

JAMAICA

No. 8 – 2016

I assent,

[L.S.]

Sgd. P.L. Allen

Governor-General.

17th day of February 2016

AN ACT to Provide for the comprehensive reform of Jamaica's local government system, through which Local Authorities will be granted greater scope and autonomy in the management of local affairs, with an expanded and more holistic mandate for the good governance, sustainable development and maintenance of good civic order within their respective jurisdictions, and for connected matters.

[*The date notified by the Minister
bringing the Act into operation*]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

PART I—Preliminary

1. This Act may be cited as the Local Governance Act, 2016, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette* (hereinafter called the "appointed day").

Short title and
commence-
ment.

Interpretation. 2.—(1) . In this Act—

“Business Improvement District”, in relation to any area within the jurisdiction of a Local Authority, means a specified area within which there exists and operates an association of businesses that is constituted for the purpose of undertaking projects, activities or operations to improve the conduct of business or the business environment in the specified area, and for the general benefit of the members of the association;

“Chairperson” means the Chairperson of a Council;

“Charter” means an instrument granted to a City Council or Town Council in accordance with section 8 of this Act;

“Chief Engineering Officer”, with respect to a Local Authority, means the senior officer of the Local Authority with responsibility for engineering matters;

“Chief Executive Officer”, in relation to a Local Authority, means the officer appointed under section 23 to carry out the functions set out in section 24;

“Chief Financial Officer”, with respect to a Local Authority, means the senior officer of the Local Authority with responsibility for accounting and financial matters;

“City Council” means the Council of a City Municipality;

“City Municipality” means a body established under section 8 or continued under section 5;

“committee”, in relation to a Council, includes a sub-committee;

“constituency” has the meaning assigned to it by the Constitution of Jamaica;

“Council” means a body of persons comprised in accordance with section 10;

- “Council chamber” means any room, or other enclosed space, in which a meeting of a Council, or any committee thereof, is being held;
- “Councillor” means a person who, by virtue of being elected in accordance with the Eighth Schedule of the *Representation of the People Act*, is entitled to sit on the Council of a Municipal Corporation, City Municipality or Town Municipality;
- “elector” has the meaning assigned to it in section 2 of the *Representation of the People Act*,
- “electoral division” has the meaning assigned to it in paragraph 1(2) of the Eighth Schedule of the *Representation of the People Act*;
- “emergency” means a matter that could not be reasonably foreseen or provided for and which requires urgent action;
- “functions” includes powers and duties;
- “general election of Councillors” means a general election of Councillors under the Eighth Schedule of the *Representation of the People Act*;
- “illegal payment” means any payment made in contravention of the provisions of this Act;
- “Local Authority” means a body categorized as such under section 6;
- “member” in relation to a Council means a person entitled to sit on that Council as provided for in section 13;
- “Municipal Corporation” shall be construed in accordance with sections 5 to 7;
- “Municipality” means a City Municipality or a Town Municipality;
- “owner” means the person in possession of or in receipt either of the whole or any part of the rents or profits of any land or tenement, whether in that person’s own right or as a

trustee or personal representative of any other person, or in the occupation of such land or tenement other than as a tenant from year to year or for any less term or as a tenant at will;

“polling division” has the meaning assigned to it by section 2 of the *Representation of the People Act*;

“precincts of the Council chamber” means the entire building in which a Council of a Local Authority or any committee thereof sits in session for the transaction of business, together with such offices of the Local Authority as the Council may designate, and the gallery or place provided for the use or accommodation of strangers;

“premises” includes messuages, buildings, lands, easements, and hereditaments of any tenure;

“relevant Local Authority” means the Municipal Corporation for the parish;

“Special Improvement District”, in relation to any area within the jurisdiction of a Local Authority, means a specified area within which there exists and operates an association of any one or more residents, businesses or other interested parties, constituted for the general benefit of the members of the association;

“stranger” means any person other than—

(a) a member of a Council of a Local Authority or of a committee or sub-committee thereof; or

(b) a person referred to in section 36(2);

“Town Council” means the Council of a Town Municipality;

“Town Municipality” means a body established as such under section 8.

(2) References in any other enactment to a parish council, and all other cognate expressions referring thereto, shall be construed as references to the relevant Local Authority (as defined by section 2).

3. The principal objects of this Act are to—

Objects of Act.

- (a) establish a rational framework with regard to the different types of Local Authorities;
- (b) broaden the mandate of Local Authorities by making them responsible for good governance, sustainable development and maintenance of civic order within their jurisdictions;
- (c) enhance the capacity of Local Authorities to more effectively manage local affairs, by enabling them to exercise powers and perform functions assigned to them;
- (d) ensure accountability and transparency on the part of Local Authorities in the conduct of local affairs, including the use of public resources and exercise of authority;
- (e) define the roles of, and relationship between, the political and administrative organs of Local Authorities;
- (f) facilitate the participation and empowerment of civil society and communities in local governance processes;
- (g) broaden the democratic process to ensure full participation in the local governance system and promote greater inclusiveness and equity for all sectors of the society.

4.—(1) This Act applies to all Local Authorities.

Application of Act.

(2) Notwithstanding subsection (1), an order or other enactment made under this Act establishing or constituting a Local Authority or amending any such order or enactment may apply the provisions of this Act generally to the town, district or place mentioned therein or it may provide that this Act shall apply subject to such exceptions or modifications as are specified in the order or enactment.

PART II—*Constitution and Governance of
Local Authorities*

Local
Authorities
established or
continued
under this Act.

5.—(1) The Municipal Corporation established under the *Kingston and St. Andrew Corporation Act* (repealed by section 53 of this Act) is hereby continued as a Municipal Corporation under this Act and—

- (a) is to be known by the Kingston and St. Andrew Municipal Corporation; and
- (b) for the avoidance of doubt, its assets and liabilities shall be vested in the Municipal Corporation so continued.

(2) The inhabitants of each parish, other than the parishes of Kingston and St. Andrew, are hereby declared to be a Municipal Corporation under this Act, and each such Municipal Corporation shall be deemed for all intents and purposes to be the successor of the respective parish council referred to in section 3(2) of the *Parish Council Act* (repealed by section 53 of this Act), and (for the avoidance of doubt) the assets and liabilities of that parish council are hereby vested in the Municipal Corporation so succeeding.

(3) The Municipality of Portmore established under the *Municipalities Act* (repealed by section 53 of this Act)—

- (a) is hereby continued as, and deemed to be, a City Municipality under this Act; and
- (b) is to be known as the Municipality of Portmore, unless otherwise determined by the Minister by order subject to affirmative resolution, and (for the avoidance of doubt) the assets and liabilities of that Municipality are hereby vested in that City Municipality.

(4) The Municipal Corporations referred to in subsections (1) and (2) shall bear the respective corporate names set out in the First Schedule.

First Schedule.

Categorization
of Local
Authorities.

6. Local Authorities shall be categorized as—

- (a) Municipal Corporations, constituted in accordance with section 7; and

- (b) City Municipalities or Town Municipalities constituted in accordance with section 8.

7. A Municipal Corporation shall be a body corporate, having a perpetual succession, to which section 28 of the *Interpretation Act* shall apply.

Constitution of Municipal Corporation.

8.—(1) Subject to the provisions of this section, the Minister may, in accordance with subsection (2)—

Establishment and constitution of City Municipality or Town Municipality.

- (a) by order, declare the inhabitants of any area specified in the order to be a City Municipality or Town Municipality bearing the name of the city or town in relation to which the declaration is made, which name shall be as specified in the order; and
- (b) grant a Charter for the governance of the City Municipality or Town Municipality, which shall be published in the *Gazette*.

(2) An order made under subsection (1) shall be subject to affirmative resolution.

(3) Subject to subsection (4), the Minister may make an order under subsection (1) upon the presentation to the Minister of—

- (a) a petition signed by—
 - (i) not less than seven per cent of the inhabitants of the area of the proposed City Municipality or Town Municipality whose names are, at the time of signature, on the official list of electors for the House of Representatives; and
 - (ii) any community organization representing inhabitants of the proposed City Municipality or Town Municipality; and
- (b) a written opinion of the relevant Municipal Corporation regarding the establishment of the City Municipality or Town Municipality, which opinion shall include an assessment of the proposed services and regulatory

functions which are to be provided or undertaken by the City Municipality or Town Municipality (as the case may be).

(4) In deciding whether to make an order under subsection (1), the Minister shall take into account—

- (a) the views of the inhabitants of the proposed City Municipality or Town Municipality, and the Minister may seek those views by such methods as the Minister considers appropriate;
- (b) the opinion of the relevant Local Authority; and
- (c) the criteria for establishing a City Municipality or Town Municipality as specified in subsection (5).

(5) The criteria mentioned in subsection (4)(c) are as follows—

- (a) the area of the proposed City Municipality or Town Municipality is an urban centre or a group of urban centres that would be better served by a regime that is focused exclusively on managing the area in order to achieve sustainable and orderly development;
- (b) the size of the population is not less than—
 - (i) 50,000 inhabitants, in the case of a City Municipality; or
 - (ii) such number of inhabitants as may be prescribed by the Minister by order, in the case of a Town Municipality;
- (c) there is potential for generating revenue within the community to cover the operational costs of the City Municipality or Town Municipality and the costs of the services and regulatory functions which are to be provided or undertaken by the City Municipality or Town Municipality;

- (d) the economic, social and cultural benefits to be derived from the establishment and operation of the City Municipality or Town Municipality are likely to outweigh the costs of such establishment or operation;
- (e) the establishment of the City Municipality or Town Municipality is not likely to have any adverse effect on the adjoining communities or the parish in general; and
- (f) there is evidence that the inhabitants of the area have a general understanding of the issues involved in and the implications of, the establishment of a City Municipality or Town Municipality.

(6) For the purposes of this Act, a City Municipality or Town Municipality shall include all lands within the boundaries set out in an order made pursuant to subsection (1).

(7) Before finalizing the Charter to be granted under subsection (1), the Minister shall provide the Council of the relevant Local Authority with an opportunity to review and comment thereon, and shall take those comments into account.

(8) The provisions of the Charter of a City Municipality or Town Municipality shall have effect as to the objects and functions of the relevant City Council or Town Council, its main offices and its members and constituent parts.

(9) The Charter may be amended in accordance with the procedure specified therein.

(10) The Minister shall cause a copy of the Charter to be laid on the Table of the House of Representatives and the Senate within thirty days after the date on which the Charter is granted.

(11) A City Municipality or Town Municipality shall be a body corporate having perpetual succession to which section 28 of the *Interpretation Act* shall apply.

(12) For the purposes of this Act, there is established an Advisory Committee for each City Municipality.

(13) The Advisory Committee of each City Municipality shall be comprised of representatives of such civil society, private sector and community based organizations within the Municipality, in such number as the Council of the Municipality shall determine in accordance with such regulations (if any) as may be prescribed.

(14) Subject to subsection (13), the Council of a City Municipality may make by-laws regulating the procedures for the Advisory Committee of its City Municipality, which may include procedures for the removal and replacement of members of the Advisory Committee.

Power to
define the
limits of
towns, etc.

9.—(1) A Municipal Corporation may, from time to time as and when it thinks fit, by resolution define or alter for all or for any specified purposes, the limits of any city, town, village or other area within its jurisdiction, whether or not the limits or extent of such area have been previously ascertained or defined, and from time to time in like manner alter such definition.

(2) The Municipal Corporation may, if it considers appropriate, by resolution define different limits for different purposes in any towns or villages, and that resolution shall not take effect until it has been approved by the Minister, who shall have power to alter it, and the resolution shall thereafter be published in the *Gazette*.

(3) The limits of all towns defined under any of the repealed Acts shall, unless altered under this section, continue to be the limits of those towns for the same purposes and to the same extent that they are immediately prior to the appointed day.

Composition
of Councils.

10.—(1) The Council of a Municipal Corporation shall be comprised of one Councillor for each electoral division in the area within the jurisdiction of the Municipal Corporation.

(2) The Council of a City Municipality shall be comprised of its Mayor and, subject to section 13(2), one Councillor for each electoral division within the area of jurisdiction of the City Municipality.

(3) The Council of a Town Municipality shall be comprised of one Councillor for each electoral division within the area of jurisdiction of the Town Municipality and such other members as may be appointed in accordance with such regulations as may be prescribed.

11. Subject to the provisions of this Act, Town Councils shall be constituted and governed in accordance with such provisions as may be prescribed in regulations made by the Minister subject to affirmative resolution.

Town Councils.

12. A Local Authority shall be capable of acting by its Council, and the Council shall exercise all functions vested in the Local Authority or the Council by this Act or otherwise.

Powers of Council of Local Authority.

13.—(1) Subject to subsection (2), the Councillors entitled to sit on the Council of a Local Authority are the Councillors elected from electoral divisions wholly contained within the boundaries of the Local Authority.

Constitution of Local Authority.

(2) In the case of a City Council or a Town Council, each Councillor who represents an electoral division that, although not falling entirely within the boundaries of the City Municipality or Town Municipality (as the case may be), contains polling divisions—

- (a) entirely within the boundaries of the Municipality; and
- (b) the electors for which constitute more than fifty percent of the electors for that electoral division, shall be entitled to sit on the City Council or Town Council, as the case may be.

14.—(1) Each Council of a Local Authority shall be presided over by a Chairperson.

Mayor and Deputy Mayor.

(2) The Chairperson of the Council of a Municipal Corporation is to be known as the Mayor of the capital town or city within the area of jurisdiction of the Municipal Corporation.

(3) The Chairperson of the Council of a Municipal Corporation shall be elected by the Council of the Municipal

Corporation from among the members of the Council, and shall be eligible for re-election.

(4) The Mayor of a City Municipality shall be directly elected by the electors of that Municipality and—

- (a) shall be known as the Mayor of that Municipality; and
- (b) shall be the Chairperson who presides over the Council of that Municipality.

(5) As soon as the Chairperson of the Council of a Municipal Corporation has been elected or, in the case of a City Council, at the first meeting after the Mayor of the City Municipality has been elected, the members of the Council of the Municipal Corporation or the City Council (as the case may be) shall elect one of their number to be the Deputy Mayor, who shall, in the absence of the Chairperson, preside over the meetings of the Council.

(6) Subject to section 16 a Chairperson shall—

- (a) hold office from the date of his election until the next general election of Councillors under the provisions of paragraph 4 of the Eighth Schedule to the *Representation of the People Act*; and
- (b) continue in office until the successor in the office has accepted office and made and subscribed the prescribed declaration.

Vacancy in
office of
Mayor of City
Municipality.

15.—(1) Where a person, who is elected Mayor of a City Municipality—

- (a) is disqualified from performing the functions of Mayor under paragraph 3 of the Eighth Schedule to the *Representation of the People Act*;
- (b) becomes incapable of performing the functions of Mayor under paragraph 3 of the Eighth Schedule to the *Representation of the People Act*;
- (c) resigns;

- (d) becomes incapable of performing the functions of Mayor by reason of ill health;
- (e) is absent from three consecutive ordinary meetings of the City Council without the leave of the Council;
- (f) dies; or
- (g) is otherwise incapable of performing the functions of Mayor,

that person shall cease to be the Mayor, and the Deputy Mayor of the City Municipality shall exercise the functions of the Mayor until a Mayor is next elected pursuant to a by-election under subsection (2).

(2) A by-election to supply a vacancy in the office of Mayor arising in any of the circumstances specified in subsection (1) shall be held on such day as the Acting Mayor shall, after consultation with the Chief Electoral Officer, by order published in the *Gazette* direct being the earlier of—

- (a) a day within three months after the vacancy has been entered in the minutes of the Council; or
- (b) a day within three months after notice in writing of the occurrence of the vacancy has been given to the Deputy Mayor of the City Municipality by six persons who were entitled to vote for that mayor.

(3) Where a person elected Mayor of a City Municipality, at any time later than twenty months after that election, ceases to be Mayor by virtue of subsection (1), the Deputy Mayor shall assume and exercise the functions of Mayor until a Mayor is next elected under the provisions of the Eighth Schedule to the *Representation of the People Act*.

(4) A Deputy Mayor shall, while exercising the functions of Mayor under this section, be styled as the “Acting Mayor”, and the provisions of subsection (1) shall apply to an Acting Mayor as they apply to a Mayor.

(5) During any period in which a Deputy Mayor is an Acting Mayor pursuant to this section, the Councillors on the City Council for the City Municipality shall appoint one of their number to assume the functions of Deputy Mayor for the duration of that period, including (without limiting the generality of the foregoing) the power to assume and exercise the functions of Mayor until a Mayor is next elected in accordance with this section, in the event that, prior to such election, the Acting Mayor ceases to be Acting Mayor pursuant to this Act.

(6) A Councillor shall, while exercising the functions of Deputy Mayor under subsection (5), be styled as the “Acting Deputy Mayor”.

Vote of no confidence in respect of Chairperson.

16.—(1) Subject to subsection (2), a person elected Chairperson of a Local Authority may be removed from office as Chairperson, after the expiry of twelve months from the date of that election, on a motion supported by a majority of all the members of the Council of the Local Authority in such manner and form as may be prescribed.

(2) This section shall not apply to the Mayor of a City Municipality.

Vote of no confidence in respect of Deputy Mayor.

17. A person elected Deputy Mayor of a Municipal Corporation or City Municipality may be removed from office as Deputy Mayor after the expiration of twelve months from the date of that election, on a motion supported by a majority of all the members of the Council of the Municipal Corporation or City Municipality (as the case may be) in such manner and form as may be prescribed.

Impeachment of elected Mayor.

18.—(1) Subject to subsection (3), a Mayor of a City Municipality may be impeached in the circumstances specified in subsection (2).

(2) The circumstances referred to in subsection (1) are where—

- (a) a petition signed by twenty five percent of the electors registered to vote at polling divisions wholly within the area of jurisdiction of that City Municipality; or

(b) a motion approved by two-thirds of the members of the City Council,

alleging a charge of gross misconduct or dereliction of duty, has been submitted to the Minister.

(3) Upon the occurrence of either circumstance specified in subsection (2), the Minister shall institute proceedings to determine whether the allegations are substantial and proven, and if the proceedings determine that the allegations are substantial and proven, the Minister shall bring a resolution to Parliament for the removal of the Mayor.

(4) Upon the passing by both Houses of Parliament of a resolution brought under subsection (3), the Mayor shall cease to hold office.

(5) For the purposes of subsection (2)(a), the Minister may request that the Electoral Office provide such verification as the Electoral Office considers reasonable, as to whether the petition meets the requirements of subsection (2)(a).

19.—(1) Except as otherwise provided in this Act, the term of office of the Chairperson of the Council of a Municipal Corporation or City Municipality shall, unless sooner determined in accordance with section 16, expire on the conclusion of the next general election of Councillors, but that Chairperson shall continue in office until the successor in the office has accepted office and made and subscribed the required declaration.

Tenure of
Mayor and
Deputy
Mayor.

(2) Except as otherwise provided in this Act, the term of office of a Deputy Mayor of the Council of a Municipal Corporation or City Municipality shall, unless sooner determined in accordance with section 17, expire on the conclusion of the next general election of Councillors but, that Deputy Mayor shall, continue in office until the successor in the office has accepted office and made and subscribed the required declaration.

(3) In the event of the death, resignation, or disqualification from any cause, of the Chairperson of the Council of a Municipal

Corporation, the Deputy Mayor shall forthwith succeed to the office of Chairperson, and shall, subject to section 16, continue in office for the remainder of the term of the Chairperson.

(4) In the event of the death, succession to office of Chairperson of the Council of a Municipal Corporation, resignation, incapacity or disqualification from any cause, of the Deputy Mayor of the Council of a Municipal Corporation, the Council shall elect one of their number to be Deputy Mayor.

(5) In the absence or illness of the Chairperson of the Council of a Municipal Corporation, the Deputy Mayor may exercise all of the functions vested in the Chairperson under this Act, and all things so done by the Deputy Mayor shall be as valid and effectual in all respects as if they had been done by the Chairperson.

Remuneration
of Chairperson,
Deputy Mayor
and
Councillors.

20.—(1) There shall be paid to each Councillor and each mayor of a City Municipality, salary at such rate as may be provided for in the operational budget of the Local Authority approved in accordance with section 3 of the *Local Government (Financing and Financial Management) Act*.

(2) The Chairperson of the Council of a Local Authority shall be eligible for such remuneration as may be prescribed by the Minister with responsibility for the public service from time to time, or such greater sum as the Minister may from time to time after consultation with the Council of the Local Authority determine, as a personal allowance to be paid out of the operational budget of the Local Authority approved as specified in subsection (1).

PART III—*Scope, Structure and Functions of Local Authorities*

Functions of
Local
Authority.

21.—(1) Subject to subsection (2), a Local Authority is responsible for the following functions—

- (a) the carrying out of designated local services and the regulatory oversight of specified local, economic and social activities;

- (b) promoting, spearheading and coordinating local sustainable development;
- (c) ensuring good civic order and undertaking such civic and cultural events as are deemed appropriate;
- (d) identifying, mobilizing, collecting and optimizing sources of revenue that are available to Local Authorities to finance their operations and service delivery mandates, and allocating and utilizing such resources to meet the priority needs of inhabitants within the area of its jurisdiction;
- (e) spearheading, fostering and promoting economic and social development, cultural advancement, alleviation of poverty and environmental protection of all districts and communities within the area of its jurisdiction, through—
 - (i) the preparation, adoption and implementation of local sustainable development plans for the entire area within its jurisdiction or such selected districts or communities therein as it considers desirable;
 - (ii) initiating and participating in urban renewal, rural and community development, poverty alleviation programmes and schemes within the area of its jurisdiction;
 - (iii) adopting a consultative approach in pursuing and undertaking activities related to subparagraphs (i) and (ii);
- (f) engaging in disaster preparation, mitigation, and recovery, as well as emergency management and responses, within the area of its jurisdiction;
- (g) encouraging and facilitating effective coordination and collaboration between bodies or entities that are within the public, private and non-governmental sectors and that exist or operate within the area of its jurisdiction, to

ensure greater or better synergy, service delivery and responsiveness to the needs, concerns and priorities of inhabitants within the area of its jurisdiction;

- (h) contributing to and coordinating the preparation and execution of national development plans and initiatives that are linked with broad national objectives;
- (i) developing, implementing and monitoring plans and programmes to maintain and enhance civic order and enforce civic laws; and
- (j) providing such other services and things as it considers necessary or desirable for all or part of the area within its jurisdiction.

(2) A Local Authority shall act in a manner consistent with the requirements of any other law in carrying out its functions under subsection (1).

(3) Subject to subsection (2), in carrying out its functions, a Local Authority may—

- (a) enter into joint venture relationships, public private partnerships and other such arrangements where these are deemed advantageous;
- (b) enter into agreements and collaborate with other Local Authorities in the delivery of such services as Local Authorities consider to be best provided for in that manner;
- (c) construct and maintain markets, parks, cemeteries, pounds and abbatoirs and any other municipal structure for providing services to inhabitants within the area of its jurisdiction; or
- (d) construct and maintain roads within the area of its jurisdiction.

Participation
mechanisms.

22.—(1) Each Local Authority shall promote, establish and utilize appropriate mechanisms to facilitate participation of, and

collaboration or networking with, all relevant stakeholders who exist or operate within the area of its jurisdiction.

(2) Particular stakeholders with whom a Local Authority shall engage for the purposes of subsection (1) include—

- (a) Members of Parliament representing constituencies within the area of its jurisdiction;
- (b) Parish Development Committees, Development Area Committees, Community Development Committees and other bodies or entities within the public, private and non-governmental sectors; and
- (c) inhabitants within the area of its jurisdiction who collectively may be particularly affected by the exercise or proposed exercise of its functions including any association of businesses referred to in the definition of “Business Improvement District” in section 2(1) and any association of residents, businesses or other interested parties, referred to in the definition of “Special Improvement District” in section 2(1).

(3) Nothing in this section shall prejudice or affect the validity or enforceability of any decision or act of a Local Authority, or the rights of any person who relies on any such decision or act, notwithstanding any failure to fulfil the requirements of this section.

(4) The Minister may make regulations providing for the establishment, constitution and functions of Parish Development Committees, Development Area Committees and Community Development Committees, and otherwise with respect thereto.

23.—(1) Subject to the *Local Government (Unified Service and Employment) Act* and the *Local Government (Financing and Financial Management) Act*, a Local Authority shall, pursuant to a resolution of its Council, employ a Chief Executive Officer and such other officers as may be required by any other enactment to employ, and may employ such other officers as it considers necessary for the proper discharge of its functions.

Employment of
Chief
Executive
Officer and
other officers.

(2) Except with the prior written approval of the Minister with responsibility for the public service—

- (a) no salary in excess of the prescribed rate shall be assigned to any office of employment with a Local Authority; and
- (b) no appointment shall be made to any office to which a salary in excess of the prescribed rate is assigned.

(3) For the purposes of subsection (2), the “prescribed rate” shall be such rate as the Minister with responsibility for the public service may prescribe by order subject to affirmative resolution.

Functions of
Chief
Executive
Officer.

24.—(1) The Chief Executive Officer shall be the accounting officer of the Local Authority.

(2) The Chief Executive Officer shall be responsible to the Council of the Local Authority for the proper planning, execution, conduct and administration of the affairs of the Council.

(3) In performing functions pursuant to subsection (2), the Chief Executive Officer shall act under the supervision and direction of the Chairperson of the Council of the Local Authority.

(4) In addition to the functions of the Chief Executive Officer specified in the *Local Government (Unified Service and Employment) Act* and the *Local Government (Financing and Financial Management) Act*, and without limiting the generality of subsections (1) to (3), the functions of the Chief Executive Officer shall include—

- (a) the management of the affairs of the Local Authority;
- (b) the provision of policy advice and relevant information to the Council of the Local Authority;
- (c) guiding the Council regarding its functions and those of its committees; and
- (d) ensuring timely and appropriate execution of policies, decisions and programmes approved by the Council.

25. Each Municipal Corporation and City Municipality shall employ fit and proper persons to be, respectively, its Chief Financial Officer and its Chief Engineering Officer.

Employment of Chief Financial Officer and Chief Engineering Officer.

26.—(1) Subject to the provisions of the *Local Government (Unified Service and Employment) Act* and any regulations made thereunder—

Power of Local Authority to appoint deputies.

- (a) a Local Authority may appoint an officer to be the deputy of the holder of any specified office for the purposes, and in the circumstances, set out in paragraph (b);
- (b) where a specified office is vacant, or the holder of that office is, for any reason, unable to perform the duties thereof, the deputy appointed under paragraph (a) shall act in the place of the holder until the vacancy is filled, or an acting appointment is made under section 27; and
- (c) where, and so long as, a deputy in accordance with the provisions of this section acts in the place of the holder of a specified office, that deputy shall, subject to the terms of the appointment, have and exercise all the functions of the holder of the office.

(2) In this section and section 27, “specified office” means the office of Chief Executive Officer, Chief Financial Officer or Chief Engineering Officer of a Local Authority.

27. If a specified office is vacant, or if the holder of the office is for any reason unable to perform the duties thereof, the Local Authority may appoint a person to act temporarily in such office, and the person so appointed shall, subject to the terms of his appointment, and while so acting, have and exercise all the functions of the office.

Acting appointments.

28. A person who is a member of a Council is disqualified from being employed to the Council, and the disqualification shall continue for the period of twelve months after the person ceases to be a member of the Council, but nothing in this section shall prohibit a former member of the Council from being elected as Mayor of a City Municipality.

Disqualification of Councillors for employment with Council.

Oath of Office. **29.** Every person elected to the office of Mayor, or Councillor shall, at the first regular meeting of the Council which that person attends after having made and subscribed the declaration referred to in paragraph 61(1) of the Eighth Schedule of the *Representation of the People Act*, take and subscribe the following Oath of Office, which shall be tendered to the person by the Chief Executive Officer and attested by the Chairperson of the Council (except in the case of the election of a Mayor of a City Municipality or a Chairperson of a Municipal Corporation, whose oath shall be attested by a Justice of the Peace)—

“I having been duly elected to the office of the Municipal Corporation/City Municipality, do hereby swear that I will duly and faithfully fulfil the duties of such office without fear or favour, partiality or ill will, and to the best of my judgment and ability, so help me God.”.

Procedure where a person elected to office of Mayor or Councillor is declared a bankrupt, etc. or is absent from council meeting.

30.—(1) If a person elected to the office of Mayor or Councillor—

- (a) becomes a bankrupt under the *Insolvency Act*;
- (b) is absent from three consecutive ordinary meetings of the Council without the leave of the Council;
- (c) refuses or neglects to take and subscribe the prescribed oath of office; or
- (d) has been sentenced in any jurisdiction to death, penal servitude, or imprisonment with hard labour, or for a term exceeding one year,

that person shall, thereupon, become disqualified immediately and shall cease to hold the office.

(2) For the purposes of subsection (1)(b), the minutes of the Council shall be conclusive evidence as to the attendance of Councillors.

Vacancies arising upon request of Councillor.

31.—(1) If any Councillor in writing addressed to the Chairperson of the Council or, in the case of a Chairperson, addressed to the Council, resigns that Councillor’s seat on the

Council, the seat becomes vacant when the writing signifying the resignation is received by the person or body to whom it is addressed or any person authorised to receive it by that person or body.

(2) Where the Chairperson or Council, as the case may require, receives a resignation under subsection (1), the Chairperson or Council shall—

- (a) forthwith notify in writing to the Minister and the Electoral Commission of Jamaica thereof; and
- (b) within seven days after such receipt, cause a notice of the resignation to be published in a daily newspaper in circulation throughout Jamaica.

32. The following rules with respect to meetings and proceedings of each Council shall be observed—

- (a) the Council shall hold monthly meetings for the transaction of general business;
- (b) the monthly meetings shall be held at such hour and on such days as the Council may from time to time determine;
- (c) the Chairperson may, at any time, call a meeting of the Council;
- (d) four clear days at least before a meeting of the Council, a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the Chief Executive Officer shall be left at the usual place of business or abode of each member of the Council or served in such other manner (which may include electronic means) as the Council may, by resolution, determine, but in the case of a meeting called by the Chairperson for the purpose of transacting any business of urgency, it shall be sufficient for the summons to be left or otherwise served as abovementioned at such time, not being less than twenty-four hours prior to the holding of the meeting, as the Chairperson shall direct;

Rules to be observed with respect to meetings and proceedings of Councils.

- (e) want of service of the summons on any member of the Council shall not affect the validity of a meeting;
- (f) except by leave of the Council no business shall be transacted at a meeting other than that specified in the summons relating thereto;
- (g) the Chairperson of a Council shall preside at all meetings of the Council at which that Chairperson is present, and in the case of the absence of the Chairperson, the Deputy Mayor shall preside, and in the case of the absence of the Deputy Mayor, the members present and constituting a quorum shall elect a person from among their number to preside at the meeting;
- (h) if the Chairperson refuses to call a meeting after the requisition for that purpose signed by at least one-third of the members of the Council has been presented to the Chairperson, at least one-third of the members of the Council may forthwith on that refusal call a meeting, but if the Chairperson (without so refusing) does not within three days after such presentation call a meeting, at least one-third of the members of the Council may on the expiration of those three days, call a meeting;
- (i) at any meeting of the Council, one-third of the members (rounded up to the nearest whole number in any case where one-third of the members is not a whole number) shall form a quorum for the transaction of business;
- (j) all acts of the Council, and all questions coming or arising before the Council shall, unless otherwise prescribed by this or any other enactment, be done and decided by the majority of such members of the Council as are present and vote at a meeting held in accordance with this Act, the whole number present at the meeting not being less than one-third of the members (rounded up to the nearest

whole number in any case where one third of the members is a whole number);

- (k) notwithstanding paragraph (j), except with the unanimous consent of the members present, not being less than one-half in number of the members of the Council, no motion passed within the preceding six months and no motion to the same effect as any motion which has been negated by the Council within the preceding six months, shall be considered at any meeting of the Council, and no such motion shall be passed except upon the vote of a majority of at least one-half of the members present and voting thereon;
- (l) in case of an equality of votes, the Chairperson or other person presiding at the meeting shall have a second or casting vote;
- (m) subject to the foregoing provisions of this section, the Council may make such Standing Orders as it thinks proper for the regulation and conduct of the proceedings of its meetings and the meetings of its Committees, and may by such Standing Orders provide that the minutes of the proceedings of any meeting shall, when copies thereof have been circulated to members, be taken as read, and may also provide for the postponement of the confirmation of the minutes of the proceedings of any meeting.

33.—(1) A member of a Council shall be entitled to receive, at such rates as may be provided in the operational budget of the Local Authority approved in accordance with section 3 of the *Local Government (Financing and Financial Management) Act*, reimbursement of expenses on travelling and subsistence reasonably incurred by the member for the purpose of enabling the member to perform any approved duty as a Councillor, but the Council may, in accordance with the approved operational budget, pay a commuted periodic allowance in lieu of the reimbursement of expenses on travelling and subsistence.

Salary and
travelling
expenses of
members.

(2) For the purposes of this section “approved duty” means—

- (a) attendance at any meeting of the Council or of any committee thereof;
- (b) the doing of any other thing approved by the Council for the purpose of or in connection with the discharge of the functions of the Council, or of any committee thereof.

(3) For the purposes of the reimbursement of expenses under subsection (1), a reference to a member of the Council shall include a person who, not being a member of the Council, is appointed to be a member of a committee of the Council pursuant to section 37(4).

Right to enter precincts of Council chamber.

34.—(1) Meetings of a Council and of any committee thereof shall be held in public unless otherwise determined by the Council or the person presiding at a meeting of the committee, having regard to any public interest in restricting access to the public due to confidentiality or sensitivity of information.

(2) A stranger is not entitled as of right to enter or remain within the precincts of the Council chamber.

(3) The Chairperson of a Council may issue such orders in writing as the Chairperson considers necessary for regulating the admittance of strangers into the precincts of the Council chamber.

(4) The Chairperson or other person presiding at a meeting of a Council or of a committee thereof may at any time order any stranger to withdraw from the precincts of the Council chamber.

Offences relating to admittance to Council chamber.

35. A person commits an offence who—

- (a) being a stranger, enters or attempts to enter the precincts of a Council chamber in contravention of the order of the Chairperson of the Council or other person presiding at a meeting of the Council or committee, as the case may be; or

- (b) refuses to withdraw from the precincts of the Council chamber after the Chairperson of the Council or other person presiding at a meeting of the Council or committee, as the case may be, orders that the person withdraw,

and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

36.—(1) A person commits an offence who—

- (a) assaults or obstructs any member of a Council coming to or going from the precincts of the Council chamber, or endeavours to compel any member of the Council by force or menace to declare himself in favour of or against any proposition or matter pending or expected to be brought before the Council or any committee thereof;
- (b) assaults, interferes with, resists or obstructs any person referred to in subsection (2) while in the execution of that person's duties; or
- (c) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Council or any committee thereof while such Council or any committee thereof is sitting,

Assault and other offences relating to disorderly conduct.

is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three hundred thousand dollars, and in default of payment thereof, to a term of imprisonment not exceeding three months.

(2) The persons referred to in subsection (1)(b) are the Chief Executive Officer and any other person acting within the precincts of a Council chamber under the orders of the Chairperson or other person presiding at the meeting, and includes any constable on duty within the precincts of the Council chamber.

37.—(1) A Council may appoint a committee for any such general or special purpose as in the opinion of the Council would be better regulated and managed by means of a committee, and may

Power of Council to appoint committee.

delegate to a committee so appointed (with or without restrictions or conditions, as it thinks fit), any functions, except the power of fixing rates or of borrowing money, exercisable by the Council either with respect to the whole or a part of the area within its jurisdiction.

(2) Any functions delegated to a committee pursuant to subsection (1), and the proceedings taken by the committee in relation to the functions delegated to the committee, shall be exercised in the name of the Council and shall be as valid and binding on all the parties as if the functions were exercised by the Council.

(3) The number of members of a committee appointed under this section, their term of office, the quorum of the committee and the area, if any, within which the committee shall exercise its authority, shall be determined by the Council.

(4) A committee appointed under this section may include persons who are not members of the Council, but at least two-thirds of the members (rounded up to the nearest whole number in any case where two-thirds is not a whole number) of every committee shall be members of the Council.

(5) Every member of a committee appointed under this section who at the time of his appointment was a member of the Council shall, upon ceasing to be a member of the Council, also cease to be a member of the committee.

Standing
committees of
Council.

38.—(1) The committees specified in this section shall be standing committees of each Council of a Municipal Corporation or City Municipality.

(2) Subject to section 37(4), in establishing standing committees, each Council shall, to the extent it considers practicable, and in accordance with such provision as may be made in its by-laws, appoint members from the public, private and non-governmental sector that are relevant to the remit of the committee.

(3) A Council shall appoint a Finance Committee consisting of not less than one-half the members of the Council and such other persons as may be appointed pursuant to subsection (2)

(rounded up to the nearest whole number in any case where one-half is not a whole number), for regulating and controlling the finances of the Council, but non-Council members on the committee shall not have a vote.

(4) Subject to the provisions of the *Local Government (Financing and Financial Management) Act*, the functions of the Finance Committee shall be to—

- (a) oversee the management of the financial affairs of the Municipal Corporation or City Municipality, as the case maybe;
- (b) oversee the preparation of the budgets, statements and plans and their submission to Council for approval, within such time as may be required to enable compliance with that Act;
- (c) ensure overall financial management of the Local Authority in accordance with applicable legal requirements, standards and guidelines.

(5) A Council shall appoint a Local Public Accounts Committee, the membership of which—

- (a) is to consist of, as determined by the Council—
 - (i) notwithstanding section 37(4), one-half of Council members and one-half non-Council members; or
 - (ii) one-third each from the majority and minority members of Council and one-third non-Council members; and
- (b) shall not include the Chairperson, Deputy Mayor, the person who presides at the meetings of the Finance Committee, or the Chief Executive Officer;

and, in every case, the Chairperson presiding at meetings of the Committee shall be appointed from the non-Council membership.

(6) For the purposes of subsection (5), the non-Council members shall be appointed from among persons nominated by the Parish Development Committee for the parish concerned, after consultation by that Committee with community groups and civil society organizations within the geographical area concerned and registered under the *Jamaica Social Welfare Commission Act*.

(7) The functions of the Local Public Accounts Committee shall be to—

- (a) review the performance of the Local Authority to determine whether accountability, transparency and ethical standards are being observed;
- (b) review performance of the Local Authority to assess whether service delivery standards and other obligations of the Council to the inhabitants of the Local Authority are being achieved;
- (c) examine the financial activities, transactions and procurement practices of the Local Authority to determine conformity with applicable legal requirements, standards and guidelines; and
- (d) call on officers of the Local Authority to give account and to explain matters as specified in paragraphs (a) to (c).

(8) A Council shall appoint a Poor Relief Committee which, with such modifications as may be necessary, shall be constituted and administered in the manner provided in the *Poor Relief Act*.

Select committees of Council.

39. A Council may, from time to time, appoint select committees for specified purposes and for such duration as it may determine.

Accountability mechanisms.

40. The Minister may prescribe, in consultation with—

- (a) each Local Authority; and
- (b) the Association of Local Government Authorities of Jamaica or such other body in succession thereof or otherwise as appears to the Minister to represent Local Authorities,

requirements for standards and mechanisms for accountability and transparency, including requirements for each Local Authority to provide full, timely, and accurate information regarding expenditure, transactions, resource allocation, works, programmes and other aspects of its financial status and performance, and for such information to be provided in a manner that is easily accessible by the public.

41. Each Council shall conduct community meetings at least once in each year to report to the Local Authority's inhabitants on the Local Authority's performance and plans.

Annual community meetings.

42.—(1) Subject to the provisions of section 43, where the Minister is satisfied that any Council is not competent to perform, or persistently fails to perform the functions lawfully conferred upon it, the Minister may, by order subject to affirmative resolution, dissolve the Council.

Power to dissolve Council.

(2) When a Council is dissolved under subsection (1), the following consequences shall ensue—

- (a) all Councillors of the Council shall, as from the date of the order, cease to hold office as Councillors, and those offices shall become vacant;
- (b) all functions of the Council shall, until a new Council has been elected in accordance with the Eighth Schedule to the *Representation of the People Act*, be exercised and performed by such person or persons as the Minister may from time to time appoint in that behalf; and
- (c) all property vested in the Council shall, as from the date of the order and until a new Council is elected as mentioned in paragraph (b), vest in the person or persons so appointed.

(3) Where an election is required, by paragraph 4 of the Eighth Schedule to the *Representation of the People Act*, to be held within the period of six months after the dissolution of the Council pursuant to this section, the order made under subsection

(1) shall specify the date or dates, within that period, on which the election shall be held.

(4) In any case in which there is no Council for the particular Local Authority, the provisions of this section shall apply (with such modifications as are necessary) as if the Council had been dissolved under this section.

Prerequisites
for disso-
lution.

43.—(1) The Minister shall not make an order under section 42(1) unless the Minister has received—

- (a) a petition signed by at least fifteen percent of the total number of registered voters in each electoral division in the area within the jurisdiction of the Local Authority concerned, calling for the dissolution of the Council; or
- (b) a report of the Auditor-General, Contractor-General or other oversight organ of the State, charging the Council with gross or persistent misconduct or persistent failure to discharge its legal responsibilities.

(2) On receipt of a report under subsection (1)(b), the Minister may, in order to determine whether the circumstances warrant the dissolution of the Council, pursuant to section 42(1), cause to be carried out such investigation as the Minister thinks fit, and may decline to dissolve the Council if the Minister considers, upon conclusion of the investigation, that the matter may be satisfactorily resolved by taking other action.

(3) For the purposes of subsection (1)(a), the Minister may request that the Electoral Office provide such verification as the Electoral Office considers reasonable, as to whether a petition meets the requirements of subsection (1)(a).

(4) The Minister may appoint an interim committee of management, consisting of not more than five members to administer the affairs of the Council for the duration of the period during which the Council is dissolved and to make such arrangements as it considers necessary for the proper conduct of the affairs of the Local Authority.

44.—(1) A Council may, by a resolution passed by a two-thirds majority of the Councillors present at any meeting of the Council at which not less than two-thirds of members (rounded up to the nearest whole number in any case where two-thirds of the members is not a whole number) are present, expel for a limited time, or for the remainder of the member's term, any member of such Council for persistent obstruction or other misconduct tending to prevent the conduct of business or to bring the Council into disrepute.

Council may
by resolution
expel any
member.

(2) If the expulsion of a member is for the remainder of the member's term, a vacancy shall be deemed to have arisen and the provisions of paragraph 4(5) of the Eighth Schedule to the *Representation of the People Act* shall apply.

(3) Any member expelled under subsection (1) shall not be eligible for re-election as a member of the Council during the remainder of the term for which the Council was elected.

PART IV—*Powers in Respect of Area and Land*

45.—(1) A Local Authority may, in accordance with this section and otherwise in accordance with this Part, by order published in the *Gazette*, declare an area, comprising all or part of the area within the jurisdiction of the Local Authority, as a Business Improvement District or a Special Improvement District.

Improvement
districts.

(2) An order under subsection (1) may provide for the arrangements which shall have effect in relation to the operations of the Business Improvement District or Special Improvement District.

(3) The purpose of an order under subsection (1) is to enable—

- (a) one or more improvement projects comprised in the arrangements specified in the order to be carried out for the benefit of the inhabitants of, or those who work or carry on any activity in, the area of the Business Improvement District or Special Improvement District; and

- (b) those arrangements to be financed (in whole or in part) in such manner as may be prescribed in the order.

(4) The Minister, after consultation with Local Authorities, may make regulations in respect of the establishment, operations and management of Business Improvement Districts or Special Improvement Districts.

(5) The Local Authority shall obtain the prior approval of the Minister in relation to the terms and conditions of any order made under subsection (1).

(6) Before giving approval under subsection (5), the Minister shall be satisfied that such consultation procedures as have been prescribed under the *Local Government (Financing and Financial Management) Act* have been complied with.

Incorporation
of provisions
of *Land
Clauses Act*.

46. The *Lands Clauses Act* is incorporated with this Act, except—

- (a) sections 10, 11, 84, 88, 90, 92, 93, 101, 103, 104, and 105 so far as that section gives any right to the Accountant-General; and
- (b) to the extent inconsistent with, or varied by, the provisions of this Act,

and the *Lands Clauses Act* shall be construed so that a Council shall be deemed to be the promoters of the undertaking, and all costs and other sums of money payable in proceedings under that Act by the promoters of the undertaking shall, with the sanction of the Minister, be paid out of the Consolidated Fund from the amounts standing to the credit of such promoter, and shall not be in any way chargeable against the individual members of the Council personally, nor shall they or any of them be liable personally for any penalty imposed under that Act on the promoters of the undertaking.

Power to sell
or lease land.

47.—(1) All lands vested—

- (a) in the Commissioner of Lands for the benefit of the inhabitants of a Municipal Corporation; or

- (b) in a Municipal Corporation, may, with the sanction of the Minister, be sold or leased by the Municipal Corporation upon such terms and conditions and subject to such covenants, obligations and agreements as the Minister may in each case determine.

(2) The conveyance or transfer of any land sold under the provisions of this section shall operate to discharge that land of any trust created by this Act, so, however, that the trust shall immediately upon the execution of the conveyance or transfer attach to the proceeds of sale unless in any case the Minister otherwise directs.

(3) As regards a Municipal Corporation that is continued, or deemed to be the successor of a parish council, by section 5, the lease of any lands referred to in subsection (1) made by that Municipal Corporation under any of the repealed Acts shall be deemed and is hereby declared to have been validly made notwithstanding anything to the contrary in the repealed Act concerned.

48. In addition to any other power conferred by this Act upon a Municipal Corporation to acquire land, the Municipal Corporation may from time to time, with the approval of the Minister, acquire under the *Lands Clauses Act*, or in any other manner, for any public purpose specified by the Minister in signifying approval, lands not exceeding such quantity as may be specified in the approval.

General power to acquire land.

49.—(1) Any lands vested in a Municipal Corporation under this Act that are not needed or used by the Municipal Corporation for the purposes of this Act may, with the approval of the Minister, be sold by the Municipal Corporation, or leased by its Council, upon such terms and conditions and subject to such covenants, obligations and agreements as the Minister may in each case determine.

Disposal of lands.

(2) Any lands sold under subsection (1) shall be conveyed by the Municipal Corporation to such persons in such manner as its Council may direct, and lands so conveyed shall thereupon be discharged from any trust created by this Act and the purchase money

therefrom shall be paid into the Consolidated Fund and shall be applied and accounted for in the same way as other moneys accruing to or belonging to the Municipal Corporation.

(3) Any lease of lands made under this section shall be subject to all trusts and obligations affecting the same.

(4) Nothing in this subsection shall empower a Municipal Corporation to sell or lease a street or road over which there is a public right of way.

PART V—*Miscellaneous*

Collaboration to ensure proper management of Municipal Police Services.

50. Local Authorities, in consultation with the Minister, shall collaborate with the Minister with responsibility for national security and the Commissioner of Police, to develop policies to ensure the proper management of a Municipal Police Force comprised of persons appointed under section 16 of the *Constables (District) Act*, upon such terms as may be agreed arising from such collaboration.

Power of Councils to make regulations, etc.

51.—(1) Subject to subsection (5), each Council of a Municipal Corporation or City Municipality may, in respect of the area within its jurisdiction—

- (a) make by-laws for the regulation of its own proceedings, and of its committees, and for the regulation, management, use and upkeep of any public buildings, institutions, gardens or property, now or hereafter vested in the Council; and
- (b) generally make rules and regulations for carrying out and giving full effect to any of the provisions of this Act.

(2) To the extent not governed by any other enactment, it shall be lawful for the Council of a Municipal Corporation or City Municipality to make regulations in relation to the matters specified in subsection (3), and in such regulations to provide for the payment of fees for inspection and reports, the granting of licences and the payment of fees for such licences, and such regulations may extend

to the whole or any part of the area within the jurisdiction of the relevant Local Authority.

(3) For the purposes of subsection (2), the specified matters which may be provided for are—

- (a) the use of public landing places—
 - (i) for passengers; and
 - (ii) for goods;
- (b) the licensing of porters and street messengers;
- (c) the licensing and management of, the preservation of order and safety in, and any other reasonable requirements relating to, places of public amusement;
- (d) the preservation of order and safety in places of religious worship;
- (e) the use of race courses and public recreation grounds;
- (f) prohibiting or regulating the erection of posts, poles and awnings in any thoroughfare or public place (notwithstanding any licence or custom heretofore to the contrary);
- (g) prohibiting, regulating or suspending traffic of any kind whatsoever in any thoroughfare or public place;
- (h) regulating the closing up of portions of any thoroughfare or public place altogether, whether partially, permanently or temporarily;
- (i) the opening up of the surface of any thoroughfare or public place;
- (j) the laying and repairing of drains, gas mains and pipes, and the installation of sewers;
- (k) the erection of lamp posts;
- (l) the laying and repairing of wires, cables and conduits underground in any thoroughfare or public place;

(m) prohibiting or regulating—

- (i) the keeping of swine, goats, sheep, dogs, horsekind, cattle or poultry
- (ii) the driving of animals over any thoroughfare or public place;
- (iii) nuisances likely to arise from the erection or repair of buildings, fences and walls adjoining any thoroughfare or public place;
- (iv) public cries, advertising noises, steam whistles, bill-posting and the ringing of bells, in any thoroughfare or public place, and the establishment of silence zones;
- (v) the exhibition of advertisements, hand-bills, posters, notices or signs, in any thoroughfare or public place, or publicity on any land, tree, wall, fence, post, side-walk, or any erection whatsoever adjoining any thoroughfare or public place;
- (vi) encroachments and nuisances in any thoroughfare or public place, and the removal of such encroachments or nuisances;
- (vii) the holding of meetings in any thoroughfare or public place;
- (viii) the use, licensing and keeping of public billiard tables;
- (ix) the establishment, equipment and maintenance of private hospitals and sanitoriums;
- (x) the exposing of goods for sale and the sale of goods on any piazza opening in any thoroughfare or in any public place and the exposing for sale and sale of goods in any thoroughfare or public place;

- (xi) the removal of houses over any thoroughfare or public place;
- (n) prohibiting, in any thoroughfare or public place—
 - (i) the throwing of missiles;
 - (ii) the flying of kites;
 - (iii) the playing of games;
- (o) hackney carriages, the animals and equipment used therewith, their owners, drivers, passengers and persons desiring to hire the same, and the fares to be charged therefor (whether by prescribed districts or distance and to be ascertained by meters or otherwise);
- (p) wherries and boats plying for hire in harbours, their equipment, owners, seamen, passengers and persons desiring to hire such wherries or boats;
- (q) commercial vehicles, their owners, drivers, and persons hiring or desiring to hire such vehicles;
- (r) the prevention of, and protection against, fire and for matters incidental hereto or connected therewith, including the alteration or demolition of buildings and structures likely to cause or promote the spread of fire, the regulation of trades and occupations conducive to the outbreak of fire, and the entry on private premises for the purpose of inspections connected therewith;
- (s) beggars, vagrants and mendicants, and loitering in thoroughfares and public places;
- (t) the management of public parks and other public places and the management and use of parochial buildings;
- (u) the opening up of new thoroughfares and public places and the stopping up of thoroughfares and public places;
- (v) public bathing places and baths;

- (w) the inspection of factories, workshops, garages, and places where combustible materials are kept or stored, with a view to the prevention of accidents;
- (x) parking of vehicles in any thoroughfare or public place;
- (y) the naming of streets and lanes and the numbering of premises on such streets and lanes, the affixing or erecting of name boards and number plates and the fees to be paid therefor, and the duties of owners and occupiers in relation to the affixing or erecting of name boards and number plates;
- (z) the regulation and control of rivers and, in particular, but without prejudice to the generality of the foregoing, the regulation of prescribed boats and vessels used on rivers, of landing places and piers used in connection with such boats and vessels, and of bathing and other recreational uses of rivers.

(4) Until the Council of a City Municipality makes by-laws, rules or regulations under this section in respect of a particular subject-matter, by-laws, rules or regulations made by the Council of the relevant Local Authority under this section in respect of that subject-matter shall apply to the area within the jurisdiction of the City Municipality as they apply to the other areas within the jurisdiction of that Local Authority.

(5) By-laws, rules and regulations made under subsection (1) shall be subject to the approval of the Minister, and the Minister may—

- (a) approve the by-laws, rules or regulations, as the case may be, subject to such amendments as the Minister considers necessary, including any amendments necessary to ensure uniformity in the by-laws, rules or regulations across Local Authorities, after taking into account any differences which may be warranted due to the circumstances prevailing within the area of the jurisdiction of a Local Authority;

- (b) require any Council to amend any by-laws, rules or regulations made by that Council under this section, to ensure uniformity in the by-laws, rules and regulations across Local Authorities, save to the extent that any differences may be warranted due to the circumstances prevailing in the area within the jurisdiction of any Local Authority.

(6) All by-laws, rules or regulations made under this section shall—

- (a) be notified by the relevant Local Authority to the Minister by memorandum in writing;
- (b) be published in the *Gazette*; and
- (c) be expressed to have effect as from a date not earlier than—
 - (i) thirty days after notification to the Minister pursuant to paragraph (a); or
 - (ii) a date within that period of thirty days approved by the Minister by memorandum in writing and published in the *Gazette*.

(7) If the Minister, in his discretion, considers that it is in the public interest so to do, the Minister may exercise any power given to the Council to make, amend or revoke any such by-laws, rules or regulations and thereupon, until and unless the Minister otherwise directs by memorandum in writing to the Council, the power of the Minister shall supersede the power of the Council in relation to the subject matter addressed by the Minister in the exercise of his powers under this subsection.

(8) Where the Minister acts in the exercise of the power conferred by subsection (7), the Minister shall furnish to the Council in writing the reasons for that action.

(9) Any person who breaches any by-law, rule or regulation made under this Act, or any provision of this Act for which no

particular penalty is prescribed, commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three hundred thousand dollars or, in default of payment thereof, to a term of imprisonment not exceeding three months.

Review of Act. **52.**—(1) This Act shall be reviewed, from time to time, by a committee of both Houses of Parliament appointed for that purpose.

(2) The first review of this Act shall be conducted no later than five years after the appointed day.

Repeal of Acts. **53.** Subject to section 54, the *Parish Councils Act*, the *Kingston and St. Andrew Corporation Act*, the *Municipalities Act* and the *Parochial Elections (Modification) Act* (in this Act referred to as “the repealed Acts”) are repealed.

Savings. **54.**—(1) Notwithstanding the repeal of the repealed Acts, sections 130 to 183, 185 to 188 and 190(c) and (d) of the *Kingston and St. Andrew Corporation Act* shall remain in force until repealed by any other enactment.

(2) Notwithstanding the repeal of the repealed Acts, regulations made under the repealed Acts as in force immediately before the repeal of those Acts—

- (a) shall remain in full force and effect, with such changes as may be necessary, as if made under this Act, and may be amended or revoked accordingly; and
- (b) any reference in any other enactment to specific provisions of the repealed Acts shall be construed as a reference to the equivalent provision of this Act.

(3) Nothing shall be invalidated by, and no liability shall be incurred from, the use by any Local Authority, in any sign, publication, licence, permit or other official document, of any former name for that Local Authority which the Local Authority was entitled to use immediately before the appointed day.

55. References in—

Construction of other enactments.

- (a) other enactments to a “Town Clerk”, “Secretary”, “manager” or “Chief Administrative Manager” in relation to a Local Authority means the Chief Executive Officer;
- (b) the *Parochial Roads Act* to the “Superintendent of Roads” means the “Chief Engineering Officer” of the relevant Local Authority.

56. The *Representation of the People Act* is amended—

Amendment of the *Representation of the People Act*.

- (a) by inserting next after section 103 the following section and heading—

PART III—Miscellaneous

“Local Government Elections. Eighth Schedule.

103A.—(1) The provisions of the Eighth Schedule shall apply to—

- (a) a general election of members to serve on the Council of a Municipal Corporation;
- (b) a general election of a Mayor of a City Municipality; and
- (c) a by-election referred to in that Schedule.

(2) In this section, “City Municipality”, “Council”, “member” and “Municipal Corporation” have the meanings assigned to them respectively in the *Local Governance Act*.”;

(b) in section 104(1), by deleting paragraph (f) and substituting therefor the following—

“ (f) prescribing any forms that may be required for the purposes of this Act, and revoking or amending the forms set out in any of the Schedules;”;

(c) by inserting next after section 114 the following section—

“Amendment
of Schedules.

115. The Minister may, by order, on the advice of and in conformity with the recommendations of the Commission, and subject to affirmative resolution, amend the Sixth, Seventh and Eighth Schedules.”;

Sixth, Seventh
and Eighth
Schedules.

(d) by inserting next after the Seventh Schedule the provisions set out in the Second Schedule of this Act, as the Eighth Schedule.

Second
Schedule.

Amendment of
*Jamaica
Social Welfare
Commission
Act.*

57. *The Jamaica Social Welfare Commission Act* is amended in section 7(1) by—

- (a) deleting the word “and” appearing at the end of paragraph (a);
- (b) re-numbering paragraph (b) as paragraph (c); and
- (c) inserting next after paragraph (a) the following paragraph—

“(b) to provide for the registration of community groups and civil society organizations, in accordance with such criteria as may be prescribed, and to maintain a register of groups and organizations so registered, in such form as may be prescribed; and”.

FIRST SCHEDULE (Section 5)

Municipal Corporations

- The Clarendon Municipal Corporation
- The Hanover Municipal Corporation
- The Kingston and St. Andrew Municipal Corporation
- The Manchester Municipal Corporation
- The Portland Municipal Corporation
- The St. Ann Municipal Corporation
- The St. Catherine Municipal Corporation
- The St. Elizabeth Municipal Corporation
- The St. Mary Municipal Corporation
- The St. James Municipal Corporation
- The St. Thomas Municipal Corporation
- The Trelawny Municipal Corporation
- The Westmoreland Municipal Corporation

SECOND SCHEDULE

(Section 56)

Provisions to be inserted as Eighth Schedule to the *Representation of the People Act*:

“

EIGHTH SCHEDULE

(Section 103A)

*Local Government Elections*Interpre-
tation.

1.—(1) Notwithstanding section 2 any expression appearing in this Schedule and which is defined in the *Local Governance Act* shall have the meaning assigned to that expression by the *Local Governance Act*, unless the context otherwise requires.

(2) Notwithstanding section 2 in this Schedule—

“by-election” means an election, other than a general election, to elect a member of a Council;

“candidate” or “candidate at an election” means any person who is nominated as a candidate for election to a Council;

“election” means an election of a member to serve on a Council of a Local Authority;

“election day” means the day upon which the poll is taken at any election or, if no poll is required to be taken, nomination day;

“election documents” or “election papers” means the papers which the returning officer is required by section 49 (construed in accordance with paragraph 44) to transmit to the Chief Electoral Officer after an election;

“electoral division” means any electoral division constituted under paragraph 6;

“nomination day” means the day appointed in accordance with the provisions of paragraph 9 for the nomination of candidates;

“principal returning officer” means the returning officer designated as principal returning officer under paragraph 55(4).

Qualifi-
cation of
electors.

2.—(1) Where a person’s name appears upon the official list, prepared in accordance with the provisions of this Act, for a polling division comprised in an electoral division, that person is entitled to vote at an election of a Councillor to serve on the Council of the Municipal Corporation in which the electoral division is located, and at an election of

the Mayor of a City Municipality (if any) which includes that electoral division, unless—

- (a) the person is disqualified from voting by reason of any of the provisions of this paragraph;
- (b) subsequent to the person's name appearing on the official list, the person ceases to be a Commonwealth citizen or to be ordinarily resident in Jamaica; or
- (c) on election day, the person is admitted to, and under detention in, a psychiatric facility or is undergoing any sentence of imprisonment.

(2) The following persons are disqualified from voting at an election, are incapable of being registered as electors, and shall not vote or be so registered—

- (a) any person referred to in paragraph (a), (b), (c) or (d) of section 5(3); and
- (b) every person who is disqualified from voting by reason of that person's employment for pay or reward in connection with the election in the electoral division in which that person would otherwise be entitled to vote.

(3) Subject to the provisions of sub-paragraph (4), a person employed by any other person for pay or reward in reference to an election in the electoral division in which that employed person would otherwise be entitled to vote, is disqualified from voting and incompetent to vote in that electoral division at the election.

(4) A person is not disqualified from voting at an election of a member to serve on a Council by reason that the person is employed for pay or reward in reference to an election in the electoral division in which that person would otherwise be entitled to vote, if that employment is lawful within the meaning of sub-paragraph (5).

(5) For the purposes of sub-paragraph (4), employment is lawful if the employment is—

- (a) as a returning officer, assistant returning officer, presiding officer, poll clerk, enumerator, messenger, constable, or other person otherwise necessarily and properly employed by an election officer for the conduct of the election;
- (b) as an agent of a candidate;
- (c) as a person engaged in printing election material on behalf of a candidate; whether casually or for the period of the election or part thereof, in advertising of any kind, or as a clerk or stenographer, or as a messenger on behalf of a candidate or prospective candidate, so, however, that the total number of persons so employed does not exceed one for each five hundred electors in the electoral division, and that the name, address and occupation of every person so employed is communicated in writing to the returning officer.

Qualification
of
Councillors,
and Mayor of
City
Municipality.

3.—(1) A person is not qualified to be elected as, or to be or continue to be, a Councillor of any Council of a Local Authority or a Mayor of a City Municipality, if the person—

- (a) is under the age of eighteen years;
- (b) as regards a Councillor, is not entitled to vote at the election of a member of the House of Representatives for some constituency comprised in the area within the jurisdiction of the Local Authority;
- (c) as regards a Mayor of a City Municipality, is not entitled to vote at an election of a Councillor entitled to sit on the Council of that City Municipality;
- (d) is a member of the House of Representatives;
- (e) as regards a Mayor of a City Municipality, is a Councillor;
- (f) is either directly or indirectly pecuniarily or otherwise interested in any contract with the

Local Authority, notwithstanding that the contract is rendered void by virtue of a provision of this Act;

- (g) is an undischarged bankrupt;
- (h) holds any office for the time being constituted a public office pursuant to section 3 of the *Civil Service Establishment Act*;
- (i) holds any office to which the *Judiciary Act* applies; or
- (j) is a member of the Jamaica Defence Force.

(2) A person shall not be deemed to be directly or indirectly pecuniarily or otherwise interested in any contract with the relevant Local Authority within the meaning of sub-paragraph (1)(f) by reason only that the person is interested—

- (i) in any agreement for the loan of money or any security for the payment of money;
- (ii) in any sale, purchase or lease of land to or from the Local Authority; or
- (iii) subject to sub-paragraph (3), in any company or other body corporate that contracts with the Local Authority in which the person does not hold more than one-tenth of the shares.

(3) Notwithstanding sub-paragraph (2)(iii)—

- (a) a person referred to in that provision shall not take part in any discussion or vote on any question in which any company or other body corporate of which the person is a director or shareholder is interested, at any meeting of the Council or any committee thereof;
- (b) the seat of a duly elected member of the Council shall not be vacated under the

provisions of this Act merely by reason that the person is interested in a contract with any such company or body corporate unless it appears that the contract has been entered into with the actual knowledge of the member; and

- (c) the existence of any such contract shall not disqualify any person from being elected as, or from being, a Councillor—
 - (i) if, where the contract is made after the person became a Councillor, it was entered into with the prior approval of the Minister; or
 - (ii) if, where the contract is made before the person became a Councillor, it received the approval of the Minister before the person's nomination as a candidate.

(4) No person shall be capable of being elected a member of a Council or, having been so elected, shall sit or vote in a Council unless the person has resided in the area within the jurisdiction of the relevant Local Authority for twelve months immediately preceding the day of election.

(5) It shall not be lawful for—

- (a) any person to be nominated as a candidate for election for more than one electoral division at the same election;
- (b) a Councillor to represent more than one electoral division in the Council at the same time; or
- (c) a person who is a Councillor to be nominated for election under paragraph 4 to fill a vacancy in any electoral division until that person has resigned office as Councillor.

General
election and
by-election.

4.—(1) A general election of members to serve on the respective Councils of Municipal Corporations shall be held in each Municipal Corporation on such day or days

during the relevant period as the Governor-General in Council may by proclamation appoint.

(2) A general election of the Mayors of City Municipalities shall be held in each City Municipality on such day or days during the relevant period as the Governor-General in Council may by proclamation appoint.

(3) Subject to the provisions of this Schedule, the elections referred to in sub-paragraphs (1) and (2) shall be held on the same day.

(4) Notwithstanding the provisions of paragraph (1), where any Council of a Municipal Corporation has been dissolved by the Minister in accordance with the provisions of section 42 of the *Local Governance Act*, a general election of Councillors to serve on that Council shall take place within six months after the dissolution, except where a general election is due within a year of the dissolution.

(5) A by-election to supply a vacancy in any electoral division within the area of jurisdiction of a Municipal Corporation (whether or not the electoral division also lies within the area of jurisdiction of a City Municipality) shall be held on such day as the Chairperson of the Municipal Corporation shall direct by order published in the *Gazette* after consultation with the Chief Electoral Officer, being the earlier of—

- (a) a day within three months after the vacancy has been entered in the minutes of the Council; or
- (b) a day within three months after notice in writing of the occurrence of the vacancy has been given to the Chairperson of the Municipal Corporation by two persons who were entitled to vote at the last election of a Councillor for that electoral division,

but no such by-election shall be held if a vacancy occurs within one year before the next general election to be held in accordance with sub-paragraph (1).

(6) In any case to which the provisions of paragraph 11 or 15 apply, the day to which any election is adjourned shall be deemed to be the day appointed by the Governor-General in Council or Chairperson as the case may be.

(7) In this paragraph, “the relevant period” is the period of ninety days commencing on the day after the fourth anniversary of the date on which the most recent general election has been held under paragraph (1).

Term of office of Councillor or Mayor of City Municipality.

5. Subject to the provisions of this Schedule and the *Local Governance Act*, the term of office of a Councillor or a Mayor of a City Municipality shall be from the date of election as Councillor or Mayor (as the case may be) until the next general election under the provisions of paragraph 4.

Electoral divisions and polling divisions.

6.—(1) For the purposes of this Schedule there shall be constituted in each parish so many electoral divisions as the Commission may by order direct.

(2) Every electoral division shall comprise so many and such polling divisions as the Commission may by order direct.

List of electors to be kept by returning officers.

7.—(1) Subject to sub-paragraph (2), forthwith after the official list of electors for any polling division is prepared in accordance with the provisions of this Act, the returning officer for the purposes of this Act in which such polling division is comprised shall forward, to the returning officer for the electoral division for the purposes of this Schedule in which such polling division is comprised, copies of the electoral list in accordance with section 18.

(2) Where the same person is both the returning officer for the constituency and the returning officer for the electoral division in which any polling division is comprised, sub-paragraph (1) shall apply as if for the words “shall forward to the returning officer for the electoral division for the purposes of this Act in which such polling division is comprised” were substituted the words “shall retain for use in connection with any election under this Schedule”.

(3) The electoral lists referred to in sub-paragraph (1) shall constitute the official lists of electors to be used for taking the vote on polling day in accordance with the provisions of this Schedule.

Application of sections 108, 109, 110, 112, 113 and 113A, and the Third, Fourth and Fifth Schedules, to elections under this Schedule.

8. Subject to the provisions of this Schedule, the provisions of sections 108, 109, 110, 112, 113 and 113A and the Third, Fourth and Fifth Schedules (which relate to Military voters, Police and Special Constable voters, and to District and Special District Constable voters and Election Workers voters) shall apply to general elections held under this Schedule as they apply to general elections held under the other provisions of this Act, subject to the following modifications—

- (a) for the word “constituency” wherever that word appears there shall be substituted, in each case, the words “electoral division”;
- (b) in section 108(2), section 109(2), and section 113A(2), for the words “issue of the writ” there shall be substituted, in each case, the words “publication in the *Gazette* of a proclamation under paragraph 4 of the Eighth Schedule”.

Nomination day.

9.—(1) Subject to the provisions of paragraph 15, nomination day shall be such day, other than a Sunday or public holiday, as may be appointed by the Minister, by notice in the *Gazette*, not being more than twenty-three nor less than sixteen days next before election day.

(2) The place for the nomination of candidates for any electoral division shall be such public building, situated in the parish in which the electoral division is comprised, as the returning officer for the electoral division deems convenient.

(3) Subject to sub-paragraphs (4) and (5), where the proceedings in any electoral division for or in connection with nomination day are on nomination day interrupted or obstructed by riot, open violence or other civil disturbance and the returning officer is of the opinion that the nomination proceedings should be abandoned for that day, the returning officer may cause the proceedings

to be adjourned to the day next following which is not a Sunday or a public holiday and, without prejudice to anything validly done prior to such adjournment, the nomination proceedings in that electoral division shall continue between the hours of ten o'clock in the forenoon and two o'clock in the afternoon on the day next following aforesaid as if it were nomination day and any reference in this Act—

- (a) to the time fixed for nomination, shall include any time allowed for nomination pursuant to such adjournment; and
- (b) to the period after nomination day, shall, except in paragraph 11(4), be construed as a period commencing after the day of adjournment pursuant to this sub-paragraph.

(4) Where the returning officer causes the nomination proceedings to be adjourned pursuant to sub-paragraph (3)—

- (a) the returning officer shall take all appropriate steps to bring to the attention of the public the fact of such adjournment and the day and place at which the nomination proceedings will continue; and
- (b) if at the subsequent nomination proceedings there is any further riot, open violence or civil disturbance as referred to in sub-paragraph (3), the returning officer shall cause the subsequent nomination proceedings to be abandoned and report the matter to the Chief Electoral Officer for reference to the Governor-General in Council.

(5) Where, consequent on the interruption or obstruction referred to in sub-paragraph (3), the Governor-General in Council by proclamation adjourns the holding of a poll in any electoral division pursuant to paragraph 11, the proclamation, in relation to that poll, shall for the

purposes of paragraph 11 be deemed to have been made before nomination day and accordingly—

- (a) notwithstanding the completion of any nomination proceedings in that electoral division prior to the proclamation aforesaid, those proceedings shall be void; and
- (b) a new nomination day shall be deemed to have been appointed, being the twenty-third day next before the day to which the holding of the poll in that electoral division is adjourned by such proclamation, but if that twenty-third day is a Sunday or a public holiday, nomination day shall be deemed to be adjourned to the first day not being a Sunday or a public holiday after such twenty-third day.

Election notice.

10.—(1) Forthwith after the publication in the Gazette of any proclamation or order under paragraph 4, the returning officer shall issue an election notice in the prescribed form under the hand of the returning officer and shall post at least one copy to the various postmasters of the post offices within the returning officer's electoral division.

(2) Every election notice shall—

- (a) specify the day and place fixed for the nomination of candidates;
- (b) specify the day on which the poll for taking the votes of the electors is to be held, in case a poll is necessary;
- (c) specify the place where, and day and time when, the number of votes given to the several candidates will be added up;
- (d) contain an exact description of the place, in the parish in which the returning officer's electoral division is comprised, where the office of the returning officer is established,

and the returning officer shall, in writing at the time of issuing the election notice, notify each postmaster within his electoral division of the provisions of subparagraph (3).

(3) Every postmaster shall, forthwith after receipt of the notice referred to in sub-paragraph (1), post it up in some conspicuous place to which the public has access at the post office of which that postmaster is the postmaster, and maintain it posted there until the time fixed for the nomination of candidates has passed, and for the purposes of this provision the postmaster shall be deemed an election officer and liable accordingly.

Power to adjourn polling in event of emergency.

11.—(1) Where at any time between the making of any proclamation under paragraph 4(1) or the publication of any order under paragraph 4(5) and the day specified by an election notice under paragraph 10 for the holding of the poll at the election to which such proclamation or order relates, the Governor-General in Council is satisfied that it is expedient so to do by reason of—

- (a) the Government having become engaged or being likely to become engaged in any war;
- (b) there being in force a proclamation that a state of public emergency or a state of public disorder exists under section 20 of the Constitution of Jamaica;
- (c) the occurrence of any earthquake, hurricane, flood, fire, outbreak of pestilence or outbreak of infectious disease or other calamity whether similar to the foregoing or not;
- (d) the likelihood that the official list for all electoral divisions or for any particular electoral division will not be printed before the day specified for the holding of the poll or that any essential electoral supplies or materials will not be available in adequate quantities upon such day; or
- (e) riot, open violence or other civil disturbance resulting in such interruption, obstruction or abandonment of the electoral process as to prejudice the holding of a fair election,

the Governor-General may, by proclamation, adjourn the holding of the poll to some other day specified in such proclamation not being more than thirty days after the day specified by the election notice under paragraph 12.

(2) Any proclamation under sub-paragraph (1)(c), (d) or (e) may be expressed to apply only to such electoral divisions as are specified in the proclamation, in which event the poll shall be taken in any electoral divisions not so specified upon the day appointed for the taking of the poll under paragraph 4.

(3) Where any proclamation under this paragraph is made before the day which would have been nomination day if that proclamation had not been made, nomination day shall be deemed to have been adjourned to the twenty-third day next before the day to which the holding of the poll is adjourned by the proclamation, but if that twenty-third day is a Sunday or a public holiday, nomination day shall be deemed to be adjourned to the first day not being a Sunday or a public holiday after that twenty-third day.

(4) Where any proclamation is made under this paragraph after nomination day the adjournment by such proclamation of the day upon which the poll is taken shall in no way affect the validity of any nomination validly made upon nomination day, and no other nomination shall be made.

Procedure on
nomination
of candidates.

12.—(1) At ten o'clock in the forenoon on nomination day the returning officer and the assistant returning officer shall both attend at the place specified in the election notice under paragraph 10 as the place for the nomination of candidates and shall there remain until two o'clock in the afternoon of the same day for the purpose of receiving the nominations of such candidates as the electors desire to nominate, and after two o'clock in the afternoon on nomination day no further nominations shall be received, but in the holding of any by-election, the time allowed for receipt of nominations shall be twelve noon to two o'clock in the afternoon on nomination day.

(2) Subject to sub-paragraph (3)—

- (a) any six or more electors qualified to vote in an electoral division for which an election is to be held, may nominate as a candidate any person qualified to be a Councillor;
- (b) any six or more electors qualified to vote in an electoral division within the area of jurisdiction of a City Municipality for which an election for Mayor is to be held, may nominate as a candidate any person qualified to be elected as the Mayor,

by signing a nomination paper in the prescribed form and causing the nomination paper to be handed to the returning officer between the hours referred to in sub-paragraph (1).

(3) The nomination of a candidate under this paragraph shall not be considered to be invalid by reason only of the fact that subsequent to nomination day any person by whom his nomination paper was signed is struck off the list of electors for the relevant electoral division.

(4) A nomination paper shall specify—

- (a) such particulars of the name, address and occupation of the candidate as are sufficient to identify the candidate;
- (b) the taxpayer registration number of the candidate;
- (c) the address for service on the candidate of process and papers under this Schedule; and
- (d) the name, address and occupation of the candidate's official agent (if any).

(5) Each candidate shall be nominated by a separate nomination paper.

(6) A nomination paper is not valid nor, shall it be acted upon by the returning officer, unless it is accompanied by—

- (a) the consent in writing of the person therein nominated, except where the person is absent

from the parish in which is comprised the electoral division in respect of which the person is nominated, in which case the absence shall be stated in the nomination papers; and

- (b) a deposit of three thousand dollars, or such other amount as the Commission may prescribe by order subject to affirmative resolution.

(7) The returning officer shall not accept any deposit until after all the other steps necessary to complete the nomination of the candidate have been taken, and upon the returning officer's acceptance of any deposit the returning officer shall give to the person by whom it is paid a receipt therefor, which receipt shall be conclusive evidence that the candidate has been duly nominated.

(8) At the close of the time for nominating the candidate, the returning officer shall deliver to every candidate or the agent of a candidate applying therefor a duly certified list of the names of the several candidates who have been nominated.

Disposal of deposit.

13.—(1) Forthwith after receiving a deposit made under paragraph 12(6), the returning officer shall transmit the total amount of the deposit to the Accountant-General.

(2) The total amount of every deposit received under sub-paragraph (1) shall be returned by the Accountant-General to the person who made such deposit or his personal representatives, upon the production by the person or his personal representatives, as the case may be, of a certificate from the Chief Electoral Officer that the candidate was elected or polled not less than one-eighth of the total number of votes cast at the election, or died before the close of the poll on polling day.

(3) Where any candidate withdraws from the election in accordance with paragraph 14(1), and the Chief Electoral Officer is satisfied that the withdrawal was consequent upon circumstances over which the candidate

had no control and which the candidate had no cause on or before nomination day to anticipate, the Chief Electoral Officer may certify accordingly to the Accountant-General.

(4) Where the Chief Electoral Officer makes a certification under sub-paragraph (3), the Accountant-General shall refund, to the candidate or to the candidate's personal representative, one-half of the deposit.

(5) Except where otherwise provided in this paragraph, every deposit made under paragraph 12(6) shall be paid into the Consolidated Fund at the expiration of one month from the conclusion of the election in respect of which it was made.

Withdrawal
of candidate.

14.—(1) A candidate may withdraw at any time not less than ninety-six hours before the opening of the poll on polling day by filing with the returning officer a declaration in writing to that effect signed by himself, and attested by the signature of two qualified electors in the electoral division, and any votes cast for the candidate who has so withdrawn shall be void.

(2) When a candidate has withdrawn after the ballots are printed, the returning officer shall, by letter whether delivered physically or by electronic means, notify each presiding officer for a polling station within the candidate's electoral division of the withdrawal and, when time permits, shall distribute to each presiding officer a printed notice of the withdrawal.

(3) On polling day each presiding officer shall post up a copy of the printed notice of withdrawal at a conspicuous place in the presiding officer's polling station.

(4) If time does not permit the printing and the distribution of a notice of withdrawal in accordance with sub-paragraph (3), the presiding officer, upon being advised by letter by the returning officer of the withdrawal of any candidate, shall himself prepare a notice to that effect and post it up in a conspicuous place in the presiding officer's polling station, and in either case the presiding officer shall,

when delivering a ballot to each elector, inform the elector of the withdrawal of the candidate.

(5) If, after the withdrawal, there remains only one candidate, the returning officer shall return as duly elected the candidate so remaining without waiting for the day fixed for holding the poll.

Procedure on death of nominated candidate.

15.—(1) Where, before the closing of the poll, the returning officer becomes aware that any candidate has died since the close of the nominations, the returning officer shall, after communicating with the Chief Electoral Officer, adjourn the election to some day being not more than one month after the day originally fixed for the election.

(2) Where an election is adjourned in accordance with the provisions of sub-paragraph (1), the provisions of paragraph 10 (1) shall apply as if the day upon which the election is adjourned were the day of the publication of the proclamation or order referred to in paragraph 10(1) and the day to which the election is adjourned were the day specified in the proclamation or order.

(3) The returning officer shall report the full particulars of any action taken under this paragraph to the Chief Electoral Officer.

Return by acclamation.

16.—(1) Where only one candidate has been nominated within the time fixed for that purpose, the returning officer shall forthwith make a return to the Chief Electoral Officer, in the prescribed form, that the candidate is duly elected for the electoral division, and shall send within forty-eight hours a duplicate or certified copy of the return to the person elected.

(2) The returning officer shall include in the return to the Chief Electoral Officer a report of his proceedings and of any nomination proposed and rejected for non-compliance with the requirements of this Schedule.

(3) Nothing in this Schedule shall be construed to impose any liability upon any person nominated as a candidate without that person's consent, unless the person has afterwards given his consent to such nomination or has been elected.

Granting of a poll.

17.—(1) If more than one candidate is nominated for an electoral division in the manner required by this Schedule, the returning officer shall grant a poll for taking the votes of the electors.

(2) Within five days after the poll has been granted, the returning officer shall post to all postmasters in the returning officer's electoral division a notice in the prescribed form of the grant and indicating the names, addresses and occupations of the candidates duly nominated.

(3) Forthwith upon receipt, by a postmaster, of the notice referred to in sub-paragraph (2), the postmaster shall display the notice in some conspicuous place to which the public has access in the post office of which that postmaster is postmaster and maintain it there displayed until the hour fixed for the closing of the poll.

(4) The returning officer shall, within seven days after the nomination day, deliver or send by registered post, to each candidate the prescribed number of copies of the notice referred to in sub-paragraph (2), together with—

- (a) a list of the presiding officers and poll clerks who will officiate at each polling station;
- (b) a copy of each separate list of electors relating to each polling station, having regard to the provisions of paragraph 21; and
- (c) a list of the persons assigned to transport ballot boxes from polling stations.

(5) The returning officer may make such changes as may be necessary in the lists referred to in sub-paragraphs (4)(a) and (c) after the delivery or dispatch of such lists to the candidates and, if the returning officer does so, shall forthwith notify the candidates.

(6) Within five days after receipt of the documents referred to in sub-paragraph (4)(a) or (c), a candidate or the agent of a candidate may make objections or representations to the returning officer against any of the particulars or arrangements indicated in any such document, and thereupon the returning officer, after consultation with such other candidates or their agents as the returning officer

thinks necessary, may make such changes in such particulars or arrangements as the returning officer thinks fit.

Establishment of polling stations.

18.—(1) The returning officer shall establish for each polling division so many polling stations as the Chief Electoral Officer may direct.

(2) Each polling station shall be established in premises of convenient access, with an outside door for the admission of electors, and where possible with another door through which electors may leave after they have voted.

Allotment for polling stations.

19.—(1) The Chief Electoral Officer shall allot to each polling station established under paragraph 18(1), the official list of electors referred to in paragraph 7 for that polling station.

(2) In allotting lists of electors to polling stations the Chief Electoral Officer shall have regard to the desirability of ensuring so far as practicable that not more than two hundred and fifty names of electors are allotted to any one polling station, and to geographical considerations.

Section 31 (re ballot boxes) to apply.

20. The provisions of section 31 (which relate to the supply of ballot boxes) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Section 32 (re supply of election material) to apply.

21. The provisions of section 32 (which relate to the supply of election material and to the custody of such material prior to the commencement of the poll and to the posting up of directions to voters before the commencement of the poll) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the following modifications—

- (a) subsection (1)(d) shall take effect as if for the reference to the form set out in the Second Schedule, there were substituted a reference to the prescribed form;

- (b) subsection (1)(e) shall take effect as if for the reference to this Act, there were substituted a reference to this Schedule;
- (c) subsection (1)(l) and subsection (2)(b) shall take effect as if for references, in those provisions, to section 37(2) there were substituted in each case references to paragraph 29(2) of this Schedule;
- (d) subsection (4) shall take effect as if for the reference to section 43(1) there were substituted a reference to paragraph 35 of this Schedule.

Outdoor agents.

22. The provisions of section 41A (outdoor agents) shall apply to elections held under this Schedule, as they apply to elections held under the other provisions of this Act.

Taking of poll and the ballot.

23. The provisions of section 33 (taking of poll and the ballot) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution—

- (a) in subsection (2), of the words “prescribed form” for the words “form set out in the Second Schedule”; and
- (b) in subsection (4), of the words “electoral division” for the word “constituency”.

Who may vote.

24. The provisions of section 34 (who may vote) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution—

- (a) in subsection (1), of the words “paragraph 2” for the words “section 5”;
- (b) in subsection (4), of the words “electoral division” for the word “constituency” wherever it appears; and

- (c) of the words “prescribed form” for each reference to a form of the Second Schedule.

Transfer to electors in special cases.

25. The provisions of section 105 (transfer to electors in special cases) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution—

- (a) in subsection (1), of the words “paragraph 19” for the words “section 30”, and the words “electoral division” for the word “constituency” wherever it appears; and
- (b) in subsection (2), of the words “electoral division” for the word “constituency”.

Where transferred electors to vote.

26. The provisions of section 106 (where transferred electors to vote) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

General mode of taking ballot.

27. The provisions of section 35 (general mode of taking ballot) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution in subsection (1) of the words “prescribed form” for the words “form set out in the Second Schedule”.

Mode of taking ballot in special cases.

28. The provisions of section 36 (mode of taking ballot in special cases) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution of the words “prescribed form” for each reference to a form of the Second Schedule.

Ballot papers not to be delivered to electors unless no marks of electoral ink appear on electors.

29. The provisions of section 37 (ballot papers not to be delivered to electors unless no marks of electoral ink appear on electors) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Electors to immerse appropriate digit in electoral ink.

30. The provisions of section 38 (electors to immerse appropriate digit in electoral ink) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Penalty for failure of presiding officer to carry out provisions of sections 37 and 38.

31. The provisions of section 39 (penalty for failure of presiding officer to carry out provisions of sections 37 and 38) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Non-application of sections 37, 38 and 39 to electors with no hand.

32. The provisions of section 40 (non-application of sections 37, 38 and 39 to electors with no hand) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Who may be present.

33. The provisions of section 41 (who may be present) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution in subsection (2) of the words "prescribed form" for the words "form set out in the Second Schedule".

Proceedings before opening of poll.

34. The provisions of section 42 (proceedings before opening of poll) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution in subsection (4)(a) of the words "prescribed form" for the words "form set out in the Second Schedule".

Proceedings at poll.

35. The provisions of section 43 (proceedings at poll) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution of the words "prescribed form" for the words "form set out in the Second Schedule".

Proceedings after poll.

36. The provisions of section 44 (proceedings after poll) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this

Act, subject to the substitution of the words “prescribed form” for each reference to a form of the Second Schedule.

Grounds for halting of the taking of the poll.

37. The provisions of section 44B (grounds for halting of the taking of the poll) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution in paragraph (a)(ii) of the words “electoral division” for the word “constituency”.

Period within which poll to be retaken after being halted.

38. The provisions of section 44C (period within which poll to be retaken after being halted) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Establishment of Constituted Authority, power to halt taking of poll.

39. The provisions of section 44A (power to halt the taking of the poll on polling day) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Final count of votes.

40. The provisions of section 45 (final count of votes) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Provisions applicable where ballot box not returned.

41. The provisions of section 46 (provisions applicable where ballot box not returned) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Recount by Resident Magistrate.

42. The provisions of section 47 (recount by Resident Magistrate) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution in subsection (3)—

- (a) of the words “electoral division” for the word “constituency” wherever it appears; and
- (b) of the words “electoral divisions” for the word “constituencies” wherever it appears.

Manner of making recount.

43. The provisions of section 48 (manner of making recount) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Election return.

44. The provisions of section 49 (election return) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution—

- (a) in subsection (1)(a), of the words “a return in the prescribed form stating” for the words “the election writ with his return in the form set out in the Second Schedule endorsed thereon”;
- (b) in subsection (5), of the words “Councillor elected to serve on the Council of a Municipal Corporation” for the words “member elected to serve in the House of Representatives”.

Neglect or refusal to return candidate.

45. The provisions of section 50 (penalty for delay, neglect or refusal of returning officer to return elected candidate) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution—

- (a) of the words “on the Council of a Municipal Corporation” for the words “in the House of Representatives”; and
- (b) of the words “electoral division” for the word “constituency”, wherever it appears.

Voiding of the taking of the poll.

46. The provisions of sections 52A (provisions relating to voiding of a poll) and 52B (period within which poll to be retaken after being declared void) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Custody of ballot boxes.

47.—(1) Forthwith after the conclusion of the final count of the votes under paragraph 40, the returning officer shall cause the ballot boxes used thereat, with their locks and keys, to be deposited in the custody of the sub-officer in charge of a police station in the electoral division.

(2) The provisions of section 51(2) shall apply in relation to elections held under this Schedule as they apply

in relation to elections held under the other provisions of this Act subject to the substitution of the word “return in the prescribed form” for the word “writ”.

Custody of election documents.

48. The provisions of section 52 (custody of election documents by Chief Electoral Officer) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act subject to the substitution in subsection (1) of the words “in the prescribed form” for the word “writ”.

Election expenditure.

49.—(1) Subject to the provisions of subsection (2), no expenditure in excess of one million dollars shall be incurred in relation to the candidature of any person at any election.

(2) In determining the total expenditure incurred in relation to the candidature of any person at any election regard shall not be had—

- (a) to the deposit required to be made by the candidate under paragraph 12(6)(b); or
- (b) to any expenditure incurred before the publication of the proclamation or of the order under paragraph 4 whereby such election was initiated, in respect of services rendered or material supplied before the date of such publication.

Who may incur expenditure.

50. The provisions of sections 56 (who may incur election expenditure) and 58 (who may incur expenditure) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Certain contracts to be invalid.

51. Any contract whereby any expenditure is incurred in contravention of the provisions of paragraph 50 shall for all purposes be deemed void and unenforceable.

Period for sending in claims and making payments for election expenses.

52. The provisions of section 61 (period for sending in claims and making payments for election expenses) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Election
return by
candidate.

53.—(1) Within six weeks after election day every person who was a candidate at any election shall make an election return to the returning officer for the electoral division in which the person was a candidate.

(2) Every return under sub-paragraph (1) shall be in the prescribed form and shall contain a full statement, under the appropriate head, of all expenditure incurred in connection with the election by or on behalf of the candidate and shall be supported by vouchers for all payments in excess of four dollars.

(3) Every return under sub-paragraph (1) shall contain a full statement of all moneys, securities or the equivalent of money, received by the candidate from any source in connection with the election.

(4) Every return under sub-paragraph (1) shall be supported by a declaration sworn to before a Justice of the Peace by the candidate stating—

- (a) that the return fully and correctly sets out all payments made by the candidate; and
- (b) that to the best of the candidate's knowledge, information and belief, the return is a full and correct return of all expenditure incurred by any person in connection with the candidature of that candidate and of all moneys, securities or the equivalent of money, received by the candidate or any person on the candidate's behalf from any source in connection with the election.

Powers and
duties of
Chief
Electoral
Officer.

54. The provisions of section 63 (powers and duties of Chief Electoral Officer) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Returning
officer and
assistant
returning
officer.

55.—(1) The Commission may appoint for each electoral division a returning officer and an assistant returning officer, who shall each receive such remuneration as may be prescribed.

(2) Forthwith upon being appointed, each returning officer and each assistant returning officer shall take and subscribe an oath in the prescribed form and shall transmit such oath to the Chief Electoral Officer.

(3) Forthwith upon taking the oath referred to in sub-paragraph (2), the returning officer shall establish an office in the parish in which the returning officer's electoral division is comprised and shall cause an advertisement to be inserted in a daily newspaper specifying the place at which the office of the returning officer is established.

(4) The Chief Electoral Officer shall designate one of the returning officers appointed in respect of the electoral divisions comprised in each parish to be the principal returning officer for that parish.

(5) If any returning officer during an election becomes incapable of performing the duties of a returning officer, the assistant returning officer for the electoral division in respect of which the returning officer was appointed shall forthwith report to the Chief Electoral Officer the fact of the returning officer having become incapable of performing the duties, and shall, until such time as some other returning officer shall be appointed for the electoral division, do all acts required to be done by the returning officer as if the assistant returning officer had been appointed returning officer for such electoral division.

Presiding
officer.

56.—(1) The Commission shall appoint a presiding officer for each polling station in each electoral division, who shall receive such fee as may be prescribed.

(2) Forthwith upon the appointment of a presiding officer, that presiding officer shall take an oath in the prescribed form and shall transmit the oath to the returning officer.

Poll clerks.

57.—(1) The Commission shall appoint a poll clerk for each polling station in each electoral division, who shall receive such fee as may be prescribed.

(2) If any presiding officer dies or becomes incapable of performing the duties of returning officer during the taking of the poll, the poll clerk shall forthwith assume the office of presiding officer and shall appoint some other person to act as poll clerk.

(3) Forthwith upon the appointment of a poll clerk under sub-paragraph (1) or (2), that poll clerk shall take an oath in the prescribed form and shall transmit the oath to the returning officer.

Oath to be taken before Justice, returning officer, presiding officer or poll clerk.

58. The provisions of section 69 (oath to be taken before Justice, returning officer, presiding officer or poll clerk) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

Offences.

59. The provisions of Part VIII (election offences) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act, subject to the substitution—

- (a) of the words “electoral division” for the word “constituency” wherever it appears; and
- (b) in section 91(1)(c) and (d), of the words “Councillor of the Council of a Municipal Corporation” for the words “member of the House of Representatives”.

Validation of certain acts.

60. The provisions of section 107 (validation of certain acts) shall apply to elections held under this Schedule as they apply to elections held under the other provisions of this Act.

First meeting after general election, and election of Chairperson.

61.—(1) At noon on the first Thursday after every general election (unless it be a public holiday, in which case at noon on the first day after such Thursday which is not a public holiday or a Sunday), in this section called the “first meeting day”, the Councillors elected in the divisions in the area within the jurisdiction of each Municipal Corporation, shall assemble at the office of the Council for that Municipal Corporation, and shall there make the required declaration in the prescribed form before the principal returning officer.

(2) As soon as all the Councillors have made the declaration, or as soon after one o’clock on the first meeting day as not less than one-half of Councillors have made the

declaration, the principal returning officer shall call upon the Councillors who have made the declaration to proceed to meet for the election of a Chairperson of the Council of the Municipal Corporation, and the principal returning officer shall preside at the meeting.

(3) As soon as a Chairperson has been elected, the principal returning officer shall cede the chairing of the meeting to the Chairperson, and leave the meeting, and the Chairperson shall commence duties as Chairperson.

(4) If at three o'clock on the first meeting day the requisite number of Councillors is not present, the principal returning officer shall adjourn the meeting till noon on the following day, and so on from day to day until the requisite number is present.

(5) In the event of a tie in the votes in the course of electing a Chairperson of a Municipal Corporation, the principal returning officer shall—

- (a) have a casting vote, and shall exercise that casting vote in favour of the Councillor who has the support of the majority of the Councillors who are members of the political party that received the majority of the votes cast in the area within the jurisdiction of the Municipal Corporation in the preceding election held pursuant to this Schedule; and
- (b) thereafter preside over the election of the Deputy Mayor and in the event of a tie in the votes, exercise a casting vote in favour of the Councillor who has the support of the majority of the Councillors who are not members of the political party of which the Chairperson is a member.

Forms:
transitional
provisions.

62. Until other provision is made—

- (a) the forms made pursuant to the *Kingston and St. Andrew Corporation Act*, the *Parish*

Councils Act and the *Municipalities Act* shall continue to be applicable for the corresponding purposes of this Schedule, subject to the following modifications—

- (i) a reference to any of those Acts shall be construed as a reference to this Schedule;
 - (ii) a reference to any provision of any of those Acts shall be construed as a reference to the equivalent provision of this Schedule;
- (b) any reference in this Schedule to a “prescribed form” shall be construed as a reference to the relevant form referred to in sub-paragraph (a).”.

Passed in the House of Representatives this 10th day of November, 2015 with seven (7) amendments.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 8th day of January 2016 with seven (7) amendments.

ANGELA BROWN-BURKE
Deputy President.

On the 19th day of January, 2016 the House of Representatives agreed to the amendments made by the Senate.

LLOYD B. SMITH
Deputy Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Heather E. Cooke
Clerk to the Houses of Parliament.