



BERMUDA

LEGISLATURE (QUALIFICATION AND DISQUALIFICATION) ACT 1968

1968 : 154

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[preamble and words of enactment omitted]

Interpretation

- 1 (1) In this Act, unless the context otherwise requires—
- “prescribed office” means—
- (a) the office of teacher; or
 - (b) any executive or administrative office,

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on the staff of an aided school or a maintained school (within the meaning of the Education Act 1954 [*title 12 item 1*]), being an office the emoluments of which are paid, directly or indirectly, out of public funds, and includes the office of teacher in the service of the Government;

“undertaking” means an undertaking in the terms set out in the Schedule.

(2) Subject to subsection (1), this Act shall be read and construed as one with the Parliamentary Election Act 1978 [*title 2 item 11*].

Designation of certain offices as public offices

2 (1) For the purposes of section 30 and section 31 of the Constitution [*title 2 item 1*] and this Act, the offices to which this section applies, in respect of which emoluments are paid, directly or indirectly, out of public funds, shall be deemed to be public offices.

(2) This section applies to every prescribed office and to the office of—

- (a) every member of the Governor’s personal staff;
- (b) every employee of the Bermuda Hospitals Board;
- (c) every employee of any Government Board;
- (d) every regular full time serving member of the armed forces of the Crown.

Public officers who qualify for appointment to Senate or election to House of Assembly

3 (1) Subject to this Act, no public officer other than a public officer to whom this section applies shall, for the purposes of section 30(1)(f) of the Constitution [*title 2 item 1*], be disqualified for appointment to the Senate or election to the House of Assembly.

(2) This section applies to any public officer who—

- (i) is employed in or acting in an established office in the public service; or
- (ii) is employed as or acting as a Research Officer or a Guidance Officer; or
- (iii) is employed in the service of the Government or of any Government Board or of the Bermuda Hospitals Board in a professional, administrative, technical or clerical capacity, or as a nurse; or
- (iv) is employed as or acting as a member of the Governor’s personal staff; or
- (v) is employed as a regular full time serving member of the armed forces of the Crown.

(3) This section does not apply to a public officer holding or acting in a prescribed office.

Prescribed officer disqualified for appointment to Senate

4 No public officer who holds or is acting in a prescribed office shall be qualified for appointment to the Senate.

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Undertaking by persons in prescribed office who seek election to House of Assembly

5 No public officer who holds or is acting in a prescribed office shall be qualified for election to the House of Assembly unless concurrently with the delivery of his nomination paper to the Returning Officer on nomination day he files with that Returning Officer an undertaking duly completed and subscribed.

Delivery of undertaking to Speaker

6 In the event that a person who has filed an undertaking pursuant to section 5 is elected to the House of Assembly, the Returning Officer shall as soon as possible cause the undertaking to be delivered to the Speaker of the House of Assembly who shall arrange for its safe custody for the duration of the term of that House of Assembly.

Incapable of sitting until undertaking fulfilled

7 A person who holds or is acting in a prescribed office and who is elected to the House of Assembly shall be incapable of taking his seat in the House of Assembly unless and until he has fulfilled his undertaking.

Vacation of seat on failure to fulfil undertaking

8 (1) The seat of a member of the House of Assembly shall become vacant if he fails to fulfil or is otherwise in breach of an undertaking.

(2) The seat of a member of the Senate or of the House of Assembly shall become vacant if at any time after his appointment or election, as the case may be, he is appointed to or acts in a prescribed office.

Prohibition of application of public funds

9 (1) No public funds applied to or for the use of an aided school or a maintained school shall be used to remunerate any member of the Senate or any member of the House of Assembly, after he has taken his seat in the House of Assembly, in respect of employment in a prescribed office.

(2) If any member of the Senate or any member of the House of Assembly, after he has taken his seat in the House of Assembly, is remunerated out of any of the funds of an aided school or a maintained school in respect of employment in a prescribed office, that school shall forthwith cease to qualify for the grant of any public funds.

Interest in Government contract

10 (1) For the purposes of section 30(6) and (7) and of section 31(1)(f) of the Constitution [*title 2 item 1*], the following exceptions and limitations are hereby prescribed to the requirements for disclosure specified therein as qualifications for membership of the Senate or of the House of Assembly.

(2) A person shall not be deemed to have any interest in a Government contract if any interest which he has therein is not a proprietary or a financial interest in the carrying out of that contract.

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(3) A person shall not be deemed to have any interest in a Government contract if the only interest which he has in such a contract is the interest of a joint stock company of which he is a shareholder unless that person either—

- (a) is a director, officer or manager of that company or of some other company which controls that company and, in addition, is the beneficial owner of at least 10% of the issued capital of either of such companies aforesaid; or
- (b) he is the beneficial owner of at least 50% of the issued capital of that company, or is in a position to exercise more than 50% of the voting rights therein or is otherwise, by means of any arrangement, artifice or device, in a position to exercise directly or indirectly the effective control of that company,

and it shall be a sufficient disclosure of any interest which a person has in a Government contract by reason only of paragraph (a) or (b) for him to have disclosed, within the twelve-month period immediately preceding the acquisition of that interest, the nature and extent of his shareholding in that company by means of a notice published in the Gazette or in a newspaper published and circulating in Bermuda:

Provided that, where a person first acquired such an interest before 1 December 1979 it shall be, for the purposes of section 31(1)(f) of the Constitution [*title 2 item 1*], a sufficient disclosure of that interest for him to disclose on or before 29th February, 1980 by the means aforesaid the nature and extent of his shareholding in the company.

(4) A person who contracts for the supply of goods or services by or to the Government in the ordinary course of conduct of a trade, business or profession, or for the purchase, lease or use of Government property upon terms and conditions which are standard for any member of the public, shall not be deemed thereby to have any interest in a Government contract.

(5) A person shall not be deemed to have any interest in a Government contract by reason only that some person to whom he is related by consanguinity or affinity has such an interest, unless that other person holds that interest in trust for him.

(6) A person shall not be deemed to have any interest in a Government contract by reason only that he is the holder of any bond, note or marketable security issued by the Government, if the terms and conditions of issue thereof are standard terms and conditions for any member of the public holding the same.

(7) A person shall not be deemed to have an interest in a Government contract by reason only that he has contracted with the Government to sell land for road widening purposes.

(8) A person is not deemed to have an interest in a Government contract by reason only that he is the partner, agent or employee of a person who has such an interest.

(9) A member of either House of the Legislature shall not be deemed to have any interest in a Government contract by reason only that he may be entitled, whether by law or otherwise, to receive any emolument, allowance, perquisite or other payment from public funds for or in connection with the performance of his duties as such a member or as an

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officer of that House, or as a Minister or Junior Minister or as Opposition Leader or as a party whip.

[Section 10 subsection (9) amended by 2002:11 s.2 effective 6 June 2002]

Repeal

11 *[omitted]*

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SCHEDULE
FORM OF UNDERTAKING

To:

The Returning Officer

[blank] Electoral District

I [blank] of [blank] being the holder of/or acting in a prescribed office within the meaning of the Legislature (Qualification and Disqualification) Act 1968 hereby undertake that, if I am elected to the House of Assembly at the forthcoming election—

- 1 I will relinquish and cease to act in any prescribed office within seven days after the return of the writ of election in the forthcoming election; and
- 2 I will not at any time before my seat becomes vacant for any reason following the forthcoming election hold or act in a prescribed office.

(Signed)
Prospective Candidate

Dated this [blank] day of [blank] 19 [blank].

[Assent Date: 9 April 1968]

[Amended by:

1971 : 82

1979 : 34

1984 : 31

2002 : 11]