



MONTSERRAT

## CHAPTER 1.05

# LEGISLATORS' CONDITIONS OF SERVICE ACT and Subsidiary Legislation

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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**CHAPTER 1.05**

**LEGISLATORS' CONDITIONS OF SERVICE ACT**

**ARRANGEMENT OF SECTIONS**

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## CHAPTER 1.05

### LEGISLATORS' CONDITIONS OF SERVICE ACT

*(Acts 2 of 1984, 12 of 1992, 17 of 1997 and 9 of 2011)*

AN ACT TO REGULATE THE TERMS OF SERVICE OF AND PROVIDE PENSIONS FOR LEGISLATORS.

#### Commencement

*[1 June 1984]*

#### Short title

1. This Act may be cited as the Legislators' Conditions of Service Act.

#### Interpretation

2. In this Act—

“**basic allowance**” means the taxable emoluments provided in the Appropriation Act and paid to a Legislator by virtue of his being a member of the Legislative Assembly, but exclusive of any other allowance whatsoever;

“**Constitution**” means the Montserrat Constitution Order 2010;

“**Legislator**” means—

- (a) a person who is or was an elected or nominated member of the Legislative Assembly; or
- (b) the Speaker of the Legislative Assembly;

“**Premier**” means the person appointed under section 33(1) of the Constitution;

“**Speaker**” means the person elected as Speaker of the Legislative Assembly in accordance with section 59(3) of the Constitution.

*(Amended by Acts 17 of 1997 and 9 of 2011)*

#### Right of Premier to pension

3. (1) Every person who, having held the office of Premier and having served as a Legislator for the periods amounting in aggregate to not less than six years, ceases at any time thereafter to be Premier, shall be paid a pension under this Act and shall continue to be paid during the life-time of that person.

- (2) The Premier's pension shall, if the person to whom it is payable becomes entitled to a basic allowance as a Legislator or as Premier, cease to be payable during any period in respect of which that person is in receipt of a basic allowance as a Legislator or as Premier:

Provided that, if the amount of such basic allowance be less than the amount of pension, the higher amount shall be payable.

(3) The Premier's pension shall be payable only under the circumstances set out in section 5. (*Amended by Act 9 of 2011*)

### **Rate of Premier's pension**

4. (1) The Premier's pension shall be a monthly allowance equal to two-thirds of the highest rate of basic allowance paid to such person at any time as Premier:

Provided that, such pension shall not be less than \$600 monthly and provided further that where a commuted gratuity has been paid in accordance with the provisions of section 9 the rate of pension payable shall be 75% of the rate specified in this section.

(2) The pension payable to the Premier under this Act shall be paid in arrears in equal monthly instalments with effect from the date on which that person becomes entitled thereto and, subject to the provisions of this Act, shall continue to be paid during the lifetime of the Premier.

(3) No computation of the Premier's pension under this Act shall be made after a general election until thirty days (or such longer period not exceeding three months as may be prescribed) have elapsed after the general election.

*(Amended by Acts 17 of 1997 and 9 of 2011)*

### **Circumstances in which other Legislators will receive pension**

5. (1) Subject to the provisions of this Act, a pension shall be paid to any person who—

(a) has served as a Legislator for periods amounting in the aggregate to not less than six years; and

(b) has ceased to be a Legislator; and

(c) either—

(i) has attained the age of fifty years; or

(ii) not having attained the age of fifty years, has produced medical evidence to the satisfaction of the Medical Board appointed by His Excellency, The Governor that he is incapable by reason of infirmity of mind or body of discharging the duties of a Legislator or of undertaking any other gainful employment and that such infirmity is likely to be permanent.

(2) In determining the length of service of any person as a Legislator, no account shall be taken of any legislative service prior to the 1st day of January 1960.



(3) Where a person ceases to be a Legislator but is not eligible for a pension because of the provision of subsection (1)(c)(i), the pension for which he would have been eligible at the date when he ceased to be a Legislator shall be paid to him with effect from the date on which he attains the age of fifty years, notwithstanding the provisions in subsection (1), if at that date he is not otherwise disqualified for the payment of a pension under this Act.

### Rate of pension

6. (1) The pension payable to any person other than the Premier under this Act shall be a monthly allowance equal to—

- (a) 50% of the highest rate of basic allowance paid to a person having six years' service but less than twenty years' service in aggregate as a Legislator; or
- (b) 60% of the highest basic allowance paid to a person having twenty or more years' service in aggregate as a Legislator:

Provided that, no pension shall be less than \$360 monthly and provided further that, where a commuted gratuity has been paid in accordance with the provisions of section 9 the rate of pension payable shall be 75% of the rate specified in this section. (*Amended by Act 9 of 2011*)

(2) The pension payable to any person under this Act shall be paid in arrears in equal monthly instalments with effect from the date on which that person becomes entitled thereto and, subject to the provisions of this Act shall continue to be paid during the lifetime of that person.

(3) No computation of a pension under this Act shall be made after a general election until thirty days (or such longer period not exceeding three months as may be prescribed) have elapsed after the general election. (*Amended by Act 17 of 1997*)

### Cessation of pension if person in receipt thereof again becomes a Legislator

7. (1) A pension payable under this Act shall, if the person in receipt thereof again becomes a Legislator, cease to be payable during the period in respect of which that person is in receipt of emoluments as a Legislator:

Provided that, if the amount of such basic allowance be less than the amount of pension, the higher amount shall be payable.

(2) At the expiration of the period referred to in subsection (1) during which a person has further service as a Legislator, the rate of pension shall be recalculated in accordance with the provisions of section 6.

(3) A pension recalculated in accordance with subsection (2) shall be paid at the recalculated rate with effect from the date of cessation of the further period of service as a Legislator which gave rise to the recalculation.

### **Gratuity of Legislators not eligible for pension**

**8. (1)** Notwithstanding anything contained in this Act any person who has served as a Legislator for less than six years in aggregate and has ceased to be a Legislator shall be entitled to a gratuity equal in amount to 25% of the total basic allowance received during the period so served.  
*(Amended by Act 17 of 1997)*

**(2)** A gratuity granted in accordance with subsection (1) shall be repaid to the Government of Montserrat in a manner to be prescribed should any person become eligible for a pension under this Act.

*(Amended by Acts 12 of 1992)*

### **Commuted gratuity**

**9. (1)** This section applies to a person who is a Legislator at the time this section comes into operation or who thereafter becomes a Legislator.

**(2)** A person who has served as a Legislator for periods amounting in the aggregate to not less than six years and ceases to be a Legislator is entitled to receive a commuted gratuity, notwithstanding that he may by reason of his age not be eligible to receive pension at the time he ceases to be a Legislator.

**(3)** The rate of commuted gratuity shall be a sum equivalent to 25% of the amount payable to the Legislator by way of pension over a period of ten years following the day he ceases to be a Legislator.

**(4)** No computation of commuted gratuity shall be made until three months have elapsed from the time the person entitled to commuted gratuity ceases to be a Legislator.

**(5)** Where a Legislator has received commuted gratuity in respect of a period of service and thereafter again becomes a Legislator the commuted gratuity payable shall be re-calculated based on the total aggregate service as a Legislator and the Legislator shall be entitled to the difference between the commuted gratuity so calculated and the amount earlier received by way of commuted gratuity.

*(Inserted by Act 17 of 1997)*

### **Gratuity payable on death**

**10.** Where a Legislator dies in office there shall be paid to his estate a gratuity in amount equal to either—

(a) the gratuity payable under section 8 or 9 as the case may be;  
or

(b) one year's basic allowance assessed at the highest level of basic allowance paid during the period of his service;

whichever is higher.

*(Substituted by Act 17 of 1997)*

### **Pension not assignable**

**11.** A pension payable under this Act shall not be assignable except for the purpose of satisfying—

- (a) a debt to the Crown or to the Government of Montserrat; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife, former wife or any minor child, legitimate or illegitimate, of the person to whom the pension is payable,

and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt or claim, except a debt due to the Crown or to the Government of Montserrat or any sum recoverable pursuant to any such order of a court as aforesaid.

### **Awards to be paid out of revenue**

**12. (1)** All awards payable under this Act shall be charged on and paid out of the Revenue of Montserrat.

**(2)** Where a Legislator is entitled to a pension under section 5 and thereafter is elected or nominated to be a Legislator he shall be entitled to receive that pension or the remuneration payable to him as a Legislator, whichever is higher.

*(Substituted by Act 17 of 1997)*

### **Disqualification from receiving gratuity or pension**

**13.** Notwithstanding any of the other provisions of this Act a Legislator or a member of Legislative Assembly shall be disqualified from continuing to receive or receiving any pension or gratuity under this Act where such person has—

- (a) ceased to be qualified to be elected as a member of the Legislative Assembly under the provisions of section 52(1) of the Constitution; or
- (b) been, at any time, convicted by a Court of competent jurisdiction in Montserrat of any offence in connection with his public duties committed at such time as he served as a Legislator or a member of Legislative Assembly.

*(Amended by Acts 17 of 1997 and 9 of 2011)*

### **Power to make regulations**

**14.** The Governor acting on the advice of Cabinet may make Regulations—

- (a) prescribing the terms and conditions of service, including the level of emoluments, of the Speaker, the Premier, Ministers of the Government of Montserrat and all other members of the Legislative Assembly; *(Amended by Act 9 of 2011)*

- (b) prescribing in the case of payments of pensions the days on which such payments shall be made;
- (c) prescribing, where a recipient of any award under this Act is incapable of managing his affairs, that the award may be paid to some other person on his behalf;
- (d) prescribing anything which may be required by this Act to be prescribed, including any forms he may consider necessary for the administration of this Act;
- (e) prescribing the manner in which, and the persons by whom, accounts and awards under this Act shall be kept and recorded;
- (f) prescribing any increases in the rate of pension payable; and
- (g) for any other purposes deemed necessary to give effect to this Act.

*(Amended by Act 17 of 1997)*

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## LEGISLATORS' CONDITIONS OF SERVICE REGULATIONS

### ARRANGEMENT OF REGULATIONS

#### REGULATION

1. Short title
2. Emoluments of Legislators holding Ministerial Office
3. Emoluments of Legislators not holding Ministerial Office
4. Provision for payment of emoluments

SCHEDULE 1: Legislators Holding Ministerial Office

SCHEDULE 2: Legislators Not Holding Ministerial Office

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### LEGISLATORS' CONDITIONS OF SERVICE REGULATIONS – SECTION 14

*(S.R.O. 42/2007 and Act 9 of 2011)*

#### **Commencement**

*[1 June 2006]*

#### **Short title**

1. These Regulations may be cited as the Legislators' Conditions of Service Regulations.

#### **Emoluments of Legislators holding Ministerial Office**

2. There shall be paid to a Legislator being the holder of any Ministerial Office specified in Schedule 1 to these Regulations emoluments of the amounts stated in relation to that office in the second column of that Schedule.

#### **Emoluments of Legislators not holding Ministerial Office**

3. There shall be paid to a Legislator not holding any Ministerial Office emoluments of the amounts stated in relation to that Legislator in the second column of Schedule 2 to these Regulations.

#### **Provision for payment of emoluments**

4. The emoluments payable under these Regulations shall be paid out of moneys provided by the Legislative Assembly.

*(Amended by Act 9 of 2011)*

**SCHEDULE 1****LEGISLATORS HOLDING MINISTERIAL OFFICE**

Premier	Salary .....	\$103,404 pa
	Housing Allowance .....	\$36,000 pa
	Entertainment .....	\$10,800 pa
	Duty .....	\$60,000 pa
	Travelling .....	\$19,200 pa
	Telephone .....	\$3,600 pa
Other Ministers	Salary .....	\$96,516 pa
	Housing .....	\$36,000 pa
	Entertainment .....	\$10,800 pa
	Duty .....	\$42,000 pa
	Travelling .....	\$16,800 pa
	Telephone .....	\$1,800 pa

*(Amended by Act 9 of 2011)*

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**SCHEDULE 2****LEGISLATORS NOT HOLDING MINISTERIAL OFFICE**

Legislators	Salary .....	\$60,480 pa
	Duty .....	\$12,000 pa
	Travelling .....	\$9,600 pa
	Telephone .....	\$1,800 pa
Speaker	Salary .....	\$65,232 pa
	Entertainment .....	\$7,200 pa
	Duty .....	\$12,000 pa
	Travelling .....	\$9,600 pa
	Telephone .....	\$1,800 pa

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