

CHAPTER 88.

TOWN COUNCILS (MEMBERSHIP AND DISSOLUTION).

[No. XXIII of 1929.]

[23rd March, 1929.]

1. This Ordinance may be cited as the Town Councils Short title.
(Membership and Dissolution) Ordinance.

2. In this Ordinance, unless the context otherwise Interpre-
requires,— tation.

“council” means the Mayor and Town Council of the city of Georgetown, or the Mayor and Town Council of the town of New Amsterdam, as established by law;

“councillor” means one who has been duly elected to be a member of a Council;

“the Court” means the Supreme Court or a judge thereof;

“judge” means a judge of the Court;

“the Registrar” means the Registrar of the Court;

“Commissioner” means the officer or officers appointed by the Governor in Council under section sixteen of this Ordinance;

“order of dissolution” means an Order in Council whereby a council is dissolved by virtue of the power contained in section fifteen of this Ordinance.

VACATION OF SEATS BY COUNCILLORS.

3.—(1) If a councillor becomes disqualified or ceases to be qualified to be elected to be a member of his council his seat, on his becoming so disqualified or ceasing to be qualified, shall become vacant: Vacation of seat by a councillor:

Provided that the seat of a councillor shall not become vacant merely by reason of his being interested in a contract with his council within the meaning of section seven of the Georgetown Town Council Ordinance, or Proviso. Chapter 86.

Chapter 87. section thirteen of the New Amsterdam Town Council Ordinance, unless it appears that the contract was entered into with the actual knowledge of the councillor.

(2) The seat of a councillor shall become vacant if he—

- (a) fails without reasonable excuse (the proof whereof shall be upon him) to take and subscribe the oath and discharge the duties of his office within four meetings after his election, or is absent from four consecutive meetings of his council; or
- (b) is adjudicated a bankrupt or insolvent in the United Kingdom or in any part of his Majesty's possessions; or
- (c) is declared or found by any competent court in the United Kingdom or in any part of his Majesty's possessions to be non compos mentis; or
- (d) is sentenced to death, penal servitude, or imprisonment with hard labour or for a term exceeding three months in the United Kingdom or in any part of his Majesty's possessions.

When minutes conclusive evidence.

4. The minutes of a council shall be conclusive evidence as to the taking of the oath by, and the resignation, leave, and attendance of, a councillor for the purposes of this Ordinance and of any Ordinance regulating the council.

Contract with councillor void unless sanctioned by Governor in Council.

5.—(1) A contract which has been entered into between a council and a councillor thereof, or wherein a councillor is directly or indirectly pecuniarily or otherwise interested, whether made before or after he became a councillor, shall be null and void unless,

- (a) if made before he became a councillor it has received prior to his nomination as a candidate the subsequent approval, or
- (b) if made after he became a councillor it has been entered into with the express sanction,

of the Governor in Council.

(2) The existence of a contract when so sanctioned or approved as aforesaid shall not disqualify a candidate or a councillor.

When councillor may not vote on contract.

Chapter 86.
Chapter 87:

6. No councillor shall have a vote on any question relating to any contract within the meaning of section seven of the Georgetown Town Council Ordinance, or section thirteen of the New Amsterdam Town Council Ordinance.

7.—(1) Every councillor who sits and votes after his seat has become vacant under this or any Ordinance regulating the council shall be liable to a penalty of two hundred and fifty dollars for every day on which he so sits and votes.

Sitting and
voting after
seat vacant.
Penalty.

(2) The penalty may be recovered by action in the Supreme Court at the suit of any registered voter; but no process shall issue out of the Court unless the person suing out the process deposits with the Registrar the sum of one hundred dollars as security for the payment of any costs which may become payable by him.

8. The seat of a councillor shall not be deemed to be vacant until the fact of the vacancy has been entered on the minutes of the council, or until the Court has declared the seat to be vacant as in this Ordinance provided.

Seat when
deemed
vacant.

9.—(1) When the Mayor or Town Clerk receives a certificate purporting to be signed by the Registrar of the Court or by an officer of any other court and sealed with the seal of such court, certifying that—

When
Mayor
to have
vacancy
entered on
minutes.

- (a) judgement has been recovered in the court against a councillor for a penalty under this Ordinance or any Ordinance regulating the council; or
- (b) a councillor has been found or declared to be non compos mentis; or
- (c) a councillor has been adjudicated a bankrupt or insolvent; or
- (d) a councillor has been sentenced to death, penal servitude, imprisonment with hard labour or for a term exceeding three months,

the Mayor, if satisfied of the identity of the councillor, shall cause an entry of the vacancy of the seat of the councillor to be made on the minutes.

(2) Notwithstanding that no certificate as aforesaid has been received, and in a case other than any of those mentioned in the last preceding sub-section, any councillor may at a meeting of his council call the attention of the Mayor or other councillor presiding at the meeting to the fact that a vacancy has occurred, and thereupon the question shall be submitted to the meeting whether that vacancy has occurred, and if the question is decided in the affirmative the chairman shall cause the fact of the vacancy to be entered on the minutes.

(3) The decision of the question may be adjourned to the next meeting of the council.

(4) An appeal to the court shall lie from any decision of a council under sub-section (2) of this section at the instance either of the councillor whose seat has been decided to be vacant or of any registered voter.

Application
to Court to
declare seat
vacant.

10. The Attorney General, or any registered voter,—

(a) if, in any case where the decision is a matter for the council only, the council has not, within two months after the occurrence of an event whereby the seat of a councillor has become vacant, decided the question, or

(b) within one month after the decision of the council that a seat has not become vacant,

may apply to the Court for an order declaring that the seat of the councillor has become vacant.

Appeal and
application
to Court to
be by peti-
tion.

11.—(1) Every appeal from the decision of a council to the Court and any application for an order declaring that the seat of a member has become vacant shall be by petition presented to the Court.

(2) Everyone (other than the Attorney General) who presents a petition shall, on the presentation thereof, deposit with the Registrar as security for costs the same sum, or give security with one or more sureties in the same amount, as is required by the Ordinance regulating the council as security for the costs of an election petition.

(3) The Registrar shall not receive or file a petition unless the deposit is made or the security is given as aforesaid.

Filing and
serving
petition and
procedure
thereon.

12.—(1) Every petition shall be filed with the Registrar and a copy thereof under the seal of the Court and signed by the Registrar shall be served on the councillor and the Town Clerk respectively, not less than twenty-one days before the day fixed for the hearing thereof.

(2) The day for the hearing of a petition shall be fixed by a judge.

(3) (a) Every petition shall contain a full statement of the material facts of the case which shall be verified by affidavit sworn by some person or persons verifying the truth of the facts.

(b) In the affidavit there shall be stated what facts are within the knowledge of the deponent and what facts are sworn to on information and belief, and the name, description, and address of the informant.

13.—(1) Every petition shall be tried in court by a judge and his decision shall be final. Trial of petition

(2) The court held by a judge for the trial of a petition shall constitute a court of the Supreme Court, and the proceedings shall for all purposes be deemed to be in the Supreme Court and all the same powers, jurisdiction and authority shall be exercisable in respect thereof and witnesses shall be summoned and compellable to attend in the same way and liable to the same penalties for perjury.

(3) A certified copy of the order made on the trial of a petition shall be conclusive evidence of the status of a councillor.

(4) The Registrar shall cause to be published in the Gazette a copy of the order made on the determination of a petition.

(5) The costs of the proceedings and of the trial of a petition shall be in the discretion of the judge.

14. The Chief Justice, with the concurrence of the puisne judges or one of them, shall make rules and prescribe forms for the procedure in relation to petitions under this Ordinance. Power to make rules.

DISSOLUTION OF A COUNCIL.

15.—(1) If a council, in the judgement of the Governor in Council, is not competent to perform, or persistently makes default in performing, its duties, or exceeds or abuses its powers, the Governor in Council may by order dissolve the council. When a council may be dissolved.

(2) All elected and nominated councillors shall vacate their offices on the date of the order of dissolution.

16.—(1) The Governor in Council, in the order of dissolution or in another order of the same date shall appoint a Commissioner in place of the council. Appointment of Commissioner.

(2) The Governor in Council may by any subsequent order appoint a Commissioner in substitution for or in addition to a Commissioner appointed under this section. Powers and duties of Commissioner.

(3) All the powers and authorities and duties, conferred on and obligations imposed on or attaching to a council shall be exercised and performed by the Commissioner.

(4) Where a council is empowered to exercise any authority or required to perform any act or discharge any duty or obligation by resolution the same shall be done by the Commissioner by declaration under his hand and the seal of the council.

(5) The Commissioner if one, or if there are two or more Commissioners, he who is nominated by the Governor, shall perform any act or duty or fill any office appertaining to the office of Mayor.

(6) The Governor may direct what remuneration (if any) shall be paid to a Commissioner and the remuneration shall be paid out of municipal funds.

Date to be fixed for general election after dissolution.

17.—(1) The Governor in Council, in the order of dissolution or by a subsequent order may fix the date for a general election of councillors and the first meeting of the council thereafter.

(2) The Governor in Council may at any time vary any order aforesaid by anticipating the dates fixed therein and by substituting earlier dates, but any order fixing or varying the dates aforesaid shall be published at least one month before the date fixed for the election.

Orders to be published in the Gazette.

18. All orders made by the Governor in Council under this Ordinance shall be published in the Gazette and a daily newspaper.

Duration of office of councillors elected at general election.

19. With respect to councillors elected at a general election under this Ordinance the following provisions shall apply :—

(a) in the case of the Mayor and Town Council of Georgetown the councillors shall hold office until the thirty-first day of December in the year next but one after the general election aforesaid, and a general election shall be held in the said month of December ;

(b) in the case of the Mayor and Town Council of New Amsterdam no councillor shall go out of office

until the first day of July in the year next but one after the general election under this Ordinance, and then the two senior elected councillors shall go out of office, and the procedure prescribed by section seventeen of the New Amsterdam Town Council Ordinance, shall apply. Chapter 87.

20. At the first meeting of a council after a general election under this Ordinance the council shall proceed to the election of a Mayor and a Deputy Mayor (if any), who shall hold office until the month in which an election of that officer is fixed by the Ordinance regulating the councils. Election of Mayor.