

**MONTSERRAT**  
**STATUTORY RULES AND ORDERS**  
**S.R.O. 58 OF 2011**

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**PENSIONS REGULATIONS**

**THE PENSIONS REGULATIONS MADE BY THE GOVERNOR  
ACTING ON THE ADVICE OF CABINET UNDER SECTION 22 OF  
THE PENSIONS ACT 2011 (No. 3 OF 2011).**

**PART 1—PRELIMINARY**

**1. Short title**

These Regulations may be cited as the Pensions Regulations 2011 and are deemed to have come into force on May 23, 2011.

**2. Interpretation**

2. In these Regulations—

“A.P.E.” means average pensionable emoluments;

“pensionable service” means service which may be taken into account in computing pension under these Regulations.

**PART 2—TYPES OF PENSION BENEFITS**

**3. Options**

(1) A pensionable officer who is eligible for pension benefits under paragraphs 6(a), 6(b) and 6(c) of the Act may opt to receive any one of the following—

(a) a pension terminating upon his death calculated in accordance with Part 4;

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- (b) a commuted pension terminating upon his death and a commuted gratuity both calculated in accordance with Part 5;
  - (c) a pension calculated in accordance with Part 6 terminating upon his death or the death of his spouse, whichever is the later;
  - (d) a commuted pension calculated in accordance with Part 6 terminating upon his death or the death of his spouse, whichever is the later, and a commuted gratuity;
  - (e) a pension calculated in accordance with Part 6 terminating upon his death or the expiration of 10 years after the date of his retirement, whichever is the later; or
  - (f) a commuted pension calculated in accordance with Part 6 terminating upon his death or the expiration of 10 years after the date of his retirement, whichever is the later, and a commuted gratuity.
- (2) Subject to regulation 14, a pensionable officer who is eligible for pension under paragraph 6(d) of the Act may be granted pension, gratuity or other allowance as provided under the public service law.

**4. Notice required for commuted gratuity**

A commuted gratuity is payable no earlier than 6 months from the date that the pensionable officer gives to the Financial Secretary notice of his intention to opt for the pension benefit under paragraph 3(1)(b), 3(1)(d) or 3(1)(f) unless the notice requirement is waived by the Financial Secretary.

**5. Information required for survivor options**

Before the officer exercises an option under—

- (a) paragraph 3(1)(c) or 3(1)(d), he must be informed of the value of the pension under paragraph 3(1)(c) or 3(1)(d) calculated under regulation 17 and the value of the pension under paragraph 3(a) or (b), respectively; and
- (b) paragraph 3(1)(e) or 3(1)(f), he must be informed of the value of the pension under paragraph 3(1)(e) or 3(1)(f)

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calculated under regulation 18 and the value of the pension under paragraph 3(a) or 3(b), respectively.

**6. Option irrevocable**

An officer may change his chosen pension benefit option at any time before the first payment of a pension benefit is made.

**PART 3—RECKONING SERVICE**

**7. Leave**

- (1) Time during which an officer is on paid leave must be taken into account in reckoning length of service.
- (2) Time during which an officer is on unpaid leave must not be taken into account in reckoning length of service, except —
  - (a) in the case of unpaid study leave; or
  - (b) where the Governor, by Order, provides that the unpaid leave should be taken into account in reckoning length of service.

**8. Suspension for misconduct is not service**

Time during which an officer is on suspension as a result of a charge must not be taken into account in reckoning length of service unless the officer is found not guilty of the charge.

**9. Acting service**

- (1) Acting service in an office must not be taken into account in reckoning length of service, except in the circumstances outlined in subregulation (2).
- (2) A period during which an officer performs only acting service in an office may be taken into account in reckoning length of service if the period of the acting service is immediately preceded or followed by service in a substantive capacity in a pensionable office.
- (3) A period during which an officer performs in a non-pensionable office may be taken into account in reckoning length of service if the period of the non-pensionable service is

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immediately followed by service in a substantive capacity in a pensionable office.

**10. Service in Her Majesty's Forces**

When an officer, during some period of his service, has been on the active list of the Royal Navy, the Army or the Royal Air Force, and pension contributions have been paid in respect of that period from the funds of Montserrat and have not been refunded, such period must not be taken into account as pensionable service.

**PART 4— CALCULATING PENSION**

**11. Annual pension on normal or early retirement**

- (1) Subject to regulation 12, the annual pension payable on normal retirement is the sum of the following—
  - (a)  $\frac{1}{600}$  of the pensionable officer's average pensionable emolument for each month of service completed before June 1, 2011; and
  - (b)  $\frac{1}{1200}$  of the pensionable officer's average pensionable emolument for each month of pensionable service completed from June 1, 2011.
- (2) Subject to subregulation (4) and regulation 12, the annual pension payable on early retirement is the amount calculated in subregulation (1) reduced by 5% for each year that the age at early retirement is less than his normal retirement age.
- (3) The percentage at which the annual pension must be reduced in subregulation (2) must be prorated for any fraction of a year.
- (4) The amount calculated in subregulation (2) is not to be reduced if the years of service equals or exceeds the minimum required for early retirement.

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**12. Maximum annual pension**

- (1) The annual pension must not exceed the following—

$$[85\% \times \text{A.P.E.}] - \left( \begin{array}{c} \text{social} \\ \text{security} \\ \text{benefit} \end{array} \times \frac{\begin{array}{c} \text{weeks of social} \\ \text{security contribution} \\ \text{from public service} \end{array}}{\begin{array}{c} \text{total weeks of social} \\ \text{security contribution} \end{array}} \right)$$

- (2) The calculation of the maximum pension under subregulation (1) must be done at the time of the award of pension and, if social security benefit is awarded at a later date, the calculation must be done again at that later date.

**13. Annual pension on retirement on medical grounds**

- (1) Subject to subregulation (2), the average pensionable emoluments on retirement on medical grounds is the same as the average pensionable emoluments for normal or early retirement under regulation 11, subject to regulation 12.
- (2) A pensionable officer who has been in service for more than 10 but less than 20 years, and who retires from the service on medical grounds may, on retirement, be granted a pension as if his pensionable service had been 20 years and the extra years completed after 31 May 2011.

**14. Annual pension on abolition of office**

- (1) If a pensionable officer's employment is terminated in the public interest, in consequence of the abolition of his office he may be granted—
- (a) if he has been in the public service for less than 10 years, instead of a gratuity under regulation 22, annual pension in the amount stated under regulation 11 subject to regulation 12; and
- (b) an additional sum at the annual rate of  $\frac{1}{60}$  of his average pensionable emoluments for each complete period of 3 years pensionable service.
- (2) The additional sum—

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- (i) must not exceed  $\frac{10}{60}$  of his average pensionable emoluments ; and
- (ii) together with the remainder of the officer's pension must not exceed the pension for which he would have been eligible if he had continued to hold the office held by him at the date of his retirement, and retired on reaching normal retirement age, having received all increments for which he would have been eligible by that date.

**PART 5— CALCULATING COMMUTED BENEFITS**

**15. Commuted pension**

- (1) Subject to subregulation (2), commuted pension is 75% of the annual pension calculated under regulation 11.
- (2) The commuted pension must not exceed the following:

$$[\text{Net pension}] - \left( \text{social security benefit} \times \frac{\text{weeks of social security contribution from public service}}{\text{total weeks of social security contribution}} \right)$$

- (3) In this regulation, “net pension” means 85% x A.P.E less 25% of the annual pension calculated under regulation 11.
- (4) The calculation of the maximum pension under subregulation (2) must be done at the time of the award of pension and, if social security benefit is awarded at a later date, the calculation must be done again at that later date.

**16. Commuted gratuity**

- (1) Commuted gratuity under paragraph 3(1)(b) is the annual pension under regulation 11, subject to regulation 12 multiplied by 25% of the factor set out in the Schedule that corresponds to the age of the pensionable officer when the commuted gratuity is paid.
- (2) The Schedule may be amended by Order made by the Governor acting on the advice of Cabinet.

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**PART 6— CALCULATING SURVIVOR OPTION**

**17. Spouse option**

The pension with survivor option under paragraphs 3(1)(c) and 3(1)(d) must be calculated so that the combined value of the pension and the spouse's benefit is the actuarial equivalent of the pension of the pensionable officer under regulation 11, subject to regulation 12 and Part 5 respectively, taking into consideration the age of the spouse at the officer's retirement, the prevailing interest rates and the life expectancy index.

**18. 10 year guarantee option**

The pension benefit under paragraphs 3(1)(e) and 3(1)(f) must be calculated so that the combined value of the pension benefit and the guarantee for 10 years is the actuarial equivalent of the pension of the pensionable officer under regulation 11, subject to regulation 12 and Part 5 respectively, taking into consideration the age of and life expectancy of the officer.

**PART 7 — CALCULATING OTHER BENEFITS**

**19. Early exit benefit for more than 10 years service**

- (1) The lump sum that may be granted to a pensionable officer with 10 years or more service is to be calculated as follows: 4% of the average pensionable emoluments multiplied by the number of years service, prorated for any fraction of a year served.
- (2) The rate of the deferred benefit is the amount under regulation 11 subject to regulation 12.

**20. Gratuity for pensionable officer with less than 10 years**

The gratuity that may be granted to a pensionable officer with less than 10 years service is 5 times the annual amount of the pension under regulation 11, subject to regulation 12.



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**21. Notice required**

- (1) A lump sum payment under regulation 19(1) is payable no earlier than 6 months from the date that the pensionable officer gives notice to the Financial Secretary of his intention to opt for the early exit benefit under section 13(1) of the Act unless the notice requirement is waived by the Financial Secretary.
- (2) A gratuity under regulation 20 is payable no earlier than 6 months from the date that the pensionable officer gives notice to the Financial Secretary of his intention to retire under section 15 of the Act unless the notice requirement is waived by the Financial Secretary.

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**SCHEDULE**

(Regulation 16)

**Age Factor for Commuted Gratuity**

<b>Age at Retirement</b>	<b>Factor</b>
45	13.9518
46	13.8411
47	13.7245
48	13.6019
49	13.4731
50	13.3379
51	13.1961
52	13.0476
53	12.8923
54	12.7299
55	12.5601
56	12.3828
57	12.1982
58	12.0068
59	11.8092
60	11.6053
61	11.3955

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<b>Age at Retirement</b>	<b>Factor</b>
<b>62</b>	<b>11.1802</b>
<b>63</b>	<b>10.9600</b>
<b>64</b>	<b>10.7355</b>
<b>65</b>	<b>10.5074</b>
<b>66</b>	<b>10.2757</b>
<b>67</b>	<b>10.0404</b>

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Made by the Governor acting on the advice of Cabinet this 17th day of November, 2011.

**CABINET SECRETARY**

Approved by the Legislative Assembly this 20<sup>th</sup> day of December, 2011.

**CLERK OF THE LEGISLATIVE ASSEMBLY**

Published by exhibition by the Cabinet Secretary at the Office of the Legislature,  
Farara Plaza, Brades, this            day of            , 2011.

**CABINET SECRETARY**

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