

**CIVIL ESTABLISHMENT ACT 1998**

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**BERMUDA  
1998 : 20**

**CIVIL ESTABLISHMENT ACT 1998**

[Date of Assent 18 June 1998]

[Operative Date 18 June 1998]

WHEREAS it is expedient to transfer from the Legislature to the Governor the power to determine the number of public offices in certain Government departments; to empower the Governor to abolish offices constituted under the Constitution; and to validate the purported establishment of certain public offices, appointment of persons to those offices, and abolition of certain public offices; and to make connected provision:

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:—

**Short title**

1 This Act may be cited as the Civil Establishment Act 1998.

**Interpretation**

2 In this Act—

"the commencement date" means the date of enactment of this Act;

"public office", has the meaning given by section 102 of the Constitution;

## **CIVIL ESTABLISHMENT ACT 1998**

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"the Scheduled enactments" means the enactments listed in the Schedule, each of which requires the authorization or determination of the Legislature in relation to the number of public offices in certain Government departments.

### **Validation of establishment of offices etc**

3 (1) Where before the commencement date a public office was purportedly established under any of the Scheduled enactments, a person was purportedly appointed to such an office, or such an office was purportedly abolished, without the specific authorization or determination of the Legislature, then—

- (a) that public office shall be deemed to have been validly established with effect from the date of such purported establishment;
- (b) that person shall be deemed to have been validly appointed to that office with effect from the date of such purported appointment;
- (c) that office shall be deemed to have been validly abolished with effect from the date of such purported abolition;

and no action, suit or proceeding shall be brought or, if proceedings were commenced prior to the commencement date, continued, against any person or authority by reason only of such purported establishment, appointment or abolition, as the case may be.

(2) For the avoidance of doubt, any benefit, right or obligation (including any pension entitlement) which by virtue of any provision of law attaches to a particular public office shall be deemed to be, and always to have been, attached to such an office deemed to have been validly established under subsection (1).

(3) For the avoidance of doubt, any benefit, right or obligation (including any pension entitlement) which by virtue of any provision of law exists by reason of the abolition of a particular public office shall be deemed to exist and to have existed since the date of the purported abolition of such an office deemed to have been validly abolished under subsection (1).

### **Establishment by Governor of certain public offices**

4 The Scheduled enactments shall be amended as set out in the Schedule so as to transfer from the Legislature to the Governor the power

## **CIVIL ESTABLISHMENT ACT 1998**

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to determine the number of public offices in the departments to which those enactments relate.

### **Abolition of public offices by Governor**

5 For the avoidance of doubt, any public office constituted by the Governor under section 25 of the Constitution (powers to constitute offices, make appointments etc) may be abolished by the Governor.

## **SCHEDULE**

**(section 2)**

### **TRANSFER TO GOVERNOR OF POWER TO DETERMINE NUMBER OF PUBLIC OFFICES IN CERTAIN DEPARTMENTS**

In each of the following enactments, for the words "by the Legislature" there shall be substituted the words "by the Governor"—

Section 5(2) of the Agriculture Act 1930  
(Department of Agriculture, Fisheries and Parks)

Section 5(2) of the Bermuda Archives Act 1974  
(Assistants to the Archivist)

Section 2(2) of the Civil Airports Act 1949  
(Airport and Aviation Departments)

Section 2(2) of the Customs Department Act 1952  
(Customs Department)

Section 5(2)(b) of the Education Act 1996  
(Education Department)

Section 4 of the Fire Services Act 1982  
(Fire Services Department)

Section 11(2) of the Bermuda Immigration and Protection Act 1956  
(Department of Immigration)

Section 5(2) of the Bermuda Library Act 1946  
(Libraries Department)

Section 9(2) of the Marine Board Act 1962  
(Department of Marine and Ports Services)

Section 6(2) of the Motor Car Act 1951  
(Transport Control Department)

## **CIVIL ESTABLISHMENT ACT 1998**

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Section 7(1) of the Police Act 1974  
(Police Service)

Regulation 2(2) of the Public Service Commission Regulations  
1968 (Assistants to the Secretary of the Commission)

Section 2(3) of the Quarantine Act 1946  
(Quarantine Authority officers)

Section 2(3) of the Registration (Births and Deaths) Act 1949  
(Assistants to the Registrar-General)

Section 6(2) of the Telecommunications Act 1986  
(Telecommunications Department)