

THE MUNICIPALITIES ACT

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SCHEDULE

THE MUNICIPALITIES ACT

Act
19 of 2003.

[22nd May, 2003.]

1. This Act may be cited as the Municipalities Act.

Short title.

Preliminary

2. In this Act, unless the context otherwise requires—

Interpre-
tation.

“the Corporation” means the Kingston and St. Andrew Corporation;

“functions” includes powers and duties;

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

“Municipality” means a Municipality established under section 3;

“relevant local authority” means the Parish Council or the Kingston and St. Andrew Corporation, as the case may be, in the parish in which a Municipality is or is to be established.

Establishment of Municipality

3.—(1) The Minister may, in accordance with subsection (3)—

Establish-
ment of
Municipality.

(a) by order, declare the inhabitants of any area specified in the order to be a Municipality bearing such name as shall be specified in the order; and

(b) grant a Charter for the governance of the Municipality.

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

Provided that this subsection shall not apply to an order made in respect of Portmore.

(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 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 Municipality; and

(b) a written opinion of the relevant local authority regarding the establishment of the Municipality.

(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 Municipality and the Minister may seek those views by such methods as the Minister considers appropriate, including the conduct of a referendum;
- (b) the opinion of the relevant local authority; and
- (c) the criteria for establishing a Municipality as specified in subsection (5).

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

- (a) the area of the proposed 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 50,000 inhabitants;
- (c) there is potential for generating revenue within the community to cover the operational costs of the Municipality, and the costs of the services and regulatory functions which are to be provided or undertaken by the Municipality;
- (d) the economic, social and cultural benefits to be derived from the establishment and operation of the Municipality are likely to outweigh the costs of such establishment or operation;
- (e) the establishment of the 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 Municipality.

(6) For the purposes of this Act, a Municipality shall include all lands within the boundaries set out in an order made pursuant to section 3.

(7) A Municipality shall be a body corporate having perpetual succession to which section 28 of the Interpretation Act shall apply.

(8) The provisions of the Charter of a Municipality shall have effect as to the objects and functions of the Municipality, 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 30 days of the date on which the Charter is granted.

Objects and Functions of Municipality

4.—(1) A Municipality shall be governed by a Municipal Council which shall be constituted as follows—

- (a) a Mayor who shall be elected by eligible voters in accordance with the procedure specified in subsection (11);
- (b) a Deputy Mayor who shall be appointed in accordance with the procedure specified in the Charter; and
- (c) the councillors who represent electoral divisions that fall entirely within the boundaries of the Municipality.

(2) A person shall not be capable of being elected as Mayor of a Municipality, or having been so elected, to perform the functions of Mayor if that person is—

- (a) less than eighteen years of age or not able to read and write English;
- (b) not entitled to vote at an election of a councillor in the Municipality;
- (c) an undischarged bankrupt;
- (d) the holder of a specified office;
- (e) disqualified under paragraph (3);
- (f) a councillor; or
- (g) a member of the House of Representatives.

(3) Subject to subsections (4) and (5), every person who is either directly or indirectly, pecuniarily or otherwise, interested in any contract with the Municipality or the Corporation or Parish Council of any parish shall be disqualified from being elected Mayor of the Municipality.

(4) The provisions of subsection (3) shall not apply to any person merely by reason of his having any share or interest in—

- (a) any agreement for the loan of money, or any security for the payment of money only;
- (b) any newspaper in which any advertisement relating to the affairs of the Municipality or the relevant local authority is inserted; or
- (c) any incorporated company or society, which contracts with the Municipality or the relevant local authority, in which he does not hold more than one-tenth of the shares.

(5) The provisions of subsection (3) shall not apply to any person by reason of his having any share or interest in any contract with the Municipality if, in the case of a—

- (a) candidate for election as Mayor of the Municipality, such contract was, prior to his nomination as a candidate, approved by the Minister; or
- (b) person elected as Mayor of the Municipality, the contract was, after his election, approved by the Minister.

(6) In this Article “specified office” means—

- (a) any office for the time being constituted as a public office pursuant to section 3 of the Civil Service Establishment Act;
- (b) any office of profit in the gift or disposal of the Municipality;
- (c) any office to which the Judiciary Act applies; and
- (d) any office (whether as officer or soldier) for the time being included in the Jamaica Defence Force.

(7) The Mayor shall preside at meetings of the Council and is the official head of the Municipality for all ceremonial purposes.

(8) In the absence or incapacity of the Mayor, the Deputy Mayor shall exercise the powers and duties of the Mayor for not more than six months of the casual vacancy having been entered on the minutes of the Council.

(9) Subject to subsection (8), the provisions of section 8(3) of the Parish Councils Act and section 14 of the Kingston and St. Andrew Corporation Act shall, where relevant, apply with necessary modifications to supplying the casual vacancy of a Mayor.

(10) For the purposes of subsection (1)(a) eligible voters are inhabitants of the Municipality whose names appear on the voters list for the electoral divisions in that Municipality.

(11) The provisions of the Parish Councils Act and the Kingston and St. Andrew Corporation Act, for the election of councillors shall, where relevant, apply with necessary modifications to the election of the Mayor under this Act.

(12) Subject to subsection (13), the Municipal Council shall exercise in respect of the Municipality, the powers and duties which are currently applicable to Parish Councils and to the Corporation under the Acts specified in the Schedule.

(13) The Minister may by order direct that the relevant local authority shall exercise, in respect of the Municipality, such powers under any Act referred to in subsection (12), as are specified in the order.

(14) For the purposes of subsection (12) any reference to a Parish Council, the Corporation or the Council of the Corporation in the Acts specified in the Schedule shall respectively be construed to include a reference to a Municipal Council.

5.—(1) The following provisions of the Parish Councils Act shall not apply to the operation of a Municipality—

- (a) section 3 (Constitution of Parish Councils);
- (b) section 4 (Power to confer title of Mayor);
- (c) section 5 (Power to confer title of Deputy Mayor);
- (d) section 93 (Vice-chairman);
- (e) section 94 (Death, absence or incapacity of Chairman and vice-chairman);
- (f) section 94A (Original and casting vote of person presiding);
- (g) section 114 (Power of Parish Council to define the limits of towns, etc.);
- (h) section 115 (Limits of towns defined under repealed Laws); and
- (i) section 123 (Appointment of Slaughtering Places and power to make regulations governing same).

(2) The following sections of the Kingston and St. Andrew Corporation Act shall not apply to the operation of a Municipality—

- (a) section 5 (Inhabitants of Kingston and St. Andrew declared to be a Municipal Corporation);
- (b) section 7 (Corporate Area);
- (c) section 8 (Limits of the city of Kingston);
- (d) section 10 (Corporation and Council);
- (e) section 16 (The Mayor);
- (f) section 17 (Deputy Mayor);
- (g) section 77 (Mayor and Deputy Mayor. Provisions relating to their election);

Non-appli-
cability of
certain pro-
visions of
the Parish
Councils
Act and the
Kingston
and St.
Andrew
Corporation
Act.

- (h) section 157 (Vesting of existing public slaughter-houses in Commissioner of Lands);
- (i) section 158 (Newly erected public slaughter-houses vested in Commissioner of Lands);
- (j) section 164 (Sale of edible roots and tubers, etc., at wharves);
- (k) section 165 (What owners, etc., of wharf premises must do to obtain licence);
- (l) section 166 (Inspection to be made of premises);
- (m) section 167 (Payment of licence fee);
- (n) section 168 (Licences in force at coming into operation of this Act);
- (o) section 169 (Licensed wharf premises deemed to be markets for sale of edible roots);
- (p) section 170 (Licences and licensed premises, etc., subject to rules);
- (q) section 171 (By whom sale is to be made on such licensed premises);
- (r) section 172 (Penalty);
- (s) section 183 (Vesting and control of pounds already in existence);
- (t) section 184 (May Pen Cemetery);
- (u) section 187 (Vesting of Union Poor House in Corporation, etc.);
- (v) section 192 (Regulations which shall remain in force);
- (w) section 221 (Preparation of municipal schemes);
- (x) section 232 (Transfer of powers, duties, etc., to Council).

General Provisions for Staff

6. The Municipal Council shall appoint and employ such officers, agents and employees as the Council may require.

Appointment of officers and employees.

7.—(1) The Municipal Council shall employ a Chief Administrative Manager.

Employment of Chief Administrative Manager.

(2) The Chief Administrative Manager shall be responsible to the Municipal Council for the proper planning, execution, conduct and the proper administration of the affairs of the Council.

(3) In performing functions pursuant to subsection (2), the Chief Administrative Manager shall act under the supervision and direction of the Mayor.

(4) A direction which relates to financial matters shall not be given without the prior approval of the Council.

Financial Provisions, Accounts and Reports

8. The funds and resources of a Municipality shall consist of—

Funds and resources of Municipality.

- (a) funds from the Parochial Revenue Fund as specified by the Minister in an order made pursuant to section 6B of the Parochial Rates and Finance Act;
- (b) Local Rates under section 14 of the Parochial Rates and Finance Act or Municipal Rates under section 128 of the Kingston and St. Andrew Corporation Act, as the case may require;
- (c) trade licence fees;
- (d) building fees and fees from other regulatory functions authorized under this Act;
- (e) grants from the central government in respect of capital and recurrent expenditure;
- (f) funds derived from loans raised under the Loans (Local Authorities) Act;

(g) such other sums as may be legally acquired by the Municipality.

Expenses of the Municipality.

9. The expenses of a Municipality shall be defrayed out of the income of the Municipality and from sums provided for that purpose by Parliament.

Application of Loans (Local Authorities) Act.

10. The provisions of the Loans (Local Authorities) Act and the regulations set out in the Schedule to that Act shall apply with necessary modifications to the Municipality.

Accounts

11. The Municipal Council shall keep proper accounts and other records in relation to its functions in such form and manner as may be approved by the Minister and which conform to established accounting principles.

Audit of accounts.

12.—(1) The accounts of a Municipality shall be audited annually by the Auditor-General.

(2) The members, officers and servants of a Municipality shall grant to the Auditor-General access to all books, documents, cash and securities of the Municipal Council and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Municipal Council.

Reports and estimates.

13.—(1) On or before the first day of December in each year, or within such longer period as the Minister may in special circumstances approve, the Municipal Council shall cause to be made and transmitted to the Minister for the Minister's approval—

- (a) an estimate of municipal revenue and expenditure for the ensuing financial year;
- (b) a statement showing how it is proposed to meet the estimated expenditure;
- (c) a statement showing the financial position of the Municipal Council; and

(d) a report dealing generally with the activities of the Municipal Council during the preceding year.

(2) A Municipality shall furnish the Minister with such returns, accounts, and other information as the Minister may require with respect to the activities of the Municipal Council and shall afford the Minister facilities for verifying such information in such manner and at such time as the Minister may reasonably require.

(3) The Municipal Council shall transmit to the relevant local authority a copy of the estimates, statement and report specified in subsection (1).

14. The Minister may approve, either with or without amendment, estimates submitted to the Minister for approval.

Minister to
approve
estimates.

Directions, Regulations, and By-Laws

15. The Minister may, after consultation with the relevant local authority, give to the Municipal Council such directions of a general character as to the policy to be followed by the Municipal Council in the performance of its functions as appear to the Minister to be necessary in the public interest and the Council shall give effect thereto.

Policy
directions.

16. A Municipal Council may make by-laws for—

By-laws.

- (a) the regulation of its own proceedings, and of its committees;
- (b) the composition and function of the Advisory Council; and
- (c) the regulation, management, use and upkeep of any public buildings, institutions, gardens, or property vested in such Council.

Power to
make regu-
lations.

17.—(1) A Municipal Council may make regulations generally for giving effect to the provisions and purposes of this Act and, without prejudice to the generality of the foregoing, may make the following regulations for the proper governance of the Municipality—

- (a) prohibiting or regulating the keeping of swine, goats, sheep, dogs, horsekind, cattle or poultry in any town or village;
- (b) prohibiting or regulating the driving of animals over any thoroughfare or in any public place;
- (c) prohibiting, regulating or suspending traffic of any kind whatsoever in any thoroughfare or public place;
- (d) regulating the closing of any portion of any thoroughfare or public place, whether partially, permanently or temporarily;
- (e) regulating the opening of the surface of any thoroughfare or public place other than main roads;
- (f) prohibiting or removing encroachments and nuisances in any thoroughfare or public place;
- (g) prohibiting or regulating the holding of meetings in any thoroughfare or public place, and for the preservation of order at any public meeting;
- (h) prohibiting loitering in thoroughfares or public places;
- (i) regulating the opening up of new thoroughfares and public places and the stopping up of thoroughfares or public places;
- (j) prohibiting or regulating parking of vehicles in any thoroughfare or public place;
- (k) regulating the number of hackney carriages in the Municipality or in any town or other place in the Municipality;

- (l) providing for the installation of taxi metres in any particular class of hackney carriage;
- (m) for the licensing of places of public amusement;
- (n) providing for the establishment of silence zones;
- (o) prohibiting or regulating the exposing of goods for sale on any piazza opening on any thoroughfare or in any public place;
- (p) prohibiting or regulating the exposing for sale and sale of goods in any thoroughfare or public place;
- (q) governing the installation of sewers on premises in towns;
- (r) regulating the construction of buildings in towns and imposing suitable conditions and restrictions as to the elevation, size and design of houses to be built, and the extent of the accommodation to be afforded thereby;
- (s) regulating the management of public parks and other public places in towns, and the management and use of municipal buildings;
- (t) prohibiting or regulating the removal of houses over any thoroughfare or public place;
- (u) prohibiting or regulating the offering or exposing for sale of meat intended for human consumption;
- (v) for 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;
- (w) in conjunction with the relevant local authority, for the regulation and control of rivers traversing the Municipality and, in particular, for 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;

- (x) providing for anything authorized or required by this Act to be prescribed.

(2) The powers conferred by paragraph (c), (k), (l) and (n) on a Municipality shall not be applicable so far as those paragraphs relate to motor vehicles as defined by the Road Traffic Act.

(3) Regulations under subsection (1) may make provisions providing for the payment of fixed penalties in respect of a breach of any regulations, in such manner and in such circumstances as may be prescribed.

Publication of
by-laws, etc.
and
Minister's
overriding
powers.

18.—(1) All by-laws or regulations made under the provisions of this Act shall be—

- (a) notified to the Minister by memorandum in writing;
(b) published in the *Gazette*; and
(c) 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 notified in the *Gazette*.

(2) If the Minister considers that it is in the interest of national policy so to do, the Minister may, during the period expressed pursuant to subsection (1)(c)(i), exercise any power given to the Municipal Council to make, amend or revoke any such by-laws 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 exercise of the Minister's powers under this subsection.

(3) Where the Minister exercises the power conferred by subsection (2), the Minister shall furnish to the Municipal Council a written explanation of the reasons for that action.

(4) Where a Municipal Council intends to make any by-laws or regulations, the Council shall inform the public of such intent by—

(a) displaying a notice in a conspicuous place at—

(i) the offices of the Council; and

(ii) the Post Office, Police Station, Court House or other public building in the Municipality; or

(b) by publishing such notice—

(i) in a daily newspaper circulated in the Municipality; and

(ii) by electronic means.

19.—(1) Any person who is convicted of a breach of—

Penalties.

(a) any by-law or regulation made under this Act; or

(b) any provision of this Act for which no penalty is provided,

shall be liable to a penalty not exceeding twenty thousand dollars, which may be recovered summarily before a Resident Magistrate.

(2) The Minister may, by order, subject to affirmative resolution amend the penalty specified in subsection (1).

Miscellaneous

20.—(1) It shall be lawful for the Minister, by order subject to affirmative resolution, to dissolve any Municipal Council which, in the judgment of the Minister—

Dissolution

- (a) persistently makes default in the performance of the duties lawfully imposed upon it; or
 - (b) exceeds or abuses its powers.
- (2) An order under subsection (1) shall—
- (a) contain such incidental or supplementary provisions as appear to the Minister to be expedient for the purposes of the order; and
 - (b) be valid for a period not exceeding six months.

SCHEDULE

(Section 4)

Acts under which the Municipal Council may exercise its powers

The Burial Within Towns' Limits Act
 The Country Fires Act
 The Dividing Fences Act
 The Electric Lighting Act
 The Hawkers and Pedlars Act
 The Housing Act
 The Keeping of Animals Act
 The Kingston and St. Andrew Corporation Act
 The Land Valuation Act
 The Licences on Trades and Business Act
 The Loans (Local Authorities) Act
 The Local Improvements (Community Amenities) Act
 The Local Improvements Act
 The Municipal Officers (Surcharge) Act
 The Municipal Services Commission Act
 The Parish Councils (Unified Service) Act
 The Parish Councils Act
 The Parish Councils Building Act
 The Parochial Markets Law
 The Parochial Rates and Finance Act
 The Parochial Roads Act
 The Pensions (Parochial Officers) Act
 The Poor Relief Act

SCHEDULE, contd.

The Pound Act
The Property Tax Act
The Public Cemetery Management and Regulation Act
The Public Gardens Regulation Act
The Registration of Titles Act
The Registration (Strata Titles) Act
The Riot Act
The Road Traffic Act
The Shops and Offices Act
The Town and Country Planning Act
The Towns and Communities Act
The Towns Nuisances Prevention Act