

GOLF COURSES (CONSOLIDATION) ACT 1998



BERMUDA
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GOLF COURSES (CONSOLIDATION) ACT 1998

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ARRANGEMENT OF SECTIONS

| | | | |
|---|--------------------------------------|----|--------------------------|
| 1 | Citation and commencement | 10 | Application of funds |
| 2 | Interpretation | 11 | Restriction on borrowing |
| 3 | Establishment of Board | 12 | Accounts and audit |
| 4 | Delegation to Permanent Secretary | 13 | Annual report |
| 5 | Functions of Board | 14 | Exemption from land tax |
| 6 | Appointment of officers and servants | 15 | Repeals |
| 7 | Fees | 16 | Savings and transitional |
| 8 | Revenue to be sufficient | 17 | Consequential amendment |
| 9 | Services of Government departments | | |

SCHEDULE

The Board of Trustees

WHEREAS it is expedient to consolidate the statutory provisions which relate to golf courses owned by the Bermuda Government, to provide for a single Board of Trustees to manage such golf courses, and to make connected provision:

GOLF COURSES (CONSOLIDATION) ACT 1998

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 and commencement

1 This Act may be cited as the Golf Courses (Consolidation) Act 1998, and shall come into operation on such day as the Minister may appoint by notice published in the Gazette.

Interpretation

2 In this Act, unless the context otherwise requires—

"Auditor" means the person appointed to the public office of Auditor established under section 101 of the Constitution;

"Board" means the Board of Trustees of the Golf Courses established under section 3(1);

"Golf Courses" means the Port Royal Golf Course, the Ocean View Golf Course and the St. George's Golf Course together with the buildings erected thereon and equipment, furniture and effects appurtenant thereto heretofore respectively regulated by the repealed Acts and vested in the Bermuda Government under those Acts;

"Minister" means the Minister charged with responsibility for Works and Engineering;

"repealed Acts" means the Acts specified in section 15.

Establishment of Board

3 (1) There is hereby established a Board to be known as the "Board of Trustees of the Golf Courses" which shall have the powers and perform the functions assigned to it under this Act.

(2) The Board shall be a body corporate with perpetual succession and a common seal with power to sue and be sued in its corporate name.

(3) Fees shall be paid to the members of the Board in accordance with the provisions of the Government Authorities (Fees) Act 1971.

(4) The Schedule has effect with respect to the constitution and proceedings of the Board.

GOLF COURSES (CONSOLIDATION) ACT 1998

Delegation to Permanent Secretary

4 Without prejudice to any provision of law relating to the delegation of any power or duty of a Minister to a public officer, the Minister may delegate any of his functions under this Act to the Permanent Secretary responsible for the Department of Works and Engineering other than the functions mentioned in sections 5(3), 6, 10 and 13(1).

Functions of Board

5 (1) The functions of the Board are—

(a) to have the general control, management and administration of the Golf Courses; and

(b) to maintain the Golf Courses in good and proper condition.

(2) The Board may call upon the Financial Secretary, the Permanent Secretary assigned to the Ministry responsible for the Department of Works and Engineering, the Permanent Secretary assigned to the Ministry responsible for matters relating to the environment, and such officers from the government departments responsible for tourism and sport as it thinks fit, for such advice and assistance as it may consider desirable for the proper discharge of its functions, and any such officer shall provide the advice and assistance sought.

(3) The Minister may, after consultation with the Board, give to the Board such general directions as to policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary in the public interest and the Board shall give effect to such directions.

Appointment of officers and servants

6 (1) Subject to the appropriation by the Legislature of the requisite funds, the Board shall appoint or employ, at such remuneration and on such terms and conditions as may be approved by the Minister, such officers and servants as it thinks necessary for the proper operation of the Golf Courses.

(2) The Governor may, subject to such conditions as he may impose, and acting on the advice of the Minister, approve the appointment of any public officer in the service of the Government by way of secondment to any office with the Board, and any public officer so appointed shall, in relation to pension, gratuity or other allowance and to other rights and obligations as a public officer, be treated as continuing in the service of the Government.

GOLF COURSES (CONSOLIDATION) ACT 1998

Fees

7 (1) Subject to any arrangements or agreements between the Government and any other person for the use of the Golf Courses, the Board shall, with the prior approval of the Minister, fix the green fees payable for the use of each Golf Course and any other fees or charges in respect of the hire of equipment or otherwise incidental to the operation of each Golf Course.

(2) The Board, with the prior approval of the Minister, shall—

- (a) fix the prices to be charged for food and drink provided at the Golf Courses; and, where applicable,
- (b) approve the prices to be charged for food and drink if the Board enters into an agreement with a person for the provision by that person of any food or drink.

Revenue to be sufficient

8 The Board shall administer the Golf Courses and shall levy such fees and other charges under section 7 as will result in—

- (a) the revenue of the Board being sufficient, taking one year with another, to meet the expenditure of the trustees including depreciation and amortisation charges; and
- (b) the earned surplus of the Board not falling into a deficit position.

Services of Government Departments

9 The Board may, with the approval of the Minister responsible for providing the services and subject to the availability of such services, make use of any services offered by a Government department for the maintenance of the land or buildings of the Golf Courses and, if any such services are employed on behalf of the Board, the cost of the services shall be charged to the accounts of the Board and shall be paid to the Government department concerned.

Application of funds

10 (1) Any proposed capital development expenditure shall be subject to the prior approval of the Minister and the Minister of Finance and shall be included in the Annual or Supplementary Estimates.

(2) Any funds appropriated by the Legislature for the operation or maintenance of the Golf Courses or for capital development shall be applied, subject to the terms of the appropriation, in accordance with —

GOLF COURSES (CONSOLIDATION) ACT 1998

- (a) any instructions issued by the Minister of Finance or any direction issued by him under section 3(1) of the Public Treasury (Administration and Payments) Act 1969; or
- (b) any other instructions issued by the Minister.

Restriction on borrowing

11 The Board shall not borrow any money for the purpose of meeting any of its obligations or discharging any of its functions under this Act without first obtaining the written approval of the Minister of Finance.

Accounts and audit

12 (1) The Board shall keep proper accounts relating to the operation of the Golf Courses and the accounts shall be maintained in such manner as the Accountant General may direct.

(2) All sums received by the Board by way of fees or other charges under section 7 shall be paid into the Board's accounts and all disbursements approved by the Board shall be paid out of those accounts.

(3) The Accountant General shall from time to time produce or cause to be produced such reports and other financial information as may be required by the Board to enable the Board to perform its functions under this Act.

(4) The accounts of the Board shall be audited annually by the Auditor.

Annual report

13 (1) The Board shall, as soon as practicable after the end of each financial year, make to the Minister a report on—

- (a) the exercise and performance of the functions assigned to it under this Act during that year; and
- (b) its policy and programme.

(2) The Minister shall cause a copy of every such report made to him under subsection (1) to be laid before each House of the Legislature within a reasonable time.

(3) The report made under subsection (1) for any year shall set out any directions given by the Minister to the Board during that year and shall include—

GOLF COURSES (CONSOLIDATION) ACT 1998

- (a) the audited financial statement together with the Auditor's report thereon; and
- (b) a statement setting out the scales of salaries and wages paid to officers and servants of the Golf Courses appointed by the Board.

Exemption from land tax

- 14 (1) The Board shall not be subject to land tax.
- (2) The exemption granted to the Board from land tax shall not enure to the benefit of any lessee or tenant of the Board, and any such lessee or tenant shall be liable to land tax under the Land Valuation and Tax Act 1967 as if he were the owner of the premises the subject of his lease or letting, whatever the term of the lease or letting.

Repeals

- 15 The following statutes are repealed—
- (a) the Port Royal Golf Course Act 1970;
 - (b) the Ocean View Golf Course Act 1985; and
 - (c) the St. George's Golf Club Act 1985.

Savings and transitional

- 16 (1) Upon the date of coming into operation of this Act the former Boards of Trustees of the Golf Courses ("former Board") shall be dissolved and—
- (a) an officer or servant who, prior to the coming into operation of this Act, was appointed or employed by a former Board shall be deemed to be so appointed or employed under this Act and the provisions of section 6 shall apply accordingly;
 - (b) any assets and liabilities of a former Board shall be transferred to and vest in the Board without further assurance and the Board shall have all powers necessary to take possession of, and recover and deal with such assets and discharge such liabilities;
 - (c) every agreement, whether in writing or not, and every deed, bond or other instrument to which a former Board was a party or which affected a former Board, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if—

GOLF COURSES (CONSOLIDATION) ACT 1998

- (i) the Board were a party thereto or affected thereby instead of a former Board; and
- (ii) for every reference, however worded and whether express or implied, therein to a former Board there were substituted in respect of anything to be done on or after such date of coming into operation a reference to the Board;
- (d) any proceedings pending immediately before such date to which a former Board was a party shall be continued as if the Board were a party thereto in lieu of a former Board.

(2) In this section "former Board" means any one or more of the former Boards of Trustees of the Golf Courses, as the case may be.

Consequential amendment

17 In Part B of the First Schedule to the Government Authorities (Fees) Act 1971 (members of certain bodies entitled to remuneration for attending meetings)—

- (a) at the appropriate place in alphabetical order there shall be inserted—

"Board of Trustees of the Golf Courses, established under section 3 of the Golf Courses (Consolidation) Act 1998"; and

- (b) the entries relating to the Queen's Park Golf Course Trustees, the Port Royal Golf Course Trustees and the St George's Golf Club Trustees shall be deleted.

SCHEDULE

(section 3)

The Board of Trustees

1 The Board shall consist of not fewer than seven and not more than eleven members.

2 Subject to paragraph 5, members of the Board shall be appointed annually by the Minister to hold office for a period not exceeding one year commencing on the date of such appointment.

3 A person appointed as a member of the Board may be reappointed, so however, that the period of reappointment of a member

GOLF COURSES (CONSOLIDATION) ACT 1998

shall not, in total, exceed five years commencing on the date on which his first reappointment takes effect.

4 The Minister shall appoint one of the members of the Board to be the Chairman, and another to be the Deputy Chairman.

5 The Minister may at any time revoke the appointment of a member of the Board.

6 The names of the members of the Board as first constituted and any change in the membership thereof shall be published in the Gazette.

7 If at any time a member of the Board or the Chairman is, by reason of absence from Bermuda, ill health or other sufficient cause, unable to perform his duties as such, the Minister may appoint another person to act as a member or, as the case may be, as Chairman, during the incapacity of the substantive member or Chairman, and any person so appointed shall, while so acting, be deemed for the purposes of this Act to be a member or, as the case may be, the Chairman of the Board.

8 Subject to paragraph 7, if at any meeting of the Board the Chairman is absent, the Deputy Chairman shall preside over the meeting, and if both the Chairman and the Deputy Chairman are absent, then the members present shall elect one member of the Board to act as Chairman at that meeting.

9 A majority of the members of the Board in Bermuda at the date of any meeting shall constitute a quorum thereat if that majority amounts to at least five members.

10 Every question or matter to be determined by the Board at any meeting shall be decided by a majority of the votes of the members present and voting on that question or matter, but in the event of an equal division of votes, the Chairman may give a second or casting vote.

11 Subject to paragraphs 8, 9 and 10, the Board shall have power to regulate its own procedure.