



MONTSERRAT

## CHAPTER 10.13

# LIQUOR LICENCE 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—

### LIQUOR LICENCE ACT

Act 7 of 1896 .. in force 9 September 1896

Amended by Acts: 15 of 1920, 10 of 1931, 6 of 1934, 1 of 1942,  
2 of 1945, 2 of 1949, 23 of 1961, 7 of 1966,  
23 of 1973, 13 of 1981, 17 of 1985, 9 of 1986,  
7 of 1988, 11 of 1989, 15 of 1998, 4 of 2003,  
9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

### LIQUOR LICENCES (FEES) ORDER – Section 8(2)

S.R.O. 14/1999 .. in force 25 January 1999

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**CHAPTER 10.13**

**LIQUOR LICENCE ACT**

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## CHAPTER 10.13

### LIQUOR LICENCE ACT

(Acts 7 of 1896, 15 of 1920, 10 of 1931, 6 of 1934, 1 of 1942, 2 of 1945, 2 of 1949, 23 of 1961, 7 of 1966, 23 of 1973, 13 of 1981, 17 of 1985, 9 of 1986, 7 of 1988, 11 of 1989, 15 of 1998, 4 of 2003 and 9 of 2011)

#### Commencement

[9 September 1896]

#### PART 1

#### PRELIMINARY

#### Short title

1. This Act may be cited as the Liquor Licence Act.

#### Interpretation

2. In this Act—

“**constable**” includes any member of the Police Service and any local constable; (*Amended by Act 9 of 2011*)

“**intoxicating liquor**” means and includes spirits, wines, liqueurs, and other fermented liquors;

“**licensed person**” means a person to whom a licence for the sale of intoxicating liquor has been granted under this Act and is in force;

“**licensed premises**” means premises in respect of which a licence for the sale of intoxicating liquor has been granted under this Act and is in force;

“**revenue officer**” means and includes any Treasury officer and any person authorised by the Accountant General in writing to act as a revenue officer for the purpose of this Act;

“**sale by retail**” in respect of any intoxicating liquor means the sale of such liquor, in the case of spirits in quantities less than twenty gallons, and in the case of other intoxicating liquors in quantities less than fifteen gallons;

“**spirits**” includes rum, gin, brandy, whiskey, and all spirituous liquors;

“**unlicensed premises**” means premises in respect of which a licence for the sale of intoxicating liquor has not been granted under this Act, or is not in force.

(*Amended by Act 7 of 1988*)

## PART 2

## ILLICIT SALES

**Prohibition of sale of intoxicating liquor without a licence**

**3. (1)** No person shall sell, offer, expose or keep for sale any intoxicating liquor without being duly licensed under the provisions of this Act to sell the same, or at any place where he is not authorised by his licence to sell the same:

Provided that, nothing in this Act contained shall apply—

- (a) to the sale of spirits in any quantity of not less than fifty gallons by the owner of any distillery within Montserrat; or
- (b) to any physicians, surgeons, apothecaries, or druggists with respect to any liquor which they may use in preparing or dispensing medicines.

**(2)** Subject to the foregoing provisions of this section, any person who sells, offers, exposes or keeps for sale any intoxicating liquor, when not authorised so to do by a licence granted under this Act, and any licensed person who sells, offers, exposes or keeps for sale any intoxicating liquor except as allowed by his licence, or at any place other than his licensed premises, shall be subject to the following penalties, that is to say—

- (a) for the first offence he shall be liable to a penalty of \$240, or to imprisonment for a term of three months;
- (b) for the second offence he shall be liable to a penalty of \$480, or to imprisonment for a term of six months, and he may, by order of the Magistrate by whom he is tried, be disqualified for any term, of five years, from holding any licence for the sale of intoxicating liquor;
- (c) for the third and any subsequent offence he shall be liable to a penalty of \$480, or to imprisonment for a term of twelve months, and may by order of the Magistrate by whom he is tried, be disqualified for any term of years, or forever, from holding any licence for the sale of intoxicating liquor.

**(3)** In addition to any other penalty imposed by this section, any person convicted of a second or any subsequent offence under this section shall, if he be the holder of a licence, forfeit such licence, and in the case of a conviction for any offence under this section, the Magistrate may, if he thinks it expedient so to do, declare all intoxicating liquor found in the possession of the offender, and the vessels containing such liquor, to be forfeited.

### **Occupiers of unlicensed premises liable for sale**

4. The occupier of any unlicensed premises on which any intoxicating liquor is sold, or if such premises are occupied by more than one person, every occupier thereof shall, if it be proved that he was privy or consenting to the sale, be subject to the penalties imposed upon persons for the sale of intoxicating liquor without a licence.

### **Truck system unlawful**

5. It shall not be lawful to barter, truck, or change, or substitute for money, or give or deliver in payment or part payment for wages, any intoxicating liquor, and any barter, truck, change, substitution, gift, or delivery of any such liquor contrary to this section, shall be deemed a sale of such liquor without a licence.

### **Penalty for supplying liquor to be unlawfully retailed**

6. (1) Any person who knowingly sells or delivers or causes to be sold or delivered, directly or indirectly, any intoxicating liquor to any person to the end that the same may be unlawfully sold or consumed in any part of Montserrat, shall be liable to the same penalty as if he had sold such intoxicating liquor without a licence.

(2) Any person who knowingly sells or delivers or permits any other person to sell or deliver any intoxicating liquor to a person who is under seventeen years of age or employs any person or permits any person who is under seventeen years of age to sell or deliver any intoxicating liquor shall be liable on summary conviction to a penalty of \$500.

*(Inserted by Act 7 of 1988 and amended by Act 4 of 2003)*

### **Grant of Licence**

7. (1) Notwithstanding anything contained in this Act the Governor may empower a person, appointed under his hand for the purpose, to grant a licence to any applicant, whether a licence holder or not under this Act, to sell intoxicating liquors for such periods, during such hours, and on such premises as shall be determined by the person granting the licence.

(2) A licence issued in accordance with subsection (1) shall be subject to such condition (including the payment for such licence) as may be prescribed by the person granting it and the conditions so prescribed shall be inserted in the licence.

(3) Any licence granted in accordance with the provisions of subsections (1) and (2) may be revoked at the instance of the person granting it.

(4) If any person to whom a licence is granted under the provisions of this section contravenes any of the requirements prescribed in such licence, such person shall be guilty of an offence and shall be liable on summary conviction to a penalty of \$500.

*(Substituted by Act 17 of 1985 and amended by Act 4 of 2003)*

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## PART 3

## LICENCE

**Description of licence and duties payable thereon**

**8. (1)** The following licences may be granted under the provisions of this Act—

- (a) a General Licence to sell intoxicating liquor which shall authorise the holder of such licence to sell by retail intoxicating liquor of every description;
- (b) a Wholesale Licence which shall authorise the holder to sell intoxicating liquors of every description in any quantity, provided that, such licence shall not authorise—
  - (i) the sale or delivery at any one time of less than one dozen reputed quart bottles or the equivalent quantity, of each kind of intoxicating liquor sold or delivered at such time; or
  - (ii) the sale of any intoxicating liquor to be drunk on the premises where the same is sold;
- (c) a Bottle Licence which shall authorise the holder to sell in bottle any intoxicating liquor in any quantity, provided that, such licence shall not authorise—
  - (i) the sale or delivery at any one time of less than one reputed pint bottle of each kind of intoxicating liquor sold or delivered at such time; or
  - (ii) the sale of any intoxicating liquor to be drunk on the premises of the person selling the same;
- (d) a Hotel Licence which shall authorise the holder to sell by retail in the hotel therein named or described to guests, that is to say, persons lodging or taking a meal in the hotel, any intoxicating liquor to be consumed upon the premises;
- (e) a Restaurant Licence which shall authorise the holder to sell by retail to persons served with and taking a meal in the premises therein named any intoxicating liquor to be consumed on the premises.

*(Amended by Act 7 of 1988)*

**(2)** The Governor acting on the advice of Cabinet may by Order prescribe the licence fees payable for the following licences—

- (a) a General Licence;
- (b) a Wholesale Licence;
- (c) a Bottle Licence;
- (d) a Hotel Licence;

(e) a Restaurant Licence.

The fee prescribed may be quarterly or annually payable.

(3) An Order made under subsection (1) shall be placed before the Legislative Assembly and shall be subject to a negative resolution of the Assembly passed within ninety days of signature.

*(Amended by Acts 15 of 1998 and 9 of 2011)*

### **Licensing days**

9. (1) On 5 January, 5 April, 5 July, and 5 October in every year, or, when any of such days falls on a Sunday, on the next day following, which days are hereinafter referred to as licensing days, the Magistrate shall hold a special sitting of the Magistrate's Court for the purpose of hearing and considering applications for licences for the sale of intoxicating liquor.

(2) On 1 December in every year or when the aforesaid day falls on a Sunday or a Public Holiday, on the next day following, which day is hereinafter referred to as Licensing Day, the Magistrate shall hold a special sitting of the Magistrate's Court for the purpose of hearing and considering applications for licences for the sale of intoxicating liquor for the succeeding year.

(3) If the Magistrate is unable to dispose of all the applications before him on the Licensing Day, he may adjourn the special sitting to another day.

*(Amended by Act 7 of 1988)*

### **Notice of application for licence**

10. Every person desiring to apply for a licence for the sale of intoxicating liquor shall, ten days prior to one of the licensing days, serve on the officer in charge of the police in Montserrat a notice in writing of his intention to make such application. Such notice shall be in the Form set forth in Schedule A, and shall specify the description of licence for which such person intends to apply, and the situation and description of the premises in respect of which he intends to apply for a licence.

Such person shall also give public notice of his application by affixing a copy of such notice at the Court House.

### **Inspection of premises**

11. It shall be lawful for any revenue officer or constable, after the service of such notice, to enter upon the premises in respect of which notice is given and inspect and examine the same.

### **Hearing of application**

12. Every person applying for a licence shall appear before the Magistrate on the licensing day, and the Magistrate shall hear any objection which may be made by the officer in charge of the police or any other

person to the granting of such licence, and if the Magistrate considers that the licence should be granted, he shall grant to such applicant a certificate under his hand in the Form set forth in Schedule B, specifying the particular licence to be granted to such person, and the situation of the premises in respect of which the licence is to be granted.

### **Appeal from refusal of application**

13. If the Magistrate refuses to grant a certificate for a licence the applicant may appeal to the Court of Appeal and the Court shall have power to remit the case to the Magistrate, or to make an order granting the applicant a certificate for the licence applied for by him.

### **Issue of licence by Accountant General**

14. On the production of the Magistrate's certificate, and on payment of the sum prescribed in this Act, the Accountant General shall grant to the person named in the certificate a licence of the kind therein specified, in the Form set forth in Schedule C, and such licence so granted by the Accountant General shall be sufficient authority for the person named therein to sell such intoxicating liquor or liquors as are mentioned in the said licence on the premises, and in the manner therein prescribed.

### **Duration of licence**

15. Every licence granted under this Act other than a licence granted under section 7 shall unless revoked earlier be in force for a period of three months or one year, as the case may be, and every such licence shall expire at the day specified in the Licence.

*(Substituted by Act 7 of 1988)*

### **Premises having internal communication with unlicensed premises used for public resort not to be licensed**

16. No premises shall be licensed under this Act which are connected by any internal communication with any unlicensed premises which are used for public entertainment or resort, or as a refreshment house, or a shop, unless for good reason shown the Magistrate shall otherwise order.

### **Licences not to be granted to convicts or minors**

17. No licence shall be granted to any person who has been convicted of any felony or of any offence punishable by two years imprisonment, or to any person under the age of twenty one years.

### **Premises on estates where rum is made not to be licensed**

18. No licence shall be granted to any person for the sale of intoxicating liquor upon any estate or premises upon which rum is made or distilled.

### **Grounds on which licence may be refused**

**19.** An application for a licence under this Act may be refused on any one or other of the grounds following, that is to say—

- (a) in case of premises not already licensed, that—
  - (i) they are unfit for the purpose of the licence for which the application is made;
  - (ii) the applicant is a person of bad character;
  - (iii) the applicant, having been within the preceding five years the holder of a licence in any part of Montserrat, has allowed his licensed premises to become a nuisance to the neighbourhood;
  - (iv) the premises for which the application is made are so situate that they cannot be kept under effective police control or are likely to be a nuisance to the neighbourhood;
  - (v) the applicant has neglected to comply with the provisions of this Act in making his application;
  - (vi) there is a sufficient number of premises already licensed to meet the needs of the neighbourhood;
  - (vii) the applicant is already the holder of, or the applicant for, a licence within four miles of the place in respect of which the application is under consideration;
- (b) in the case of premises already licensed, that the premises have within the preceding twelve months been so conducted as to be a nuisance in the neighbourhood;
- (c) in the event of the applicant not being then the holder of a licence that—
  - (i) he is a person of bad character;
  - (ii) having within the preceding five years been the holder of a licence in any part of Montserrat, he has allowed his licensed premises to become a nuisance to the neighbourhood.

### **Forfeiture of licence on conviction**

**20.** Where any licensed person is convicted of any offence against any Act regarding the removal or sale of spirits, or of any offence under section 112 or 117 of the Customs (Control and Management) Act involving intoxicating liquor his licence shall be forfeited, in addition to any other penalty, and no licence shall be issued to him or to any other person acting in his interest or in any way related to him to sell spirits on the same premises without the written consent of the Accountant General.

*(Amended by Act 13 of 1981)*

### **Application for renewal of licence**

21. On the expiration of any licence granted under this Act, the holder thereof may, without notice, apply to the Magistrate for the renewal thereof, and the following provisions shall have effect with respect to such application—

- (a) the applicant need not attend in person unless he is required by the Magistrate so to attend;
- (b) the Magistrate shall not entertain any objection to the renewal of such licence, or take any evidence with respect to the renewal thereof, unless written notice of an intention to oppose the renewal of such licence has been served on the holder thereof seven days at least before the licensing day.

### **Issue of licence on renewal**

22. On hearing the application the Magistrate shall, unless cause be shown to the contrary, grant to the applicant a certificate authorising the renewal of the licence, and, on production of such certificate and of the expired licence, and on payment of the sum payable in respect of such licence, the Accountant General shall issue a new licence to the applicant: Provided that, any endorsements made in pursuance of this Act on the expired licence shall be endorsed upon such new licence.

### **Transfer of licence**

23. Any holder of a licence who wishes to remove to some other premises than those mentioned in his licence before the expiration of his licence, shall apply to the Magistrate, who upon being satisfied of the fitness of the premises to which he wishes to remove, may grant a certificate authorising such removal, and upon production of such certificate the Accountant General shall endorse on the licence the description of the premises to which such removal is authorised, and thereupon such premises shall become the licensed premises of the holder of such licence.

### **Sale of liquor by auctioneer**

24. An auctioneer may, by virtue of a licence under the hand of the Accountant General, on the occasion of any sale of the furniture and effects of any person at a private dwelling house, sell any intoxicating liquor which is the private property of the owner of the furniture and effects, and for such licence no fee or sum shall be paid; but such licence shall be prepared by the auctioneer requiring the same, and shall specify particularly the name of the owner of the intoxicating liquor, the quantity and kind to be sold and the premises from which the same is to be sold, and before the granting of such licence the auctioneer shall make a declaration that the intoxicating liquor to be sold is, to the best of his knowledge and belief, the property of the person whose furniture and effects are about to be sold; and an account shall be rendered by such auctioneer to the Accountant General

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of the intoxicating liquor sold by him under such licence, and a sum of 5% on the amount of such sales shall be paid by such auctioneer into the Treasury.

#### PART 4

#### REGULATION OF LICENSED PREMISES

##### **Licence to be hung up or affixed to premises**

**25.** Every licence to sell intoxicating liquor shall be hung up or affixed to some conspicuous part of the premises in respect of which it is granted, and any holder of a licence who fails to comply with the requirements of this section shall be liable to a penalty of \$100 for every day on which such failure shall continue.

*(Amended by Act 4 of 2003)*

##### **Sign to be printed or fixed on premises**

**26. (1)** Every licensed person, other than the holder of an Hotel Licence, shall cause to be printed or fixed, and shall during the continuance of his licence and no longer keep printed and fixed in large and legible letters outside and over the most public entrance of his licensed premises his name with the addition—

- (a) in the case of the holder of a General Licence, of the words “**licensed to retail liquors of all descriptions**”;
- (b) in the case of the holder of a Wholesale Licence, of the words “**licensed wholesale dealer in liquor**”;
- (c) in the case of the holder of a Bottle Licence, of the words “**licensed to sell liquor in bottle**”.

**(2)** No person shall have any words or letters on his premises indicating that he is authorised to sell any intoxicating liquor which he is not duly authorised to sell.

**(3)** Any person who contravenes any of the provisions of the preceding subsections of this section shall be guilty of an offence, and on summary conviction thereof shall be liable for the first offence to a fine of \$300, and for any subsequent offence to a fine of \$500.

*(Amended by Acts 7 of 1988 and 4 of 2003)*

##### **Penalty for using internal communication between licensed premises and unlicensed premises used for public resort**

**27. (1)** Every person who makes or uses, or allows to be made or used, any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort, or as a refreshment house, or as a shop, shall be liable to a penalty of \$300 for

every day during which such communication remains open. (*Amended by Act 4 of 2003*)

(2) In addition to any penalty imposed by this section, any person convicted of an offence under this section shall, if he be the holder of a licence, forfeit such licence.

### **Penalty on illicit storing of liquor**

28. If any licensed person has in his possession on his licensed premises any description of intoxicating liquor which he is not authorised to sell, he shall, unless he accounts for the possession of the same to the satisfaction of the Magistrate by whom he is tried, forfeit such liquor and the vessels containing the same, and shall be liable to a penalty for the first offence of \$300 and for every subsequent offence \$500.

*(Amended by Act 4 of 2003)*

### **Penalty for using uncovered lights, etc.**

29. Any licensed person who uses an open or uncovered light of any description when throwing up or drawing off rum in any cellar or room in which rum is on the premises of such person kept or stored (except in the shop or store in which rum is sold on the premises of such person), or who throws up or draws off rum at any time except between the hours of eight in the forenoon and four in the afternoon, or at any time on Sunday shall be liable to a penalty of \$500.

*(Amended by Act 4 of 2003)*

### **Penalty for adulteration**

30. Any licensed person who sells, or exposes, or keeps for sale, or who permits to be sold or exposed, or kept for sale, any intoxicating liquor fraudulently diluted or adulterated, or any rum of a less strength than 5% below proof by Syke's hydrometer, or by twenty-six degrees of strength by the common bubble regulated thereby, shall be liable to a penalty of \$500.

*(Amended by Act 4 of 2003)*

### **Licensed person liable for acts of his family and servants**

31. Every licensed person shall be and is hereby declared to be liable and responsible for the breach of any of the provisions of this Act by any member of his family or by any person employed in or about his licensed premises.

PART 5  
HOURS OF CLOSING

**Hours for closing**

**32.** It shall not be lawful for any licensed person to keep his licensed premises open for the sale of intoxicating liquor nor to suffer any such liquor to be drunk or consumed in or at his licensed premises at any time on Sunday, Christmas Day or Good Friday, or at any time before 6 a.m. or after 12 midnight on any other day: Provided however that, the closing time of any Licensed premises shall be at three o'clock in the morning Saturdays, Sundays and on Public Holidays and shall be at the discretion of the owners of licensed premises from December fifteen to January second.

Any licensed person who has or keeps his licensed premises open or sells, or suffers to be sold, drunk or consumed upon such premises, any intoxicating liquor in contravention of this section, shall be liable to a penalty for the first offence of \$300 and for any subsequent offence \$500:

Provided always that, this section shall not apply to any premises in respect of which a Hotel Licence has been granted.

*(Amended by Acts 7 of 1988, 11 of 1989 and 4 of 2003)*

**Power of Justice of the Peace to close licensed premises in cases of riot, etc.**

**33.** Any Justice of the Peace in event of any riot or tumult happening or being expected to happen, may order every licensed person whose licensed premises are in or near the place where such riot or tumult happens, or is expected to happen, to close such premises for such time as the Justice may specify; and if any person keeps open his premises for the sale of intoxicating liquor in contravention of such order it shall be lawful for any person, acting by order of any Justice of the Peace, to use such force as may be necessary for the purpose of closing such premises; and the person so keeping open his premises shall be guilty of an offence and shall on summary conviction thereof be liable to a fine of \$500.

*(Amended by Act 4 of 2003)*

**Penalty on persons found on premises during closing hours**

**34.** If during any period during which any premises are required under the provisions of this Act to be closed any person is found on such premises, he shall, unless he satisfies the Court that his presence on such premises was not in contravention of the provisions of this Act with respect to the closing of licensed premises, be liable to a penalty of \$300. *(Amended by Act 4 of 2003)*

## PART 6

## OFFENCES AGAINST PUBLIC ORDER

**Penalties for permitting drunkenness; keeping disorderly house; harbouring constables; permitting gaming**

35. If any licensed person—

- (a) permits drunkenness or any violent, quarrelsome or riotous conduct to take place on his premises; or
- (b) sells any intoxicating liquor to any drunken person; or
- (c) knowingly permits his premises to be the habitual resort or place of meeting of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution, if he allows them to remain thereon longer than is necessary for the purpose of obtaining reasonable refreshment; or
- (d) knowingly harbours or knowingly suffers to remain on his premises any constable during any part of the time appointed for such constable being on duty, unless for the purpose of keeping or restoring order, or in the execution of his duty; or
- (e) supplies any liquor or refreshment, whether by way of gift or sale, to any constable on duty, unless by authority of some superior officer of such constable; or
- (f) bribes or attempts to bribe any constable; or
- (g) suffers any gaming or unlawful games to be carried on in his premises,

he shall be liable to a penalty for the first offence of \$300 and for any subsequent offence \$500.

*(Amended by Act 4 of 2003)*

**Penalty for permitting premises to be a brothel**

36. If any licensed person permits his premises to be a brothel, he shall be liable to a penalty of \$500, and shall forfeit his licence, and he shall be disqualified forever from holding any licence for the sale of intoxicating liquor.

*(Amended by Act 4 of 2003)*

**Power to exclude drunkards from licensed premises**

37. (1) Any licensed person may refuse to admit to and may turn out of his licensed premises any person who is drunken, violent, quarrelsome, or disorderly, and any person whose presence on his premises would subject him to a penalty under this Act.

(2) Any such person who, upon being requested in pursuance of this section by such licensed person or his agent or servant, or any constable, to

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quit such premises, refuses or fails to do so, shall be liable to a penalty of \$500, and all constables are required, on the demand of such licensed person, his agent or servant, to expel, or assist in expelling, every such person from such premises, and may use such force as may be required for such purposes. *(Amended by Act 4 of 2003)*

## PART 7

### SALE AND REMOVAL OF SPIRITS

#### **Licensed persons to keep sales-book**

**38. (1)** Every licensed person other than the holder of a Hotel Licence shall keep a book in which shall be fairly recorded all sales of spirits in quantities exceeding one gallon. Such book shall be in the Form and contain the particulars specified in Schedule D, and shall be at all times available for inspection by any revenue officer, and may be used as evidence. On every such sale, such licensed person shall deliver to the buyer a sale-note in the Form contained in Schedule E.

**(2)** Every licensed person who fails to comply with any requirement of this section shall be liable to a penalty of \$500.

*(Amended by Act 4 of 2003)*

#### **Spirits exceeding one gallon not to be removed without sale-note or permit**

**39.** No spirits in quantities exceeding one gallon shall be removed from any place to any other place within Montserrat except in the package in which such spirits were received by the buyer and unless accompanied by a sale-note or a permit from the Accountant General or a revenue officer.

#### **Condition of removal under sale-note**

**40.** A sale-note shall not authorise the removal of spirits except in the quantity therein stated and up to 9 p.m of the day on which it is dated, or to any other place than the one named therein.

#### **Penalties for removing or receiving spirits without sale-note or permit**

**41. (1)** Any licensed person or any other person who sends out, delivers, or removes from or receives into his stock, custody, or possession, any spirits in quantity exceeding one gallon without the same being accompanied with a permit or sale-note, and any carrier, boatman, or other person who carries, removes, or transports, or by means of his horse, cattle, cart, vessel, boat, or other conveyance, suffers to be carried, removed, or transported, or aids or assists in carrying, removing or transporting from part of Montserrat to any other part thereof, any spirits which by law are required to be accompanied with a permit or sale-note without the same being accompanied with such permit or sale-note, shall for each and every such offence forfeit and pay a sum of \$1,000 over and above every other

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penalty and forfeiture to which he may be liable by virtue of this Act, or any other Act relating to the revenue, and in default of payment shall be liable to be imprisoned for any term of six months.

*(Amended by Act 4 of 2003)*

(2) Every person so offending may be arrested without warrant by any revenue officer or constable.

(3) All spirits removed contrary to the provisions of this Act, and the packages or vessels in which the same are contained, and every horse, cattle, cart, vessel, boat, or other conveyance used in the removal thereof, shall be forfeited, and may be seized by any revenue officer or constable.

### **Power to search persons conveying spirits**

42. It shall be lawful for any revenue officer or constable to stop and detain any person whom he reasonably supposes to be removing or carrying any spirits, and to stop and search and examine any conveyance and any package which he reasonably supposes to contain any spirits, and to demand the production of the permit or sale-note accompanying such spirits. If any person who is found removing or carrying any spirits which are by law required to be accompanied with a permit or sale-note has such permit or sale-note, but neglects or refuses to produce it on being required so to do by any revenue officer or constable, such person may be forthwith arrested, and the spirits, package and conveyance shall be forfeited, and such person shall be liable to a penalty of \$1,000.

*(Amended by Act 4 of 2003)*

## **PART 8**

### **ENTRY ON PREMISES**

#### **Constable may enter licensed premises for enforcement of Act**

43. (1) Any constable may for the purpose of preventing or detecting the violation of any of the provisions of this Act, at all times enter upon any licensed premises.

(2) Every person who by himself or by the person in his employment, or acting by his direction, or with his consent, refuses or fails to admit any constable in the execution of his duty demanding to enter in pursuance of this section, shall be liable to a penalty of \$500.

*(Amended by Act 4 of 2003)*

#### **Revenue officer may enter licensed premises and take account of liquor therein**

44. Any revenue officer may, as often as he thinks fit, at any time during which any licensed premises may legally be open, visit and enter upon and into such premises, and inspect, open, gauge, test, and examine all and any

casks, vessels and packages on any such premises containing, or which he may suppose to contain, intoxicating liquor, and take an account of all intoxicating liquor on such premises, and if he be refused entrance to any such premises, or if such premises be unoccupied, he may force and break and enter and break any doors on such premises for the purpose of making such inspection, and any licensed person who refuses admittance to his licensed premises to any revenue officer shall be liable to a penalty of \$500.

*(Amended by Act 4 of 2003)*

### **Licensed person to point out liquor to officers**

**45.** Every licensed person shall, when required by any revenue officer, point out to such revenue officer all intoxicating liquor on his licensed premises, and in default he shall be liable to a penalty of \$500, and any intoxicating liquor not pointed out as aforesaid, which may be discovered on such premises, shall be forfeited.

*(Amended by Act 4 of 2003)*

### **Forfeiture of liquor found in excess**

**46. (1)** When upon the examination of any licensed premises the quantity of intoxicating liquor found appears to the revenue officer examining the same to be in excess of the quantity the licensed person should have on hand, the revenue officer shall state to the licensed person what quantity and kind of intoxicating liquor he claims to be in excess, and it shall be the duty of such licensed person to account satisfactorily for such excess, and if he fails so to do the quantity of intoxicating liquor so in excess shall be held, without further proof, to have been obtained in fraud of the revenue laws of Montserrat, and shall be forfeited, and may be forthwith seized accordingly, and such licensed person shall be liable to a penalty of \$1,000. *(Amended by Act 4 of 2003)*

**(2)** It shall not be necessary to prove what particular vessels of spirits are in excess, but a like quantity of intoxicating liquor of the like kind and the packages containing the same may be seized out of any part of the stock of the licensed person.

### **Search warrant for detection of liquor sold or kept contrary to law**

**47. (1)** Any Magistrate, if satisfied by information on oath that there is reasonable ground to believe that any intoxicating liquor is sold by retail or exposed or kept for sale by retail at any place in Montserrat, whether a building or not, in which such liquor is not authorised to be sold by retail, may, in his discretion, grant a warrant under his hand, by virtue whereof it shall be lawful for any revenue officer or constable, at any time or times within one month from the date thereof, to enter, and if need be by force, the place named in the warrant and every part thereof and examine the same and search for intoxicating liquor therein and seize and remove any intoxicating liquor found therein, which there is reasonable ground to

suppose is in such place for the purpose of unlawful sale at that or any other place, and the vessels containing such liquor.

(2) If the owner or occupier of such place is convicted of selling by retail or exposing or keeping for sale by retail any liquor which he is not authorised to sell by retail, the intoxicating liquor so seized and the vessels containing such liquor shall be forfeited.

(3) Every person who by himself or any other person in his employment, or acting by his direction or with his consent, refuses or fails to permit any revenue officer or constable demanding to enter in pursuance of this section into any premises or place occupied by or under the control of such person, shall be liable to a penalty of \$1,000. (*Amended by Act 4 of 2003*)

(4) When a revenue officer or constable has entered any premises in pursuance of this section and has seized and removed such liquor as aforesaid, any person found at the time on the premises shall, until the contrary is proved, be deemed to have been on such premises for the purpose of illegally dealing in intoxicating liquor, and shall be liable to a penalty of \$300.

### **Search for concealed spirits**

**48. (1)** It shall be lawful for any revenue officer without any search warrant to enter and search any place, whether licensed or not, wherein he has reasonable cause to suspect that spirits are concealed, and to seize any spirits which may be found, unless the possession of such spirits is accounted for to his satisfaction.

(2) All spirits which are so found and are not accounted for by sale-notes or permits shall be deemed to be spirits illegally removed without permit or sale-note, and shall be forfeited, and the occupier of the premises whereon they are found shall be deemed a person who has illegally received such spirits into his possession contrary to the provisions of section 41, and shall be punishable under the provisions of that section.

## **PART 9**

### **REPEATED CONVICTIONS**

#### **Conviction may be recorded on licence**

**49.** The Magistrate by whom any licensed person is convicted of any offence under this Act, may order that the conviction be recorded on his licence.

### **Forfeiture of licence on third conviction**

**50.** If any licensed person on whose licence two convictions for offences committed by him against this Act have been recorded is convicted of any offence against this Act, the Magistrate may direct—

- (a) that the licence of such person be forfeited, and that he be disqualified for a term of five years from the date of such third conviction from holding any licence; and
- (b) that the premises in respect of which his licence was granted be disqualified from receiving any licence for a term of two years from the date of such third conviction:

Provided that, nothing in this section contained shall be construed as intended to limit or affect any liability or disqualification to which any person may be subject under any other section of this Act.

## PART 10

### RECOVERY AND APPLICATION OF PENALTIES

#### **Penalties recoverable before a Magistrate**

**51.** All offences against this Act shall be prosecuted, and all penalties under this Act shall be recoverable before a Magistrate under the provisions of the Magistrate's Court Act.

#### **Application of penalties**

**52.** All penalties recovered and the proceeds of all forfeitures realised under this Act shall be paid into the Treasury:

Provided that, the Governor may, if he thinks fit, order that any part, not exceeding one-half of any such penalty or of the proceeds of any such forfeiture, be given to any officer or officers or to any informer or informers in such manner and in such proportion as he directs.

**SCHEDULE A**

*(Section 10)*

*(Amended by Act 7 of 1988)*

**NOTICE OF APPLICATION FOR LICENCE**

To .....Officer in charge of the Police

I, A.B., now residing at ..... *(state place of residence)* do hereby give you notice that it is my intention to apply to the Magistrate at the special sitting of the Magistrate’s Court to be held at the Court House on the ..... day of ....., 20....., for a ..... *(state the description of licence for which it is intended to apply)* to sell ..... *(state whether “intoxicating liquor” or “rum”)* on my premises at ..... *(describe as particularly as possible the locality of the premises)*.

Dated this ..... day of ....., 20..... .

(Signature) .....

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**SCHEDULE B**

*(Section 12)*

*(Amended by Act 7 of 1988)*

**MAGISTRATE'S CERTIFICATE FOR LICENCE**

I, C.D., Magistrate, do hereby certify that I have heard and considered the application of A.B. made to me on the ..... day of ....., 20..... , for a ..... *(state description of licence for which application was made)* to sell ..... *(state whether "intoxicating liquor" or "rum")* and that I have decided that the said A.B. may have such licence.

I therefore authorise you on payment by the said A.B. of such sum as any Act now in force may require to be paid before the said licence is granted, to grant to the said A.B. a ..... *(state description of licence)* to sell ..... *(state whether "intoxicating liquor" or "rum")* on his premises at ..... *(describe as particularly as possible the locality of the premises).*

Dated this ..... day of ....., 20..... .

(Signature)

Magistrate.

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**SCHEDULE C***(Section 14)***LICENCE**

A.B. is hereby granted a ..... *(state description of licence)* to sell ..... *(state whether “intoxicating liquor” or “rum”)* in his (“**open store**” or “**shop**” or as the case may be) in ..... *(describe as particularly as possible the locality of the premises).*

This licence shall continue in force from the ..... day of ....., 20....., to the ..... day of ....., 20....., unless the same shall be forfeited under any of the provisions of the Liquor Licence Act.

Dated this ..... day of ....., 20..... .

(Signature)

Accountant General.

N.B.—The Licence hereby granted authorises the holder to sell at the above-mentioned premises (continue the description of the licence granted as near as may be in the words of section 8.)

**SCHEDULE D***(Section 38(1))***SALES BOOK**

Date.	Description and quantity of spirits sold and packages in which such spirits are contained.	Name and Address of Purchaser.

**SCHEDULE E**

*(Section 38(1))*

**SALE NOTE**

I hereby certify that I have this ..... day of .....  
sold to ....., residing at .....,  
the following spirits, viz.: .....*(state  
the quantity and description of spirits and the package in which they are contained)* to  
be conveyed to the house (or shop) of .....

A.B., Licensed Dealer in Spirits.

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**LIQUOR LICENCES (FEES) ORDER – SECTION 8(2)**

*(S.R.O. 14/1999)*

**Commencement**

*[25 January 1999]*

**Short title**

1. This Order may be cited as the Liquor Licences (Fees) Order.

**Fees**

2. The fees payable in respect of the licences set out in Column 1 shall be those set out in Column 2 and may be paid by quarterly instalments or as a single payment—

COLUMN 1	COLUMN 2
<i>(a)</i> a General Licence	\$100
<i>(b)</i> a Wholesale Licence	\$200
<i>(c)</i> a Bottle Licence	\$100
<i>(d)</i> a Hotel Licence	\$200
<i>(e)</i> a Restaurant Licence	\$100



