



BERMUDA

HAMILTON SEWERAGE ACT 1917

1917 : 12

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SCHEDULE FEES OF COMMISSIONERS

[preamble and words of enactment omitted]

Interpretation

1 In this Act and in any regulations made thereunder, where not inconsistent with the context—

“the Commissioners” means the Hamilton Sewerage Commissioners for the time being holding office under this Act;

“the Corporation” means the Corporation of Hamilton;

“Corporation Inspector” means any person appointed by the Corporation, either generally or specially, to supervise and inspect the sewerage system, and house sewers and water-closets in the sewerage district;

“Hamilton” means the municipal area of the City of Hamilton;

“owner” means the person for the time being receiving the rent of the premises in connection with which the expression is used, whether on his own account, or as attorney or agent or trustee for any other person, or who would so receive the same if such premises were rented;

“premises” includes any house or building and the land on which it stands and adjoining land held therewith;

“sewage” includes the wastes of animal life (other than stable manure), water discharged from water-closets, urinals, sinks, basins, baths, and all other water used for domestic purposes or in any industrial process;

“sewer” means any culvert, drain or pipe intended or used for the conveyance of sewage;

“the sewerage district” means those parts of Hamilton which adjoin the streets under which the sewerage system, or any part thereof, has been or is to be constructed, and any other parts of Hamilton or premises outside Hamilton which from the proximity to the sewerage system are for the time being readily capable of being connected therewith;

“the sewerage system” means the sewerage system the construction and maintenance of which was authorized by the Hamilton Sewerage Act 1912 [*title 4 item 8*], and any extension of such system to any part of the municipal area of the City of Hamilton, and includes all sewers, mains, pipes, drains, pumping stations and shafts and all apparatus and things forming part of or used or connected with, the said system;

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“street” includes any public street, lane, alley or thoroughfare in Hamilton, and any wharf or public place in Hamilton the property of the Corporation.

[Section 1 definition "Hamilton" inserted and definition "the sewerage district" amended by 2016 : 23 s. 2 effective 22 June 2016]

Hamilton Sewerage Commissioners

2 (1) Three Commissioners, to be called the Hamilton Sewerage Commissioners, shall from time to time be appointed by the Governor for the purposes of this Act, and all vacancies occurring among such commissioners by death or resignation, or by the termination of the period of appointment, or by the cancelling by the Governor of any such appointments, shall from time to time be filled by new appointments made by the Governor.

(2) A majority of the Commissioners shall form a quorum for the transaction of business.

(3) During the absence from Bermuda of any commissioners the Governor may appoint a substitute to act during such absence, and during the incapacity from illness of any commissioner to perform the duties of his office the Governor may appoint a substitute to act until such commissioner is able to resume his duties.

(4) Each of the commissioners shall be entitled to receive from the Corporation for his services under this Act fees at the rates specified in the Schedule for the services therein mentioned, except as otherwise provided in the said Schedule, and, for any special services not therein mentioned, such fees as may be fixed by the Corporation with the approval of the Governor.

Construction and maintenance of sewerage system

3 The Corporation may—

- (a) cause underground main and branch sewers to be constructed and maintained under all or any of the streets in the sewerage district with such ventilating shafts, man-holes, intercepting pits and other apparatus and things as may be necessary for the efficient working of the sewerage system;
- (b) make and maintain connecting sewers from the main and branch sewers, or any of them, to or into the several premises abutting on any of the streets in the sewerage district;
- (c) authorize the entry by members or employees of the Corporation to any premises abutting on any of the streets in the sewerage district to inspect or examine the same, or to take measurements thereon or to make such excavations thereon as may be reasonably necessary for determining the most suitable position for any connecting sewer for such premises.

Regulations

4 (1) The Corporation may make regulations for carrying into effect the objects of the Act, and particularly—

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- (a) for regulating the construction, extension, alteration and repairs of house sewers and water-closets in the sewerage district, and the materials to be used in such house sewers and water-closets and in surface drains for rain water; and
 - (b) as to the situation, nature, size, pattern and quality of drains, water-closets, traps, pipes and other appliances to be used in connection therewith; and
 - (c) as to the repair of, and the removal of obstructions from, house sewers, water-closets and drains and other appliances used in connection therewith; and
 - (d) for the inspection of the same from time to time.
- (2) *[omitted] [covered by Interpretation Act 1951 section 35]*
- (3) The negative resolution procedure shall apply to regulations made under this section.
- (4) The regulations may impose fines for contraventions of regulations not exceeding \$720 for a single offence, and not exceeding \$57.60 for each day for a continuing offence, and such fines may be imposed on summary conviction.

Installation of house sewers

- 5 (1) The owner or occupier of any house or building in the sewerage district abutting on any street, or within one hundred and fifty feet of any connecting sewer, shall within thirty days after receiving from the Corporation written notice to that effect, construct or lay therefrom to such connecting sewer covered branch drains or pipes, of such size and materials, at such level, with such fall and connections, and in such position as the Corporation may require for the drainage of the sewage from such house or building, its areas, water-closets, baths, offices and stables.
- (2) Such branch drains or pipes shall be furnished with such traps, sinks, coverings, means of ventilation, gratings and other accessories, as the Corporation may require, all of which are hereinafter referred "house sewers".
- (3) Every inlet to such house sewer shall be protected to such extent as the Corporation may direct or require against the entry of any rain water draining off the roofs of buildings, or off any yard or land.

Disposal of sewage only through connecting sewer

- 6 (1) Whenever any house or building has been provided with a house sewer and also with a water-closet or water-closets approved by the Corporation Inspector, it shall not be lawful for the occupier of such house or building to allow any sewage to flow, or to be deposited or thrown, from such house or building, or from the premises whereon it stands, or any part thereof, into Hamilton Harbour, or into any privy, cesspit, or other receptacle, either on such premises or elsewhere, except by the connecting sewer between such house, building or premises and the sewerage system.

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(2) The occupier of any such house or building from which any sewage is allowed to flow, or to be deposited or thrown, contrary to subsection (1), and the person depositing or throwing the same, each commit an offence against this Act:

Punishment on summary conviction: a fine of \$576 besides costs of prosecution.

Filling in of privies and cesspits

7 Whenever any house or building has been provided with a house sewer and a water-closet or water-closets, approved by the Corporation Inspector, the owner of such house or building shall, within one month after written notice to that effect from the Corporation, cause any privy or cesspit existing on the premises on which such house or building stands to be emptied and cleaned out, and, if so required by the Corporation, to be disinfected, filled up and effectually covered to the satisfaction of the Corporation Inspector.

Improper use of sewers an offence

8 If any garbage, hair, ashes, fruit, vegetables, peelings, grease, rags, bottles, tins, refuse or any other matter or thing whatsoever, except sewage as defined in this Act, and the necessary closet paper, is thrown into or deposited in any receptacle connected with the sewer, or if any house sewer becomes stopped from any cause other than the fault of the Corporation, the occupier of such premises shall be liable for the expenses incurred by the Corporation in removing any such matter or thing from the sewer, or in removing the cause of stoppage, and the person who threw or deposited such matter or thing in such receptacle or who caused such stoppage commits an offence against this Act:

Punishment on summary conviction: a fine of \$720 besides costs of prosecution.

Prohibition of connection of steam or hot water pipes with sewers

9 Any person who connects or who allows to be connected, with any sewer any pipe for conveying steam or hot water at a temperature exceeding 150 degrees Fahrenheit commits an offence against this Act:

Punishment on summary conviction: a fine of \$720 besides costs of prosecution.

Notice prohibiting injurious sewage

10 If in the judgment of the Corporation, sewage of any particular kind would be injurious to the sewers, the Corporation may, by a written notice to the occupier of any premises, prohibit him from permitting such sewage to be run into, or allowed to enter, any sewer after the expiration of ten days from the delivery of such notice, and if after the expiration of such period any such sewage is run into, or allowed to enter, any sewer from such premises, the occupier of such premises, and also the person permitting such sewage to be run into, or allowing such sewage to enter, such sewer, commits an offence against this Act:

Punishment on summary conviction: a fine of \$720 besides costs of prosecution.

Control over house sewers and water closets

11 All house sewers and water-closets in the sewerage district shall be subject to the survey and control of the Corporation, and shall be re-constructed, altered, repaired, and

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kept in proper order, at the cost of the owners of the premises to which the same belong, or for the use of which they are constructed or continued.

Inspection of house sewers and water closets

12 (1) Any Corporation Inspector may inspect any house sewer or water-closet, and for that purpose may, at all reasonable times in the day, enter on any premises, with such assistants and workmen as he may deem necessary, and cause the ground to be opened, doing as little damage as may be.

(2) If on any such inspection any such house sewer or water-closet is found to be in proper order and condition the Inspector shall cause the ground to be closed and made good as soon as may be, and the expense of opening, closing, and making good such ground, house sewer or water-closet shall be defrayed by the Corporation.

(3) If on any such inspection any such house sewer or water-closet is found not to be in proper order and condition, or to need re-construction, alteration or repair, the Corporation may give written notice to the owner or occupier of the premises requiring him, within a reasonable time therein specified, to execute the necessary works, specifying them; and if such notice is not complied with the person to whom it is given commits an offence against this Act:

Punishment on summary conviction: a fine of \$57.60 for each day during which default in complying with the notice continues, besides costs of prosecution;

and the Corporation may, if they think fit, execute such works, and may recover from the owner or occupier the expenses incurred by the Corporation in so doing, with costs, in the manner provided by Magistrates Act 1948 [*title 8 item 15*], for the recovery of a debt or liquidated demand.

Corporation may do work and recover cost

13 Whenever under this Act, or of the regulations, any work of any kind is required to be executed by the owner or occupier of any premises, or by any other person, and default is made in the execution of such work, the Corporation may, (whether or not a fine is imposed for such default) cause such work to be executed, and the expense thereby incurred by the Corporation shall be forthwith repaid to the Corporation by the owner, occupier, or other person in default.

Occupier may do work and recover cost

14 Whenever under this Act, or of the regulations, any work of any kind is required to be executed by the owner of any premises, and default is made by him in the execution of such work, the occupier of such premises may, with the sanction of the Corporation, cause such work to be executed, and the expenses thereof may, at the option of the occupier, be forthwith recovered from the owner of such premises, or may be retained by the occupier out of the rent thereafter from time to time becoming due by him to the owner

Remedy of Corporation

15 (1) If the owner of any premises who, under this Act, or of the regulations, or under any agreement with the Corporation, is liable for the re-payment of any expenses incurred

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by the Corporation, does not pay the expenses within one week after a written demand on him from the Corporation for payment thereof, the Corporation may, without prejudice to any other remedy under this Act, or otherwise, recover such expenses, with interest thereon at the rate of five per cent. per annum from the date of the delivery of such demand until payment thereof, in the manner provided by the Magistrates Act 1948 [title 8 item 15], for the recovery of a debt or liquidated demand, from the person who was the owner of such premises when the works were completed, and until payment or recovery of such expenses and interest the same shall be a charge on such premises in priority to all mortgages and other charges thereon.

(2) The Corporation may, by way of additional remedy, require the payment of all or any part of any such expenses and interest from the person who then, or within three years thereafter, is the occupier of such premises under the person who was the owner thereof, when such expenses were incurred, and, in default of payment thereof by such occupier within such period as the Corporation may allow for such payment, the Corporation may recover such expenses and interest from such occupier, with costs, in the manner provided by the Magistrates Act 1948 [title 8 item 15], for the recovery of a debt or liquidated demand.

(3) Every such occupier shall be entitled to retain out of the rent payable by him to such owner as aforesaid such amount as may be recovered from such occupier under subsection (2), with interest thereon at the rate of five per cent. per annum from the date of payment, and, if the amount so retained is not sufficient to meet the amount recovered against such occupier with interest as aforesaid, the occupier shall be entitled to recover the unpaid residue from the owner, with costs, in the manner provided by the Magistrates Act 1948 [title 8 item 15], for the recovery of a debt or liquidated demand.

(4) No occupier of any premises shall be liable to pay more, in respect of any sums payable by the owner under this Act, or under the regulations, or under any agreement with the Corporation, than the amount of rent then due or thereafter to become payable by him for the premises in question, or for any part of such premises, unless such occupier, on application made to him by or on behalf of the Corporation, has refused or neglected truly to disclose the amount of the rent payable by him, the times when such rent is payable, the amount then due for such rent, and the name and address of the person to whom such rent is payable.

(5) In any proceeding against the occupier of any premises for the recovery of any monies under the foregoing provisions of this section the burden of proof that the sum sought to be recovered from such occupier is greater than the rent due by him at the time payment was demanded, or which has since accrued, shall lie upon the occupier.

(6) Nothing herein contained shall be construed so as to affect any special contract made between any such owner and occupier respecting the payment of the expenses of any such works as aforesaid.

Corporation may allow time for payment of expenses

16 The Corporation may, at the request of any owner or occupier, allow him such time for the repayment of any expenses for which he is liable under the foregoing provisions of this Act, or under the regulations, or under any agreement with the Corporation, and may

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receive the same by such instalments as, under the circumstances of the case, the Corporation consider reasonable, but so that the time for payment shall not exceed three years, and that such owner or occupier shall with each instalment pay to the Corporation interest at the rate of five per cent. per annum on the principal sum due immediately before the payment of such instalment computed from the date when such expenses became payable, or from the date of the last previous instalment, whichever last happens; and, if any such instalment is not paid on or within thirty days after the date on which the instalment should be paid, then the whole of the unpaid portion of the principal sum with all interest due thereon shall be recoverable forthwith in like manner as if time for repayment by instalments had not been allowed.

Corporation may execute works by agreement

17 The Corporation may, either before or after calling upon the owner or occupier of any premises to execute any work of any kind agree with such owner or occupier to supply materials for and to execute such work; and all expenses thereby incurred by the Corporation, with interest thereon at the rate aforesaid, shall be recoverable by any of the methods hereinbefore provided.

Notices

18 Except where in this Act, or in the regulations, it is otherwise expressly provided, the following provisions shall apply with reference to any notice given, or any requisition or demand made, by the Corporation under this Act or under the regulations, that is to say—

- (a) it may be in print or writing, or partly in print and partly in writing, and authenticated by the name of the Mayor or of the Secretary of the Corporation, being affixed thereto in print or in writing;
- (b) it may be addressed simply “To the Owner”, or “To the Occupier”, without naming him, of the premises to which it relates, describing them with reasonable certainty;
- (c) it may be given or made by delivering it to the person to whom it is addressed, or by leaving it for him with some person at his usual or last known place of abode or place of business, in Bermuda, or by forwarding it by post properly addressed to him at his usual or last known place of abode, or at his place of business, in Bermuda, or in the event of the absence from Bermuda of the addressee, by delivering it or forwarding it by post to his known agent in Bermuda, or if there is no agent known to the Corporation, then by affixing it on a conspicuous part of the premises to which it relates;
- (d) any such notice given, or requisition or demand made, by the Corporation may be cancelled by the Corporation in writing, and a new notice may be given to, or requisition or demand made on, the same or any other person in respect of the subject matter thereof.

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Service on Corporation

19 Any notice to, or demand on, the Corporation may be served by delivering the notice or demand to the Secretary of the Corporation, or by leaving the notice or demand for him with some person at the Corporation office in Hamilton.

Sewerage tax

20 (1) It shall be lawful for the Corporation to raise annually by an equal rate (to be called a "sewerage tax") on all real and personal property within the sewerage district such sum as is estimated by the Corporation to be necessary for the extension, construction, improvement, maintenance, upkeep and renewal of the sewerage system, and for the repayment of any loans made to the Corporation for such purpose, and by way of contribution to any sinking fund which the Corporation may see fit to establish for the repayment of any such loans, and for any other purposes incidental to the foregoing:

Provided that such sewerage tax shall not exceed twenty-five cents on the hundred dollars of the assessed value of the property liable to such tax.

(2) In estimating the amount of the annual expenditure for the purposes expressed in subsection (1) the Corporation shall take into account any other monies which are available for such purposes under this Act, or under any other Act for the time being in force.

Corporation may borrow money

21 Without prejudice to any other Act, the Corporation shall have power to borrow, whether by way of unsecured loan, debenture or otherwise as the Corporation shall deem expedient, any sum or sums not exceeding in the aggregate four hundred and eighty thousand dollars for any of the purposes expressed in section 20(1).

Special sewerage tax

22 The Corporation shall also have power during the continuance of this Act to raise by a special rate (to be called "special sewerage tax") on all hotels and other premises with their furniture, fixtures, fittings and plant within the sewerage district which, in the judgment of the Corporation, by reason of the purposes for which such premises are occupied or used, or the nature of the business carried on on such premises, or for any other special reason, derive a larger benefit from the establishment and maintenance of the sewerage system than premises occupied or used as dwelling-houses or for other ordinary purposes, such further annual sum, as is, with the annual sum to be derived from the sewerage tax, and any other monies, available for the like purposes under this Act, or any other Act, sufficient to make up the sum estimated by the Corporation to be sufficient for the then current year for the purposes expressed in section 20(1).

Application of Municipalities Act 1923, with modifications, to sewerage taxes

22A (1) Sewerage tax and special sewerage tax shall each be a "rate" within the meaning of the Municipalities Act 1923, to be imposed by a "rating Ordinance" under that Act.

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(2) For the purposes of a rating Ordinance imposing any sewerage taxes referred to in subsection (1), where a valuation unit is outside Hamilton but—

- (a) is within the sewerage district; and
- (b) is connected to the sewerage system,

the provisions of the Municipalities Act 1923 relating to the assessment of the annual rental value of a valuation unit, and the imposition and collection of rates, shall be construed as if the valuation unit were within Hamilton.

[Section 22A inserted by 2016 : 23 s. 3 effective 22 June 2016]

Appeals to Commissioners

23 (1) Any person who is aggrieved by any notice, requirement or demand of the Corporation under any of the powers contained in section 5, section 7, section 10, section 11 or section 12(3), or with any special sewerage tax imposed under the authority of section 22 may by a written notice (hereinafter referred to as “the notice of appeal”) given to the Corporation within seven days after such notice being given, or such requirement or demand being made appeal to the Commissioners, and may prosecute such appeal on complying with the following requirements, that is to say—

- (a) the notice of appeal shall state specifically the grounds of the appeal, which on the hearing of the appeal shall be the only grounds upon which the appellant may rely, except with the special permission of the Commissioners;
- (b) the appellant shall, within one week after giving the notice of appeal, deliver a copy thereof to the Commissioners and shall deposit with them the sum of forty-eight dollars as security for the costs of the appeal, or shall give to the Corporation some other security satisfactory to the Corporation for the payment of such costs, in the event of the costs becoming payable by the appellant, and, if the security is given to the Corporation, the Corporation shall forthwith give written notice thereof to the Commissioners.

(2) The Commissioners shall, as early as conveniently may be after the requirements of subsection (1) have been complied with, fix a time, within fifteen days thereafter at the latest, for the hearing of the appeal, giving at least three days written notice thereof to the appellant and to the Corporation.

(3) On the hearing of the appeal the Commissioners may examine on oath or affirmation, which may be administered by any Commissioner, any witnesses produced by either party to the appeal, and may call for and examine any books or documents in the possession of either party relating to the subject matter of the appeal, and may also enter and examine the premises with reference to which the appeal has arisen.

(4) The hearing of the appeal may be adjourned from time to time by the Commissioners for such period as they may deem expedient, and at the conclusion of the hearing, or as soon as practicable thereafter, the Commissioners shall give a written decision thereon, a copy of which shall be delivered to each party to the appeal.

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(5) The decision of the Commissioners, or of a majority of them, with respect to the subject matter of the appeal shall be final and conclusive as between the parties thereto and their successors.

(6) The costs and expenses incidental to the hearing and decision of the appeal shall be borne and paid by the party against whom the decision is given unless the Commissioners otherwise direct by such decision.

(7) If any dispute arises between the parties as to such costs and expenses it shall, on the written request of either party, be referred to the Commissioners, whose decision thereon shall be final.

(8) Witnesses attending before the Commissioners at the request of either party to an appeal and giving evidence, or producing documents required in evidence, shall be allowed witness money at the same rates as are, under the Rules of the Supreme Court, allowed to witnesses in civil cases, and such witness money shall be treated as a part of the costs and expenses of the appeal.

Exclusion of further appeal concerning special sewerage tax

24 In the event of an appeal to the Commissioners with reference to any special sewerage tax, and of subsequent proceedings by the Corporation for the recovery of such tax, no further appeal shall lie in the manner allowed by the Civil Appeals Act 1971 [*title 8 item 85*], from the judgment of the court of summary jurisdiction before which such tax is sued for so far as the amount of such tax is concerned.

Savings for Crown and others

25 Nothing in this Act shall affect the rights of Her Majesty, Her heirs and successors, or of any body politic or corporate, or of any other person or persons except such as are mentioned in this Act, and those claiming by, from or under them.

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SCHEDULE
FEES OF COMMISSIONERS

	\$
On receiving a notice of appeal	0.48
On receipt of a deposit as security for costs	0.48
On giving a notice of hearing an appeal	0.24
On hearing an appeal:	
for the first day of hearing	2.52
for each subsequent day or part of a day, according to time occupied	from 0.96 to 2.52
On preparing a written decision on an appeal, according to length	from 0.48 to 0.96
On a decision as to disputed costs and expenses on an appeal	0.48
For copies ¹ of decisions, or other documents, for delivering to the parties on request, per folio of 72 words, counting each figure as a word	0.06

[Assent Date: 26 March 1917]

Amended by:

1948 : 25 1963 : 56
1952 : 3 GN 367/1966
1952 : 11 1977 : 35
1961 : 1
2016 : 23]

¹ The charge for copies shall not be payable to each Commissioner.