



**MONTSERRAT**

## **CHAPTER 10.05**

### **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—

#### **PUBLIC ORDER ACT**

Act 9 of 1987 .. in force 30 December 1987

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

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**CHAPTER 10.05**

**PUBLIC ORDER ACT**

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## CHAPTER 10.05

### PUBLIC ORDER ACT

*(Acts 9 of 1987 and 9 of 2011)*

AN ACT TO MAKE PROVISION FOR THE PRESERVATION OF PUBLIC ORDER AND CONVENIENCE ON THE OCCASION OF PUBLIC MEETINGS AND PROCESSIONS.

#### Commencement

*[30 December 1987]*

#### Short title

1. This Act may be cited as the Public Order Act.

#### Interpretation

2. In this Act—

“**Appropriate Officer**” of Police means the member of the Police Service for the time being in charge of the police station nearest to the place at which a meeting is to be held; *(Amended by Act 9 of 2011)*

“**Chief Officer of Police**” means the member of the Police Service having chief command of the police in the police division or police subdivision in which a meeting, gathering or assembly of persons, or a march or procession as the case may be is to be held; *(Amended by Act 9 of 2011)*

“**meeting**” means a meeting, gathering or assembly of persons held for the purpose of the discussion of matters of public interest or for the purpose of the expression of views on such matters, but does not include a meeting for religious purpose;

“**noisy instruments**” includes loudspeakers, amplifiers and boxes;

“**public meeting**” includes any meeting in a public place and any meeting which the public or any section thereof are permitted to attend, whether on payment or otherwise, but not a meeting for religious purposes;

“**public place**” means any highway, public park or garden, any sea beach, and any public bridge, landing-place, road, street, thoroughfare or not; and includes any open space to which for the time being, the public has or is permitted to have access, whether on payment or otherwise;

“**public procession**” means a march or procession in a public place.

### Notification required of meetings in public places

3. (1) Any person who desires to hold a meeting in a public place shall, not less than forty eight hours and not more than one month previous to the time at which he desires to hold such meeting notify the Appropriate Officer of Police of his intention to hold the said meeting and of the time and the place at which the said meeting is to be held:

Provided, however, that where the Appropriate Officer of Police is satisfied in respect of any meeting in a public place that having regard to the circumstances or for any other reason the said notice could not reasonably have been given within the time specified therefor in this section he may in respect of such meeting accept such shorter period of notice as he shall think fit.

(2) Where notice has been given under subsection (1) of the holding on the same date of two or more meetings within one half of a mile of each other the Commissioner of Police may, having regard to the proximity of the meetings and the time at which they are to be held, prohibit or impose restrictions on the holding of any such meeting, other than the meeting in respect of which notice was first received, whenever he shall consider it desirable in the interest of public order or convenience so to do:

Provided, however, that the organizer of any such meeting may appeal to the Governor from the decision of the Commissioner of Police and in such case the Governor may give such directions to the Commissioner of Police as he may think fit.

(3) Where the Commissioner of Police prohibits or imposes restrictions on the holding of any meeting under subsection (2) the Appropriate Officer of Police shall cause notice in writing to be given thereof to the person giving notice of the holding of such meeting under subsection (1) either by personal service or by leaving such notice in a letter addressed to that person at his last or usual place of abode or place of business.

(4) Any member of the Police Service may stop and cause to be dispersed any meeting in a public place in respect of which no notice has been given as required by subsection (1) or which has been prohibited by or is being held contrary to any restrictions imposed by the Commissioner of Police under subsection (2). (*Amended by Act 9 of 2011*)

### Power to regulate public meetings

4. (1) All members of the Police Service—

(a) in Plymouth, not below the rank of Inspector;

(b) in other districts, not below the rank of Sergeant,

may as occasion requires direct the conduct of all meetings in public places and direct all public meetings to disperse when they have reason to apprehend any breach of the peace. (*Amended by Act 9 of 2011*)



(2) All members of the Police Service shall and may keep order in public places and prevent obstructions on the occasions of public meetings and in any case where public places may be thronged or may be liable to be obstructed. (*Amended by Act 9 of 2011*)

### **Permission required for procession**

5. (1) No person shall hold or take part in any public procession (other than a funeral procession) unless the permission in writing of the Chief Officer of Police has been first obtained.

(2) Any person who desires to hold a public procession other than a funeral procession shall not less than forty eight hours previous to the time at which he desires to hold the procession apply in writing to the Chief Officer of Police for permission to hold the procession. If the Chief Officer of Police grants permission he shall at the same time order in writing the routes to be followed and times during which the procession may pass along such routes and shall give any special orders which he may consider necessary in relation to such procession. Every person who holds or takes part in a procession shall conform to the orders of the Chief Officer of Police.

(3) If the Chief Officer of Police refuses to grant permission for the holding of a public procession the person who has applied for such permission may appeal in writing against such refusal to the Governor, and in such case the Governor may give such directions to the Chief Officer of Police as he may think fit.

### **Power of Governor to prohibit meetings**

6. (1) Notwithstanding the provisions of any other law, where at any time it appears to the Governor to be in the interests of good order or the public safety so to do, he may by order prohibit in any area, or in any district, village or town in Montserrat—

- (a) all public meetings, and all gatherings and assemblies of persons and all processions and marches in any public place;
- (b) all persons from organising, holding or speaking at or attending any public meetings, or any gathering or assemblies of persons or any procession or marches in any public place,

save in cases where a permit is issued in accordance with this section.

(2) Where any person desires to organize or hold any public meeting, or any gathering or assembly of persons or any procession or march in any public place, which is prohibited by an order under this section, he shall, at least forty eight hours before such intended event, make application for a permit to the Chief Officer of Police or within such shorter time before the said procession as the Chief Officer of Police may consider reasonable.

(3) The Chief Officer of Police to whom application is made in accordance with subsection (2) may, in any case, refuse or grant the application. If the Chief Officer of Police grants permission he shall issue to the applicant a permit in writing for the desired event to take place, but every such permit shall be issued subject to such terms and conditions (to be observed by all persons organising, speaking at or attending the event) as the officer may think necessary in order to effect the object of the order.

(4) Any applicant for a permit under this section who is aggrieved by the refusal of the Chief Officer of Police to grant the permit or by the terms of the permit, may appeal in writing to the Governor, and in such case the Governor may give such direction to the Chief Officer of Police as he may think fit.

(5) Every order under this section—

- (a) shall remain in force for a period of not more than one month (without prejudice to the power to issue a further order at or before the end of such period);
- (b) shall be published in the newspaper;
- (c) may at any time be varied, altered, amended or revoked by the Governor.

### **Prohibition of uniforms in connection with political objects**

7. (1) Subject as hereinafter provided, any person who in a public place or at any public meeting wears any uniform signifying his association with any political organisation or with the promotion of any political object shall be guilty of an offence:

Provided that, if the Commissioner of Police is satisfied that the wearing of any such uniforms as aforesaid on any ceremonial, anniversary, or other special occasion will not be likely to involve risk of public disorder, he may, with the consent of the Governor, by order permit the wearing of such uniforms on that occasion either absolutely or subject to such conditions as may be specified in the order.

(2) Where any person is charged before any court with an offence under this section, no further proceedings in respect thereof shall be taken against him without the consent of the Director of Public Prosecutions except such as the court may think necessary by remand (whether in custody or on bail) or otherwise to secure the due appearance of the person charged, so, however, that if that person is remanded in custody he shall, after the expiration of a period of eight days from the date on which he was so remanded, be entitled to be discharged from custody on entering into a recognisance without sureties unless within that period the Director of Public Prosecutions has consented to such further proceedings as aforesaid.

*(Amended by Act 9 of 2011)*

### Prohibition of quasi-military organizations

**8. (1)** If the members or adherents of any association of persons, whether incorporated or not, are—

- (a) organised or trained or equipped for the purpose of enabling them to be employed in usurping the functions of the police or of the Defence Force; or
- (b) organised and trained or organised and equipped either for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object, or in such manner as to arouse reasonable apprehension that they are organised and either trained or equipped for that purpose,

then any person who takes part in the control or management of the association, or in so organising or training as aforesaid any member or adherents thereof, shall be guilty of an offence under this section:

Provided that, in any proceedings against a person charged with the offence of taking part in the control or management of such an association as aforesaid it shall be a defence to that charge to prove that he neither consented to nor connived at the organisation, training, or equipment of members or adherents of the association in contravention of this section.

**(2)** No prosecution shall be instituted under this section without the consent of the Director of Public Prosecutions. (*Amended by Act 9 of 2011*)

**(3)** If upon application being made by the Director of Public Prosecutions it appears to the High Court that any association is an association of which members or adherents are organised, trained or equipped in contravention of this section, the Court may make such orders as appear necessary to prevent any disposition without the leave of the Court of property held by or for the association and in accordance with rules of court may direct an inquiry and report to be made as to any such property as aforesaid and as to the affairs of the association and make such further orders as appear to the Court to be just and equitable for the application of such property in or towards the discharge of the liabilities of the association lawfully incurred before the date of the application or since that date with the approval of the Court, in or towards the repayment of money to persons who became subscribers or contributors to the association in good faith and without knowledge of any such contravention as aforesaid, and in or towards any costs incurred in connection with any such inquiry and report as aforesaid or in winding-up or dissolving the association, and may order that any property which is not directed by the Court to be so applied as aforesaid shall be forfeited to the Crown. (*Amended by Act 9 of 2011*)

**(4)** In any criminal or civil proceedings under this section proof of things done or of words written, spoken or published (whether or not in the presence of any party to the proceedings) by any person taking part in the control or management of any association or in organising, training or

equipping members or adherents of an association shall be admissible as evidence of the purposes for which, or the manner in which members or adherents of the association (whether those persons or other) were organised, or trained or equipped.

(5) If a judge of the High Court, Magistrate, a Registrar or any one of them is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this section has been committed, and that evidence of the commission thereof is to be found at any premises or place specified in the information, he may, on an application made by an officer of police of a rank not lower than that of corporal, grant a search warrant authorising any such officer as aforesaid named in the warrant together with any other persons named in the warrant and any other officers of police to enter the premises or place at any time within one month from the date of the warrant, if necessary by force, and to search the premises or place at any time within one month from the date of the warrant, if necessary by force, and to search the premises or place and every person found therein and to seize anything found on the premises or place or on any such person which the officer has reasonable ground for suspecting to be evidence of the commission of such an offence as aforesaid:

Provided that, no woman shall, in pursuance of a warrant issued under this subsection, be searched except by a woman.

### **Prohibition of offensive weapons at public meetings and processions**

9. (1) Any person who, while present at any public meeting or on the occasion of any public procession, has with him any offensive weapon, otherwise than in pursuance of lawful authority, shall be guilty of an offence.

(2) For the purposes of this section, a person shall not be deemed to be acting in pursuance of lawful authority unless he is acting in his capacity as a servant of the Crown or as a member of the Police Service.

*(Amended by Act 9 of 2011)*

### **Prohibition of offensive conduct conducive to breaches of the peace at public meetings**

10. Any person who at any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace or by virtue of which a breach of the peace is likely to be occasioned, shall be guilty of an offence.

### **Disorderly behaviour at public meetings**

11. (1) Any person who at a lawful public meeting acts in a disorderly manner for the purpose of preventing the transaction of business for which the meeting was called together shall be guilty of an offence.

(2) Any person who incites others to commit an offence under this section shall be guilty of a like offence.

(3) If any police constable reasonably suspects any person of committing an offence under the foregoing provisions of this section, he may require that person to declare to him immediately his name and address, if that person refuses or fails so to declare his name and address, or gives a false name and address, he shall be liable on summary conviction to a fine of \$75, and if he refuses or fails so to declare his name and address or if the constable reasonably suspects him of giving a false name and address, the constable may without warrant arrest him.

### **Permission required for use of noisy instrument at public meetings and public processions**

12. (1) Subject to any regulations made under this Act, any person who holds, organises, forms, speaks at or takes part in any public meeting or public procession at which a noisy instrument is used without the permission of the Chief Officer of Police shall be guilty of an offence.

(2) Subject to any regulations made under this Act the Chief Officer of Police may in his discretion grant permission in writing to any person to use a noisy instrument for the purpose of any public meeting or public procession upon such terms and conditions, and subject to such restrictions as he by such permission determines.

(3) The Governor acting on the advice of Cabinet may make regulations for the purposes of controlling the use of noisy instruments at public meetings and public processions and may by such regulations exempt any area or any class of meetings or processions from the provisions of this section or may limit the operation of this section to meetings or processions or any class thereof between such hours as he may specify. (*Amended by Act 9 of 2011*)

### **Offences**

13. (1) Any person who—

- (a) holds, organises or speaks at any meeting in a public place in respect of which no notice has been given under section 3(1) or in respect of which a notice of the prohibition of such meeting has been served under section 3(3) or the holding of which is in any way contrary to any restrictions contained in a notice served under section 3(3); or
- (b) fails peacefully to depart on the stoppage or dispersal under section 3(4) of any meeting in a public place; or
- (c) contravenes or fails to comply with any directions given under section 4; or
- (d) holds, organises, forms, speaks at, attends or takes part in any meeting, gathering or assembly of persons, or any procession or march which is prohibited under section 5 or section 6; or

- (e) contravenes or fails to comply with any of the terms, conditions or restrictions subject to or upon which a permit under sections 5, 6 or 12 has been issued; or
- (f) contravenes or fails to comply with any of the terms or requirements of an order under section 6, shall be liable on summary conviction to a fine of \$200 and to imprisonment for four months.

(2) Any person who contravenes any of the provisions of section 7 or 8 shall be liable on summary conviction to a fine of \$500 and to imprisonment for three months or, on conviction on indictment, to imprisonment for one year.

(3) Any person who commits any other offence under, or contravenes any other provision of this Act shall be liable on summary conviction to a fine of \$200 and to imprisonment for three months.

### **Powers of members of the Police Service**

14. The powers conferred by this Act on any member of the Police Service shall be in addition to and not in substitution for any of the powers which members of the Police Service may possess under any other law for the time being in force. *(Amended by Act 9 of 2011)*

