition “qualifying date”. The Bill would allow election officers and certain officials and police officers to vote at an advanced poll. It also allows polling by persons travelling or absent from Bermuda on the polling day to be held over a period of a few days. The Parliamentary Election Rules 1979 (“the Rules”) are also amended.

Clause 1 is the citation.

Clause 2 amends section 3(4) of the principal Act so that the definition of “qualifying date” covers situations where a person who is already registered in a constituency moves to another constituency. It also covers the situation where constituency boundaries change, pursuant to a constituency boundaries order that comes into operation on the dissolution of the Legislature.

Clause 3 inserts sections 10B and 10C in the principal Act. Section 10B empowers the Registrar to obtain information, from any person eighteen years or older who is occupying any premises, required for the purposes of revising the parliamentary register. For this purpose, the Registrar may also require such person to complete such questionnaire as may be determined by the Registrar and return it to him. Section 10C provides that if the Registrar has reasonable grounds to believe that an elector is no longer ordinarily resident in the constituency in which he is registered but is ordinarily resident in another constituency, he may transfer the elector to the correct constituency. The Registrar must however first require the elector to either complete the prescribed form, giving his changed particulars, or to object to the intended transfer. If the elector does not provide the completed form or object to the intended transfer within 14 days, the Registrar is to transfer the elector’s registration accordingly.

Clause 4 amends section 19(1) of the principal Act by inserting a cross-reference to section 10C. The effect of the cross-reference is to apply the procedure for the hearing of other objections to objections made under section 10C.

Clause 5 amends section 20 of the principal Act by inserting cross-references to sections 10C and 26 in order to list the additional instances in which the Registrar is to make alterations to the Parliamentary Register.

Clause 6 amends section 24 of the principal Act by inserting a cross-reference to section 10C. The effect of the cross-reference is to allow a person, who is aggrieved by the decision of the Registrar with respect to an objection made under section 10C, to appeal to the Supreme Court.

Clause 7 amends section 26 of the principal Act by inserting subsection (2). This subsection provides that the Registrar, on the coming into operation of a constituency

boundaries order under section 54(6) of the Constitution, must give notice thereof and publish the revised parliamentary register adapted to the new constituency boundaries.

Clause 8 amends section 32 of the principal Act to allow the Registrar to appoint the place for the nomination of candidates. The Registrar would then be able to appoint one nomination place for all the constituencies in a general election.

Clause 9 amends section 40 of the principal Act. It inserts subsections (2A) and (2B) which allows for the Registrar, returning officers, presiding officers, candidates, election agents, as well as police officers and other persons certified by the Registrar to be employed at the polling on polling day, to vote at an advanced poll. It also inserts subsection (3A) which allows the advanced poll for persons who will be travelling or absent from Bermuda on polling day to take place over a number of days.

Clause 10 amends section 44 of the principal Act. It changes the starting time of an adjourned poll from ten o'clock in the morning to eight o'clock in the morning.

Clause 11 amends section 61(2) of the principal Act by inserting paragraph (c). This paragraph clarifies that, if a person is on adjoining private property, he does not commit an offence under section 61(1)(c) merely because he assembles or congregates with other persons within a distance of 50 metres of the election room.

Clause 12 amends section 76(1) of the principal Act. Clause 12(a) amends the section so that persons in Government service are not automatically precluded from being paid fees for performing duties in connection with a parliamentary election. Clause 12(b) adds a new paragraph (aa) to the section. It provides for fees to be paid to registration officers appointed under section 6 of the principal Act. Fees to be paid to scrutineers are also dealt with in this paragraph because, like registration officers, scrutineers are involved in the registration process only.

Clause 13 amends the Parliamentary Election Rules 1979. The amendments provide for fees to be paid to persons, including public officers, who discharge duties in connection with a parliamentary election. However, in respect of fees that are prescribed at an hourly rate, public officers are to be paid in respect of only the hours they discharge such duties outside of their normal working hours. The amendments also provide for registration officers and scrutineers to be paid fees for the discharge of certain duties under the Act. The fees, set out in the Second Schedule to the Rules, are increased. Form 2, in the First Schedule to the Rules, is amended to make it the prescribed form under section 10C. It will then be the prescribed form under both sections 10A and 10C. A warning is also added to Form 2. It alerts the person completing the form that section 145 of the Criminal Code makes it a criminal offence for a person to give a public officer (which would include the Registrar) information which that person does not believe to be true, intending thereby to cause, or knowing it likely to cause, the public officer to do, or omit to do, something.