No. 15 of 2013

Fourth Session Tenth Parliament Republic of Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Municipal Corporations Act, Chap 25:04

THE MUNICIPAL CORPORATIONS (AMENDMENT) BILL, 2013

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Municipal Corporations Act to change the number of Aldermen that may be elected to a Municipal Corporation and to provide for the election of such Aldermen by proportional representation.

Clauses 1 and 2 of the Bill would provide the short title and for the interpretation of certain words used in the Bill.

Clause 3 of the Bill would provide for the insertion of a new definition of "elect", "elected" and "election".

Clause 4 of the Bill would seek to amend section 11(8) of the Act to insert new paragraphs *(j)* and *(k)*. Proposed paragraph *(j)* would disqualify a person whose name appears on the list of candidates for Aldermen from being Councillor. Proposed paragraph *(k)* would disqualify a person who is elected as an Alderman from being a Councillor.

Clause 5 of the Bill would seek to amend section 12 of the Act to increase the number of Aldermen from two to four and to provide that a person who stands for election as a Councillor under section 11 cannot appear on the List of Aldermen under new section 12A. Proposed subsection (4B) of the Bill would provide that a person who is elected as a Councillor shall not be elected as an Alderman.

Clause 6 of the Bill would insert a new section 12A which would require parties fielding candidates in Local Government elections for Councillors at the same time as nominations are made for those Councillors to submit a list of names of persons who they propose as their selection for Aldermen. The number of Aldermen that may be proposed shall be the same as the number of Councillors that can be elected for each Council. Provision is also made for where a person whose name appears on the List of Aldermen is disqualified or is unable to serve as an Alderman, that the relevant party may name a substitute on the List of Aldermen.

Clause 7 of the Bill would repeal section 13 of the Act and replace it with a new section 13 which would set out the method for the election of Aldermen. Under this section the Elections and Boundaries Commission would allocate the number of Aldermen to each party who has fielded candidates for Councillors in the

election by first determining the quota of votes. This is done by dividing the total number of valid votes cast in the election by the number of seats in each Council that is designated for Aldermen. So, if in a Municipality 20,000 valid votes in total were received on the date of election, this would be divided by the number of seats in each Council designated for Aldermen, for example, 4 and the quota would therefore be 5,000. To then determine the number of Aldermen to be awarded to a party, each party's total votes are divided by the quota. This flat figure not rounded off is then the number of seats the individual party can have on the Council.

Where upon the allocation being computed under subsection (2) there still are vacant seats, the membership of such seats are computed by multiplying the number of seats each party received by the quota and minusing that figure from the total number of votes received by the individual party. The remaining seats will thereafter be allocated starting with the party who has the largest remainder.

Proposed subsection (6) makes provision for situations where there is a no-vote campaign and only one party wins all seats and there are therefore no votes to be made for the purpose of any calculation by providing that the party that fielded the candidate would be allotted four Aldermen from their List of Aldermen. Once the Elections and Boundaries Commission has completed its calculations of the allocations it will thereafter inform the respective parties of the number of Aldermen that they have been allotted and within four days of such information being provided, the parties are required to inform the Elections and Boundaries Commission of the persons from the List of Aldermen who they wish to serve as Aldermen. The Elections and Boundaries Commission is then required to declare the persons who are Aldermen for each Council.

The clause also provides for a vacancy arising in number of Aldermen. Where this occurs, the affected party would utilize the unexpended names on their respective List of Aldermen to fill the vacancy. Where the list is expended it would then fall back to the Council itself to elect the replacement Aldermen. In those instances in respect of a Municipality, the persons so elected shall be persons who qualify to be Councillors and who possess demonstrated knowledge, expertise or experience in professional or vocational occupations suitable to the development focus of the Municipality. In relation to a City or Borough Corporation, the persons who may be elected to be Aldermen shall be persons who qualify to be Councillors and who are members of a Village or Community Council within the Municipality.

Proposed section 13A would set out the requirements for the first meeting of the Council. It requires that the Councillors not

only deliver to the Chief Executive Officer their copy of the declaration delivered to him by the Returning Officer but would require such Councillors to take the oath of office once they have made and subscribed the declaration of acceptance of office.

Proposed section 13B would also require Aldermen declared by the Elections and Boundaries Commission to take the oath of office and subscribe the declaration and acceptance of office.

Clause 8 of the Bill would amend section 14 of the Act to change the time frame for the election of the Mayor and Deputy Mayor from the third day following the election of the Aldermen to the fourth day after the declaration of the Aldermen by the Elections and Boundaries Commission.

Clause 9 of the Bill would repeal and replace the Third Schedule to now reflect the changes in the number of Aldermen to now be four Aldermen of each Municipality.

Clause 10 of the Bill would insert a new Eleventh Schedule which would give an example of how the allocation of Aldermen is to be calculated.

THE MUNICIPAL CORPORATIONS (AMENDMENT)
BILL, 2013

Arrangement of Clauses

Clause

BILL

AN ACT to amend the Municipal Corporations Act, Chap 25:04

[, 2013]

ENACTED by the Parliament of Trinidad and Tobago as follows:

1. This Act may be cited as the Municipal Corporations (Amendment) Act, 2013.

2. In this Act, "the Act" means the Municipal Corporations Act.

3. Section 2(1) of the Act is amended by inserting

after the definition of "Council" the following new definition:

" "elect", "elected" or "election" means in relation to—

(a) an Alderman, the selection of an Alderman by a party under section 13;

(b) a Councillor, the election of a Councillor under section 11;and

(c) a Mayor or Deputy Mayor, the election of a Mayor or Deputy Mayor under section 14;".

Section 11 amended **4.** Section 11 of the Act is amended in subsection (8), by—

(a) deleting the word "." at the end of paragraph *(i)* and substituting the following ";"; and

(b) inserting after paragraph *(i)*, the following new paragraphs:

"*(j)* is a person whose name appears on the List of Aldermen under section 12a; and

(k) is a person who is a sitting Alderman having been declared an Alderman by the Elections and Boundaries Commission under section 13.".

Section 12 amended **5.** Section 12 of the Act is amended—

(a) in subsection (2), by deleting all the words after the words "section 5(2)" and substituting the following word ".";

(b) by inserting after subsection (2), the following new subsection:

" (2A) N o t w i t h s t a n d i n g subsection (2), the number of

Aldermen to be elected to the Council of each Corporation referred to in the Second Part of the Second Schedule shall be four in number."; and

(c) by deleting subsection (4) and substituting the following new subsections:

" (4) A person who stands for election as a Councillor under section 11 shall not stand for election as an Alderman under section 13.

(4A) A person who is a sitting Councillor having been elected Councillor shall not be elected as an Alderman.".

6. The Act is amended by inserting after section 12, the following new sections:

Section, 12A and 12B inserted

"List of Aldermen

12A. (1) Parties fielding candidates in an election under section 11 for a Municipality or Corporation shall, at the time of nomination of the candidates for Councillors, nominate candidates for Aldermen on a list to be known as the "List of Aldermen".

(2) The quantum of names on the List of Aldermen to be submitted by each party in accordance with the provisions of this section shall be equal in number to the number of Councillors to be elected in each Council respectively.

(3) Where, during the life of a Council, a person on a List of Aldermen of a party becomes disqualified from serving or is unable for any reason to serve as an Alderman, the relevant party may submit to the Elections and Boundaries Commission the name of a substitute Alderman.

Definition of Party

12B. For the purposes of section 12A and section 13, the word "party" includes an independent candidate referred to in Rule 23(1) of the Election Rules, made under the Representation of the People Act.".

Section 13 repealed and substituted

7. Section 13 of the Act is repealed and the following new sections are substituted:

"Method of election of Aldermen

13. (1) Upon the election of Councillors under section 11, the Elections and Boundaries Commission shall, in accordance with subsection (2), allocate the number of Aldermen for each party contesting such election.

(2) The Elections and Boundaries Commission shall allocate the number of Aldermen for each party contesting such election as follows:

(a) a quota of votes per seat shall first be determined by dividing the total number of valid votes cast at an election under section 11 by the number of seats in each Council designated for Aldermen; and

(b) the number of Aldermen to be awarded to a party shall then be determined by dividing the total number of valid votes cast in an election under section 11 in favour of such party by the quota of votes per seat determined in paragraph *(a)*.

(3) Where the final number calculated for each party under subsection (2)*(b)* results in a whole number and a raction or only a fraction, the fraction shall not be considered in

determining the number of seats to be allocated.

(4) Where the result of a calculation under subsection (2) yields no seats for Aldermen, to any party, the allocation of Aldermen by the Elections and Boundaries Commission shall be in descending order beginning with the party with the highest number of votes obtained in the election under section 11 until all seats have been allocated.

(5) Where the result of the calculation under subsection (2)*(b)* yields a remainder of vacant seats not absorbed by the number of Aldermen awarded to a party or parties concerned, the surplus calculated under subsection (6) for a party competes with other similar surpluses accruing to any other party or parties, and any vacant positions for an Alderman or Aldermen not allocated under subsection (2)*(b)*, shall be allocated to the party or parties concerned in sequence of the highest surplus until all vacant positions of Aldermen have been so allocated unless the party or parties concerned yielded no allocation of Alderman under subsection (2)*(b)*.

(6) In computing the surplus of a party for the purposes of subsection (5), first multiply the quota by the number of seats allocated to each party under subsection (2) and then minus that figure from the total number of valid votes received by each party in the election.

(7) The method of allocation of the number of Aldermen provided for under subsections (2), (5) and (6) shall be as provided for in the example set out in the Eleventh Schedule.

Eleventh Schedule

(8) Where the counting of the votes has been concluded and—

(a) the election result for the Councillors under section 11 has been declared; and

(b) the Elections and Boundaries Commission has determined the number of Aldermen for each party,

the Elections and Boundaries Commission shall, not later than four days after the election referred to in section 11, inform the relevant parties of the number of Aldermen which they have been allotted.

(9) Notwithstanding subsections (1) to (7), where only one candidate stands validly nominated under rule 15(2) and (3) of the Election Rules made under the Representation of the People Act, the Elections and Boundaries Commission shall allocate four Aldermen to the party which fielded the candidate and the party thereafter shall notify the Elections and Boundaries Commission of the names of the Aldermen from its List of Aldermen.

Chap. 2:01

(10) Within four days of being informed by the Elections and Boundaries Commission of the number of Aldermen each party has been allotted, the respective parties shall inform the Elections and Boundaries Commission of the names of the persons drawn from their respective Lists of Aldermen whom they wish to sit as the Aldermen of the Municipalities or Corporations.

(11) Where the parties under subsection (10) inform the Elections and Boundaries Commission of the Aldermen

from its List of Aldermen, the Elections and Boundaries Commission shall declare such person to be Aldermen in the Council and that declaration shall constitute their appointment.

(12) Where at any time after the election of Aldermen under this section a vacancy occurs in the office of Alderman, the Council shall, within thirty days of the occurrence of the vacancy, inform the Elections and Boundaries Commission of the vacancy.

(13) A party shall, where a vacancy occurs under subsection (12) in respect of an Alderman relative to the party, inform the Elections and Boundaries Commission of the name of a substitute Alderman from the remaining names on the List of Aldermen of the party to fill the vacancy.

(14) Where, for the purpose of subsection (13), in respect of a Municipality, there are no more names available on the relevant List of Aldermen, the Council shall, at the next meeting after the vacancy arises, elect an Alderman or such Aldermen, and such persons shall be persons who qualify to be Councillors and who possess demonstrated knowledge, expertise or experience in professional or vocational occupations suitable to the development focus of the Municipality.

(15) Where, for the purpose of subsection (13), in respect of a Municipal Corporation, other than a City or Borough Corporation, there are no more names available on the relevant List of Aldermen, the Council shall at the next meeting of the Municipal Corporation, elect an Alderman or such Aldermen, and such persons shall

be persons who qualify to be Councillors and who are members of a Village or Community Council functioning within the Municipality.

(16) Rule 23 of the Election Rules, made under the Representation of the People Act, shall not apply to the List of Aldermen as it applies to the election of Councillors.

(17) Notwithstanding subsection (15), where parties are assigned symbols under rule 23(2) of the Election Rules, such symbols shall be applied to the List of Aldermen of the respective parties.

Requirements for first meeting of Council

13A. At the first meeting of the Council the business which shall be transacted shall be—

   (a) firstly, the production to the Chief Executive Officer of the copy of the declaration of his election as a Councillor delivered to him by the Returning Officer in accordance with the Election Rules made under the Representation of People Act; and

   (b) secondly, the taking of the oath of office by those Councillors who have made and subscribed the declaration of acceptance of office and are in attendance at the meeting.

Oath of Aldermen

13B. Upon the Elections and Boundaries Commission declaring the election of persons as Aldermen under section 13(11), such persons shall take the oath of office and subscribe the declaration of acceptance of office.".

Section 14 amended

8. Section 14 of the Act is amended in subsection (2), by deleting the words "on the third day following that on

which the election of Aldermen has been held" and substituting the words "four days after the declaration by the Elections and Boundaries Commission of the election of Aldermen".

9. The Third Schedule to the Act is repealed and the following new Third Schedule is substituted:

"NUMBER OF COUNCILLORS AND ALDERMEN TO BE ELECTED TO THE COUNCIL OF EACH CORPORATION

Name of Municipality	Number of Electoral Districts	Number of Aldermen
1. City of Port-of-Spain	12	4
2. City of San Fernando	9	4
3. Borough of Arima	7	4
4. Borough of Point Fortin	6	4
5. Borough of Chaguanas	8	4".

10. The Act is amended by inserting after the Tenth Schedule the following new Schedule:

"ELEVENTH SCHEDULE

[Section 13(7)]

Example of Calculation of allocation of Aldermen for

Municipality X

A.   Calculation of Quota—

Total valid votes cast · · · 25,916

Number of seats in each · · · 4

Council designated for Aldermen

Quota = A/B   =   6,479

B.   Calculation of Aldermen Allocation

Total valid votes for Party A · · · 11,420

Total valid votes for Party B · · · 8,013

Total valid votes for Party C   6,483

Seat allocation for Party A -   11,420/6,479 = 1.76

Seat allocation for Party B -   8,013/6,479 = 1.23

Seat allocation for Party C -   6,483/6,479 = 1.00

Eliminate all fractions therefore—

Seat allocation for Party A- 1

Seat allocation for Party B- 1

Seat allocation for Party C- 1

                                     3

Number of vacant seats remaining to be allocated (the surplus)—

4 -   3   = 1

C. Calculation of allocation of remaining vacant seats—

    (a) Multiply quota by each party's number of seats earned—

       Party A – 6,479 x 1 = 6,479

       Party B – 6,479 x 1 = 6,479

       Party C – 6,479 x 1 = 6,479

    (b) Minus for each party from the total valid votes received from each party the figures under paragraph *(a)*—

       Party A – 11,420 – 6,479 = 4,941

       Party B –   8,013 – 6,479 = 1,534

       Party C –   6,483 – 6,479 = 4

In allotting the remaining vacant seats, start allocation with the party having the highest amount under paragraph *(b)*. Therefore Party A will be allocated the remaining seat while Parties B and C will receive no allocation.".

Passed in the House of Representatives this   day
of   , 2013.

                                        Acting Clerk of the House

    I confirm the above.

                                                        Speaker

    Passed in the Senate this   day of   , 2013.

                                        Acting Clerk of the Senate

    I confirm the above.

                                        President of the Senate

FOURTH SESSION

TENTH PARLIAMENT

REPUBLIC OF

TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Municipal Corporations Act, Chap. 25:04

Received and read the

First time ....

Second time ....

Third time ....