



MONTSERRAT

## CHAPTER 13.01

### IMMIGRATION 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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9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)  
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20 of 2012 .. in force 27 December 2012

**IMMIGRATION REGULATIONS**     *For Regulations see Inside Cover*

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**IMMIGRATION REGULATIONS – Section 40**

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5/1973 .. in force 22 March 1973

44/1975 .. in force 12 November 1975

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34/1985 .. in force 11 October 1985

10/1988 .. in force 29 July 1988

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**IMMIGRATION ACT**  
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## CHAPTER 13.01 IMMIGRATION ACT

*(Acts 7 of 1945, 13 of 1953, 5 of 1954, 10 of 1959,  
5 of 1962, 29 of 1968, 18 of 1970, 3 of 1973, 25 of 1975,  
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12 of 1993, 13 of 1997, 8 of 1999, 4 of 2002, 1 of 2009, 14 of 2010,  
9 of 2011, 10 of 2012 and 20 of 2012)*

### Commencement

*[10 January 1946]*

### Short title

1. This Act may be cited as the Immigration Act.

### Interpretation

2. (1) In this Act—

“**asylum claim**” is a claim by a person that to remove him from or require him to leave Montserrat would be contrary to—

(a) the United Kingdom obligations under—

- (i) the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and its Protocol of 1967 and extended to Montserrat; or
- (ii) Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950 as extended to Montserrat;

(b) section 4 of the Constitution of Montserrat protecting a person from being subject to torture, or to inhuman or degrading treatment or punishment;

*(Inserted by Act 1 of 2009)*

“**citizen of a protocol Member State**” means a person who is a citizen of a Member State of the Organisation of Eastern Caribbean States that is a party to the Protocol of the Eastern Caribbean Economic Union, except for a person who is a citizen as a result of meeting an economic criteria established by any Protocol Member State; *(Inserted by Act 10 of 2012)*

“**country of nationality**” in relation to a person who has more than one nationality, means each of the countries of which that person is a national; *(Inserted by Act 1 of 2009)*

**“dependant”**, in relation to another person, means—

- (a) the wife of such person provided she is not living apart from him under a decree of a competent court or a deed of separation;
- (b) the child or step-child under the age of sixteen years, of such person;
- (c) an adopted child under the age of sixteen years having been adopted by such person in a manner recognized by law;

**“deportation order”** means an order made or in force under Part 3 requiring the person in respect of whom it is made to leave and remain out of Montserrat; (*Inserted by Act 1 of 2009*)

**“immigrant”** means a person who enters Montserrat from a place outside Montserrat, whether for the first or at any subsequent time;

**“Immigration Appeals Tribunal”** means the Immigration Appeals Tribunal established under section 4; (*Inserted by Act 1 of 2009*)

**“master”** means the person having command or charge of a vessel;

**“passport”** means a passport issued by or on behalf of the Government of the country of which the person to whom it relates is a subject or citizen; or some other recognized travel document satisfactorily establishing the national status and identity of the person to whom it relates, which passport or document is still in force and has attached to it a photograph of the person to whom it relates;

**“port of entry”** means any port or port of entry declared as such by regulations made under section 40;

**“recognized refugee”** means a refugee who has been recognized as a refugee in terms of section 47; (*Inserted by Act 1 of 2009*)

**“Refugee Convention”** means the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention; (*Inserted by Act 1 of 2009*)

**“vessel”** means any ship, schooner, sloop, boat or other floating craft and includes any description of aircraft.

*(Amended by Act 24 of 1982)*

(2) For the purposes of this Act—

- (a) a person enters Montserrat if he arrives by sea or by air with the intention of disembarking in Montserrat or if he disembarks in Montserrat;
- (b) a person shall be deemed to belong to Montserrat if he is a citizen of a British Overseas Territory and acquired that status—
  - (i) by birth in Montserrat before 1 January, 1983, or by registration of naturalization in Montserrat before that date



as a citizen of the United Kingdom and Colonies under the provisions of the British Nationality Act, 1948;

- (ii) by virtue of his father or mother having been born in Montserrat before 1 January, 1983, or having been registered or naturalized in Montserrat before that date as a citizen of the United Kingdom and Colonies under the provisions of the British Nationality Act, 1948;
  - (iii) by virtue of having a grandparent who was born in Montserrat before 1 January, 1983, or who was registered or naturalized in Montserrat before that date as a citizen of the United Kingdom and Colonies under the provisions of the British Nationality Act, 1948;
  - (iv) by birth in Montserrat after 1 January, 1983, to a parent who at the time of the birth was a citizen of a British Overseas Territory under the provisions of the British Nationality Act 1981;
  - (v) by birth in Montserrat after 1 January, 1983, to a parent who at the time of the birth was settled in Montserrat within the meaning of section 50(2) and (3) of the British Nationality Act, 1981;
  - (vi) by birth outside Montserrat after 1 January, 1983, to a parent who at the time of birth was a citizen of a British Overseas Territory by birth, registration or naturalization in Montserrat;
  - (vii) by registration or naturalization in Montserrat after 1 January, 1983, as a citizen of a British Overseas Territory under the provisions of sections 17 to 22 (inclusive) of the British Nationality Act 1981;  
*(Amended by Act 9 of 2011)*
- (c) without prejudice to the provisions of paragraph (b), if a person marries another who belongs to Montserrat by virtue of having been born, registered or naturalized in Montserrat under the provisions of either the British Nationality Act of 1948 or the British Nationality Act of 1981, the person is not a believer, but the Governor acting on the advice of Cabinet may, by Order, declare the person to be a believer, if the person applies for such an Order and—
- (i) the marriage subsists on the date of the application and twelve months have elapsed since the date of the marriage;
  - (ii) the person—
    - (A) was in Montserrat at the beginning of the period of three years ending with the date of the application, and that the number of days on which he or she was absent from Montserrat in that period does not exceed 270;

- (B) is considered by the Governor acting on the advice of Cabinet to be of good character;
  - (C) was not at any time in the period of three years ending with the date of the application, in Montserrat in breach of the immigration laws; and
  - (iii) the Governor acting on the advice of Cabinet is satisfied that the marriage is not a marriage of convenience in accordance with subsections (3)(d) and 3(e).
- (Substituted by Act 14 of 2010 and amended by Act 9 of 2011)*
- (d) a person shall be deemed to belong to Montserrat if he is a citizen of a British Overseas Territory and acquired that status by virtue of having been born in a British Overseas Territory to a parent who at the time of his birth was settled in Montserrat within the meaning of section 50(2) and (3) of the British Nationality Act 1981; *(Amended by Act 9 of 2011)*
  - (e) a person shall be deemed to belong to Montserrat if he is a Commonwealth citizen one of whose grandparents was born in Montserrat or naturalized in Montserrat as a citizen of the United Kingdom and Colonies under the British Nationality Act 1948, or as a citizen of a British Overseas Territory under the British Nationality Act 1981; *(Amended by Act 9 of 2011)*
  - (f) a person under the age of eighteen years shall be deemed to belong to Montserrat if he is the child, stepchild, or adopted child (having been adopted in a manner recognized by the law of Montserrat) of a person who belongs or is deemed to belong to Montserrat:

Provided that, without prejudice to the foregoing provisions of this subsection, any person who on 31 December, 1982, was deemed to belong to Montserrat, under the law in force on that date, shall continue to enjoy that status until such time (if any) as it may be lost by reason of a subsequent change of personal circumstances or any process of law.

*(Amended by Act 24 of 1982)*

**(3) For the purposes of this Act—**

- (a) a person shall be deemed to be settled in Montserrat, within the meaning of section 50(2) and (3) of the British Nationality Act 1981, if he is the holder of a permit of permanent residence or permit of economic residence issued under section 23;
- (b) reference to birth shall include the adoption (in a manner recognized by the law of Montserrat) of a person under the age of eighteen years.
- (c) the expressions **“British Overseas Territory”**, **“British protected person”** and **“Commonwealth citizen”** shall have the same meanings as are given respectively to those

expressions in the British Nationality Act 1981. (*Amended by Act 9 of 2011*)

(d) **“marriage of convenience”** means a marriage (whether or not void)—

- (i) entered into between a person (“A”) who is not a believer or a British Overseas Territories Citizen and another person (whether or not a believer or such a citizen); and
- (ii) entered into by (“A”) for the purpose of avoiding the effect of one or more provisions of the immigration law or the immigration rules of Montserrat.

*(Inserted by Act 9 of 2011)*

(e) a marriage is presumed not to be a marriage of convenience, unless there are reasonable grounds for rebutting this presumption, in which case the onus is on the parties to the marriage to prove that it is not. (*Inserted by Act 14 of 2010*)

*(Inserted by Act 24 of 1982 and amended by Act 13 of 1997)*

### **Appointment and powers of immigration officers**

3. (1) The Governor acting on the advice of Cabinet shall appoint a Chief Immigration Officer and the Chief Immigration Officer has all the powers conferred by this Act upon immigration officers, in addition to any power specifically conferred upon him by this Act. (*Substituted by Act 10 of 2012*)

(2) The Governor acting on the advice of Cabinet may appoint such immigration officers as he shall think fit for the purpose of carrying out the provisions of this Act.

*(Amended by Acts 25 of 1975, 24 of 1982 and 9 of 2011)*

(3) For the purpose of performing his duties under this Act an immigration officer shall have the powers of a police officer and may board and search any vessel arriving in Montserrat.

## **PART 1**

### **ADMINISTRATION, ENTRY AND LANDING**

#### **Immigration Appeals Tribunal**

4. (1) For the purposes of this Act there is established an Immigration Appeals Tribunal (hereinafter called the **“Tribunal”**) which shall consist of the following members—

- (a) a Chairman;
- (b) a deputy Chairman; and
- (c) three other members,

all of whom shall be appointed by and hold office at the pleasure of the Governor acting on the advice of Cabinet.

(2) The Chairman and the deputy Chairman shall both be attorneys-at-law of at least seven and five years call to the bar, respectively.

(3) The Governor acting on the advice of Cabinet may appoint a Secretary to the Tribunal who shall record and keep all minutes of the meetings, proceedings and decisions of the Tribunal, and such Secretary shall have no right to vote.

*(Inserted by Act 1 of 2009 and amended by Act 9 of 2011)*

### Meetings of Tribunal

5. (1) The Tribunal shall meet on case by case basis and upon such other occasions as, in the opinion of the Chairman, may be necessary or desirable in the public interest.

(2) Where any member of the Tribunal, other than the deputy Chairman, is absent from more than two out of five consecutive meetings of the Tribunal without obtaining the prior approval of the Chairman, he shall cease to be a member of the Tribunal.

(3) In the temporary absence of the Chairman or in the event of his inability to act, the deputy Chairman shall act as Chairman and exercise all the powers and functions of Chairman.

(4) The deputy Chairman shall not be present at any meeting of the Tribunal, unless acting as Chairman under subsection (3).

(5) At every meeting of the Tribunal—

(a) it shall reach its decisions by a majority of the votes of members present and voting;

(b) the Chairman or presiding member shall have no original but only a casting vote; and

(c) three members present shall form a quorum.

(6) Where a member of the Tribunal has a personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Tribunal, he shall, if present at the meeting at which such matter is to be determined, as soon as possible after the commencement thereof, disclose the fact and leave the meeting.

(7) Subject to subsections (1) to (5) and section 54, the Tribunal shall have power to regulate its own procedure.

*(Inserted by Act 1 of 2009)*

### Duty of confidentiality

6. (1) The fact and any particulars of, or relating to, any matter falling for consideration by, or the decision of, the Tribunal shall be treated as confidential by each member of that Tribunal and he shall not disclose any

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such fact or particular otherwise than in the proper performance of his duties under this Act or in compliance with the order of a court of competent jurisdiction.

(2) The failure of any member to comply with subsection (1)—

(a) is an offence; and

(b) constitutes a sufficient ground for the termination of his appointment.

(3) Any allegation of a breach of subsection (1) shall be fully investigated by a constable of the rank of Inspector or above.

*(Inserted by Act 1 of 2009)*

### **Remuneration and immunity of members of the Tribunal**

7. (1) Subject to subsection (2) the Governor acting on the advice of Cabinet shall determine—

(a) the remuneration, if any, to be paid to members of the Tribunal;

(b) the additional remuneration, if any, to be paid to the Chairman and deputy Chairman.

(2) Unless the Governor acting on the advice of Cabinet otherwise decides, no public officer who is appointed to the Tribunal under section 4 shall be paid any remuneration or additional remuneration referred to in subsection (1)(a) or (b) unless his position description so provides.

(3) Every member of the Tribunal is personally indemnified against all claims, damages, costs, charges or expenses incurred by him in the discharge or purported discharge of his functions or duties under this Act except claims, damages, costs, charges or expenses caused by his bad faith.

*(Inserted by Act 1 of 2009 and amended by Act 9 of 2011)*

### **Power to prohibit entry of aliens**

8. Subject to the provisions of section 11(1)(d) and (e), but notwithstanding anything else contained in this or any other Act, the Governor acting on the advice of Cabinet may by order prohibit the entry into Montserrat of any alien or class of aliens.

*(Substituted by Act 5 of 1962 and amended by Acts 9 of 2011 and 10 of 2012)*

### **Enumeration of prohibited immigrants**

9. The following persons, not belonging to Montserrat, are prohibited immigrants—

(a) subject to section 11(2), any person who is likely if he entered Montserrat to become a public charge by reason of infirmity of body or mind or who is not in possession of sufficient means to support himself and such of his dependants as he shall bring with him to Montserrat;

- (b) any person who, after entry into Montserrat, has become or is determined to have become a public charge; (*Insert by Act 10 of 2012*)
- (c) any person certified by a medical officer to be suffering from—
  - (i) a mental illness; or
  - (ii) a contagious or infectious disease,which makes his or her entry into Montserrat dangerous to the community;  
(*Inserted by Act 8 of 1999 and amended by Act 10 of 2012*)
- (d) any person who, not having received a free pardon, has been in any country convicted of an offence for which a sentence of imprisonment has been passed and who for this reason appears to be an undesirable immigrant;
- (e) any prostitute or any person who may be living on or receiving or may have lived on or received the proceeds of prostitution;
- (f) any alien or class of aliens prohibited from entering Montserrat under the provisions of section 8;
- (g) any person declared by order under section 11(1) to be a prohibited immigrant; (*Inserted by Act 5 of 1962*)
- (h) the dependants of a prohibited immigrant.

### Entry of certain persons prohibited

10. The entry of any of the following into Montserrat is hereby prohibited—

- (a) any person or class of persons not belonging to Montserrat, whose entry into Montserrat is deemed by Order of the Governor acting on the advice of Cabinet on economic grounds or on account of the standards or habit of life of such person or class of persons, to be undesirable; and
- (b) any person not belonging to Montserrat, who, from information or advice that in the opinion of the Governor acting on the advice of Cabinet is reliable information or advice, is deemed by Order of the Governor acting on the advice of Cabinet to be an undesirable inhabitant of or visitor to Montserrat,

and if any of the persons mentioned in paragraphs (a) and (b) are at any time after the making of such Order found in Montserrat such persons shall be deemed to be prohibited immigrants and may be dealt with as such.

(*Amended by Act 9 of 2011*)

### Who are not prohibited immigrants

11. (1) The following persons or classes of persons shall not be prohibited immigrants—

- (a) persons belonging to Montserrat within the meaning of section 2(2);
- (b) members of Her Majesty's regular naval, military or air forces;
- (c) persons in the service of the Government of Montserrat;
- (d) diplomatic representatives duly accredited to Montserrat or to the United Kingdom by or under the authority of Her Majesty;
- (e) representatives of the United Nations Organization or of any specialised agency thereof, or of any similar international organization of which the United Kingdom is itself a member or for membership (whether full or associated) of which Montserrat is eligible;
- (f) representatives or employees of any regional organization, agency or body of which Montserrat is itself a member or is eligible for membership;
- (g) the wife of any person to whom paragraphs (b), (c), (d), (e) or (f) applies not living apart from such person under a decree of a competent court or a deed of separation;
- (h) the child, step-child or adopted child having been adopted in a manner recognised by law, under the age of eighteen years of a person to whom paragraphs (b), (c), (d), (e) or (f) applies:

Provided that, the Governor in his discretion may for reasons of national security by Order published in the *Gazette* declare that any member of the classes of persons mentioned in paragraphs (d), (e), (f), (g) or (h) is a prohibited immigrant.

*(Amended by Act 10 of 2012)*

(2) Despite section 9(a), for the purpose of section 22(5)(a), a citizen of a protocol Member State shall not be a prohibited immigrant on the ground that he is likely to become a public charge. *(Substituted by Act 10 of 2012)*

*(Substituted by Act 18 of 1970 and amended by Acts 24 of 1982)*

### **No prohibited immigrant to enter Montserrat**

12. Except as otherwise specifically provided by this Act no prohibited immigrant shall enter Montserrat, and where it is brought to the notice of the Chief Immigration Officer that a prohibited immigrant has entered Montserrat after the commencement, and in contravention of any of the provisions of this Act, he shall exercise, in relation to such prohibited immigrant, his powers under section 26.

### **Power to postpone decision**

13. (1) The Chief Immigration Officer may for the purpose of making further inquiry and for such period as may be necessary therefor postpone deciding whether a person is or is not a prohibited immigrant.

(2) An immigration officer may grant a permit for an immigrant to disembark without prejudice to the question whether he is or is not a prohibited immigrant.

### **Certificate that a person is not a prohibited immigrant**

14. Where it is decided that an immigrant is not a prohibited immigrant, the Chief Immigration Officer shall, if so required, give that person a certificate to that effect in such form (if any) as may be prescribed.

*(Amended by Act 24 of 1982)*

### **Mistaken decision that a person is not a prohibited immigrant**

15. A decision by the Chief Immigration Officer that a person is not a prohibited immigrant given by mistake or in ignorance of any material facts or in consequence of any misrepresentation by the immigrant shall not affect the liability of the immigrant to be dealt with as a prohibited immigrant.

### **Duties of immigrants on entering Montserrat**

16. (1) No person shall enter or leave Montserrat by sea or air except at a port of entry.

(2) A person entering Montserrat by sea or air shall not disembark without the consent of an immigration officer, and the master of the vessel shall not allow any such person to disembark without such consent and may use all reasonable and proper means including force if necessary to secure the detention of any such person on board the vessel until such consent may be given.

(3) Every person entering Montserrat shall forthwith present himself in person to the nearest immigration officer.

(4) Every person leaving Montserrat for a place beyond Montserrat shall present himself to an immigration officer at the port of entry before embarking. *(Inserted by Act 21 of 1979)*

(5) Every person entering Montserrat shall if required by an immigration officer—

(a) make and sign a declaration, in such form (if any) as may be prescribed, giving such particulars of himself as the immigration officer may require; and

(b) submit to be examined by a medical officer.

*(Amended by Act 24 of 1982)*

(6) Any person, other than the persons or classes of persons mentioned in section 11(1), who contravenes, or fails or refuses to comply with, any of the provisions of the preceding subsections of this section, when entering Montserrat, shall be deemed to be a prohibited immigrant and may be dealt with as such.

*(Amended by Acts 25 of 1975 and 10 of 2012)*



## Passports

17. (1) Every person, other than a person belonging to Montserrat as hereinbefore defined, landing in Montserrat or departing from Montserrat to any place beyond Montserrat shall be in possession of a passport, that is to say—

- (a) in the case of a Commonwealth citizen, a British protected person or a citizen of the Republic of Ireland, he shall have in his possession a valid passport;
- (b) in the case of a person to whom paragraph (a) does not apply, he shall have in his possession a passport which has been visaed by a British Consular Officer or other person duly so authorised,

and shall produce the same to the immigration officer on demand.

*(Amended by Acts 21 of 1979 and 24 of 1982)*

(2) It shall be lawful for the Governor in his discretion by Order to exempt any persons or class of persons either permanently or for a limited period from all or any of the provisions of this section.\*

(3) Notwithstanding subsection (1), a citizen of any Member State of the Organisation of Eastern Caribbean States landing in Montserrat from any place beyond Montserrat shall be in possession of either a passport or other recognized photo identification card satisfactorily establishing the national status and identity of the person to whom it relates and shall produce the same to the immigration officer on demand.

(4) For the purposes of subsection (3) “**Other recognized photo identification Card**” includes a valid Driver’s Licence, Voters Registration Card or Social Security Card which satisfactorily establishes the national status and identity of the person to whom it relates.

*(Amended by Act 4 of 2002)*

## Onus of proof

18. In the case of any person arriving in Montserrat from any place outside Montserrat, the onus of proof of his identity, nationality and immigration status, to the satisfaction of the Chief Immigration Officer, shall be on that person.

*(Substituted by Act 24 of 1982)*

## Permits for prohibited immigrants to reside in Montserrat

19. (1) Notwithstanding anything to the contrary in this Act contained, the Governor acting on the advice of Cabinet or by his direction the Chief Immigration Officer, may grant a permit for a prohibited immigrant (other than an immigrant to whom section 10 applies) to enter and remain in Montserrat

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\* See the Passport (Exemption) Order at page 69 in the subsidiary legislation of this Chapter.

either unconditionally or subject to such conditions as to duration and place of residence, occupation, or any other matter or thing, whether prescribed or not, as the Governor may think expedient. (*Amended by Act 9 of 2011*)

(2) Immigration officers may grant permits for prohibited immigrants to remain in Montserrat for temporary purposes in accordance with the provisions of this Act.

(*Amended by Act 24 of 1982*)

### Temporary permits for sick persons

20. (1) An immigration officer may, with the consent of a medical officer, grant a permit for an immigrant suffering from a contagious or infectious disease to remain in Montserrat for the purposes of treatment, subject to such conditions as the medical officer may deem necessary for the protection of the community.

(2) The grant of a permit under this section shall not prejudice a subsequent decision that the immigrant is a prohibited immigrant on another ground and any consequential action which may be taken under this Act.

(3) On the conclusion of his treatment or at such earlier time as may be specified in the permit or communicated to him by the immigration officer, the immigrant shall present himself in person to the immigration officer for examination.

### Temporary permits pending appeal, etc.

21. (1) Whenever—

- (a) a prohibited immigrant has delivered notice of appeal;
- (b) a prohibited immigrant is ordered to leave Montserrat;
- (c) the Chief Immigration Officer postpones deciding whether a person is a prohibited immigrant; or
- (d) security is required to be given in respect of an immigrant,

the Chief Immigration Officer may grant a permit for the immigrant to remain in Montserrat for so long as the immigration officer considers necessary.

(2) In lieu of granting the permit or on revocation or expiration of the permit, the Chief Immigration Officer may cause the immigrant to be arrested and brought before a Magistrate's Court which may either order the permit to be granted, restored, or renewed and the immigrant to be released, or order the immigrant to be detained in custody until the matter is disposed of or until an opportunity occurs for him to leave Montserrat, as the case may require.

### Control of entry

22. (1) Where a person desires to remain in Montserrat as a visitor or as a passenger intransit for a period not exceeding six months, an immigration officer may, if so requested and without deciding whether that person is or is

not a prohibited immigrant, grant him a permit to remain in Montserrat for such period not exceeding six months as may be specified in the permit.

(2) The period granted under subsection (1) may be extended from time to time by the Chief Immigration Officer up to a maximum of twelve months from the date of entry.

(3) Notwithstanding the provisions of subsections (1) and (2), a permit may be granted by the Chief Immigration Officer on the direction of the Governor acting on the advice of Cabinet for such longer period as the Governor acting on the advice of Cabinet may think fit. *(Amended by Act 9 of 2011)*

(4) If a visitor or passenger in transit fails to leave Montserrat on or before the expiration of the permit or any extension thereof granted under the provisions of subsection (2) or (3) he shall be deemed to be a prohibited immigrant and may be dealt with as such.

(5) Despite this section, an immigration officer shall grant a permit—

- (a) for a citizen of protocol Member State to enter and remain in Montserrat for an indefinite period; or
- (b) for a citizen of any other member state of the Organisation of Eastern Caribbean States landing in Montserrat from any place beyond Montserrat to enter and remain in Montserrat for a period of six months. *(Substituted by Act 10 of 2012)*

(6) The right to enter and remain in Montserrat under subsection (5) may be revoked if a person is deemed to be a prohibited immigrant under this Act. *(Inserted by Act 10 of 2012)*

*(Substituted by Act 18 of 1970 and amended by Acts 24 of 1982 and 4 of 2002)*

### **Permit of permanent residence and economic residence**

**23. (1)** Notwithstanding anything contained in this or any other Act in force in Montserrat, the Governor acting on the advice of Cabinet may grant to a person not belonging to Montserrat a permit of permanent residence or permit of economic residence subject to such conditions as he may think fit.

(2) Where a permit of permanent residence or permit of economic residence is granted to any person under this section, the Governor acting on the advice of Cabinet may at any time on the application of such person endorse the permit to include the spouse (not living apart from him or her under a decree of a competent court or a deed of separation) or the child, stepchild or adopted child (having been adopted in a manner recognised by law) of such person.

*(Inserted by Act 18 of 1970 and  
amended by Acts 24 of 1982, 6 of 1984, 13 of 1997 and 9 of 2011)*

### **Revocation of permit of permanent residence**

**24. (1)** The Governor acting on the advice of Cabinet may, by Order in writing, revoke any permit of permanent residence or permit of economic

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residence, or any endorsement thereon, on the grounds that the person to whom it relates—

- (a) has, subsequently to the grant of such permit or to the endorsement thereon, been ordinarily resident outside Montserrat continuously for a period of three years; or
- (b) has, in any country, been imprisoned for a criminal offence; or
- (c) has so conducted himself or herself that in the opinion of the Governor acting on the advice of Cabinet it is not in the public interest that he or she should continue to enjoy the privileges conferred by such permit; or
- (d) being the spouse of the person to whom the permit was granted, has ceased to be married to that person by reason of dissolution or annulment of the marriage, or has commenced to live apart from the person to whom the permit was granted under a decree of a competent court or under a deed of separation.

(2) No order shall be made by the Governor acting on the advice of Cabinet in exercise of the powers conferred on him by subsection (1) unless the person against whom the order is proposed to be made has first been given a notice in writing of the grounds on which it is proposed to make the order, and has been afforded an opportunity to be heard in respect thereof.

(3) No appeal shall lie against an order made by the Governor acting on the advice of Cabinet in exercise of the powers conferred on him by subsection (1) unless such appeal be directed to identity only of the person affected by the order.

*(Inserted by Act 18 of 1970 and  
amended by Acts 24 of 1982, 11 of 1987, 13 of 1997 and 9 of 2011)*

## Revocation of permits

**25. (1)** A permit granted under this Act may at any time be revoked or varied by the Governor or by the Chief Immigration Officer acting on the direction of the Governor, or by an immigration officer acting on the direction of the Governor or of the Chief Immigration Officer. *(Substituted by Act 25 of 1975)*

(2) Where a permit is revoked, the immigrant may be arrested and brought before a Magistrate's Court which shall deal with the immigrant according to law:

Provided that, the Court may, if the permit was not revoked by or by the direction of the Governor, order the permit to be restored and the immigrant to be released.

## Orders for prohibited immigrants to leave Montserrat

**26.** In the event of the Chief Immigration Officer deciding that a person is a prohibited immigrant, the Chief Immigration Officer may in his discretion—

- (a) within fifteen days after the arrival of such person in Montserrat, order him to leave Montserrat within a specified period, and, if the Chief Immigration Officer sees fit, by a specified vessel; or
- (b) cause him to be arrested and brought before a Magistrate's Court with a view to an order being made for his removal.

### **Removal orders**

**27. (1)** If any person is held to be a prohibited immigrant, then subject to the provisions of this Act and the terms of any permit granted under this Act, any Magistrate's Court may on the application of an immigration officer, or of any person deputed in writing by the Chief Immigration Officer for the purpose of making such application, order the immigrant to be removed from Montserrat and in the meantime to be detained in custody:

Provided that, no application for such order shall be entertained unless the application is made—

- (a) if he entered Montserrat in accordance with a permit granted under section 13, within six months after the decision of the Chief Immigration Officer that he is a prohibited immigrant;
- (b) if he entered Montserrat in accordance with a permit granted under section 20, within six months after the date on which such immigrant should have presented himself in person to the immigration officer for examination;
- (c) if he entered Montserrat in accordance with a permit granted under section 19 or 22, within six months after the expiry of such permit;
- (d) in any case in which an appeal has been made to a Magistrate's Court or the Court of Appeal against a decision that he is a prohibited immigrant, within six months after the determination of the appeal;
- (e) in other cases, within six months of his arrival in Montserrat.

**(2)** Any immigrant ordered to be removed may be placed on board a suitable aircraft or vessel by any police officer or immigration officer and may be lawfully detained in custody on board so long as the aircraft or vessel is within the territorial limits of Montserrat.

**(3)** Where an immigrant who is ordered to be removed is serving a sentence of imprisonment, the Governor acting on the advice of Cabinet may give directions as to whether the whole or what part of the sentence is to be served before removal. In default of such directions, the immigrant shall be removed after completion of the sentence.

*(Amended by Acts 24 of 1982 and 9 of 2011)*

**Master to furnish list of persons and penalty for false information**

**28. (1)** The master of a vessel arriving from any place outside Montserrat or departing from Montserrat shall, if so required, furnish any immigration officer with a list in duplicate signed by himself of the names of all persons in the vessel and such other information as may be prescribed, and every such person shall supply the information necessary for the purpose of the list.

**(2)** Any master who shall either refuse to supply such list or to answer any such questions or who shall knowingly and wilfully give an untrue answer thereto shall be liable on summary conviction to a fine of \$1,000.

**(3)** Any person intending to enter Montserrat who shall knowingly and wilfully supply any false information in respect of such list or in answer to any proper question put to him by an immigration officer in respect of the particulars required for such list or otherwise for the purposes of this Act shall be liable on summary conviction to a fine of \$1,000.

*(Amended by Acts 24 of 1982 and 11 of 1987)*

**Master may prevent landing**

**29.** The master of a vessel may use all reasonable and proper means (including force if necessary) to prevent any person landing in Montserrat contrary to the provisions of this Act.

**Master to be held harmless**

**30.** The master of any vessel may, on the desertion of any seaman, or the landing of any stowaway, or prohibited immigrant on board his vessel, apply to a Magistrate who shall grant such application, unless there are special reasons for not doing so, for a warrant to arrest and convey back on board ship such seaman, stowaway, or prohibited immigrant, and on so doing such master shall be held harmless of all pains and penalties at law for so doing.

**Liability of vessel to repatriate a prohibited immigrant**

**31. (1)** Any person to whom leave to disembark has been refused and who has not given notice of appeal as hereinafter provided shall be removed from Montserrat by the master of the vessel in which he arrived, and by that same vessel, or with the consent of an immigration officer he shall be removed by the owner or agent of that vessel, by any other vessel, to the country to which he belongs or from which he embarked for Montserrat.

**(2)** If an immigrant, in respect of whom notice was given to the master or local agent or owner of a vessel as required by section 41(1), is ordered to be removed from or to leave Montserrat within sixty days of his arrival in Montserrat, the master of the vessel in which the immigrant arrived or of any vessel belonging to the same owner or chartered by him shall at the request of an immigration officer and on production to him of the order receive the immigrant (and any of his dependants whom he may have brought with him by the same vessel into Montserrat) on board and afford them a passage to the

country to which the immigrant belongs or from which he embarked for Montserrat.

(3) In the event of the immigrant and his dependants being unable to defray the expenses of the passage required to be provided under the preceding subsections the master shall nevertheless provide the immigrant (and any of his dependants whom he may have brought with him by the same vessel into Montserrat) with suitable accommodation and maintenance during the passage free of charge to the public funds of Montserrat; saving nevertheless to the master the right to recover such expenses from the immigrant and his dependants.

(4) Except as provided in the preceding subsections, the expenses of passage of a prohibited immigrant and his dependants (if any) removed from Montserrat shall be payable from the public funds of Montserrat in so far as they are not defrayed by the immigrant and his dependants.

### **Master and owners of vessel liable for expenses**

32. The master, owners and agents of any vessel from which any person lands in Montserrat contrary to the provisions of this Act shall be jointly and severally liable for all expenses incurred by the Government in detaining and maintaining such person pending deportation and such expenses shall be recoverable as a debt due to the Crown from the master, owners and agents.

### **Recovery of expenses**

33. (1) The Magistrate if satisfied that any expenses have been or will be incurred by the Government in connection with the maintenance, medical treatment, or removal of an immigrant, his wife, children, or dependants may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the immigrant.

(2) Such warrant may be executed in the same manner as a warrant for the levy of the amount of a fine imposed by the Magistrate's Court.

(3) The partial recovery of expenses under this section shall not prejudice the liability of any surety for the balance, nor shall the issue or execution of a warrant under this section be a condition precedent to the liability of a surety.

*(Amended by Act 24 of 1982)*

### **Certificate of identity**

34. The Chief Immigration Officer may in his discretion authorize the issue of a certificate of identity to any person who belongs to Montserrat and who desires to proceed thereout with the intention of returning and is for any reason apprehensive that he will be unable to prove on his return that he is not a prohibited immigrant.

### Issue of certificate of character

**35.** The Chief Immigration Officer may, on the request of any person, issue to such person a certificate of character in such form as may be prescribed by him attesting to any particulars of the person's character as may be contained in the police records of Montserrat.

*(Inserted by Act 12 of 1993)*

### Conditions and restrictions relating to permits and certificates

**36. (1)** A person to whom a permit or certificate under this Act has been granted shall at all times produce it to any immigration officer or police officer on demand and shall not lend, transfer, or assign it to any other person.

**(2)** No person shall borrow or make use of a permit or certificate which has been granted under this Act to any other person.

**(3)** A person having in his possession a permit or certificate appearing to have been granted under this Act shall answer all questions put to him by an immigration officer for the purpose of establishing his identity with the person named in the permit or certificate, and shall, if so required by an immigration officer, submit to his finger-prints being taken for that purpose.

**(4)** Any person who—

- (a)* borrows or makes use of any permit or certificate which has been granted to any other person under this Act; or
- (b)* lends, gives or otherwise transfers to any other person any permit or certificate granted to him under this Act; or
- (c)* refuses or without reasonable excuse fails to produce a permit or certificate as required by subsection (1),

shall be guilty of an offence against this Act and shall be liable on summary conviction therefor to a fine of \$1,000 or to imprisonment for a term of six months.

*(Inserted by Act 18 of 1970 and amended by Act 24 of 1982)*

### Photographs and fingerprints may be taken

**37.** A person held to be a prohibited immigrant or to whom a permit is issued shall, if so required by any immigration officer, submit to his photograph and fingerprints being taken by such immigration officer or by any person deputed by the Chief Immigration Officer for the purpose.

### Place of detention

**38.** A person detained in custody under this Act but not serving a sentence of imprisonment may be so detained either in the gaol or in any place appointed for the purpose by the Governor acting on the advice of Cabinet, but if detained in the gaol, shall be treated as a person awaiting trial.

*(Amended by Acts 24 of 1982 and 9 of 2011)*



### Police to assist immigration officers

**39.** It shall be the duty of all police officers whenever necessary or at the request of an immigration officer to assist the immigration officer in the exercise of his powers and performance of his duties under this Act.

### Power to make regulations

**40.** The Governor acting on the advice of Cabinet may make regulations prescribing—

- (a) the powers and duties of immigration officers;
- (b) the steps to be taken to prevent the entrance of prohibited immigrants to Montserrat;
- (c) the ports of entry and the times, places and conduct of the inquiry or examination, medical or otherwise, of persons entering or desiring to enter Montserrat, or who being found in Montserrat are suspected of being prohibited immigrants;
- (d) the means to be taken for the identification of any person believed to be a prohibited immigrant, including the taking of photographs and finger impressions;
- (e) lists of contagious or infectious diseases, the affliction with which will render a person a prohibited immigrant;
- (f) the procedure for and the manner of the detention of prohibited immigrants pending their removal from Montserrat and the procedure necessary for and the manner of such removal;
- (g) the fees to be paid for—
  - (i) the issue and renewal of passports;
  - (ii) British visas to aliens for the purpose of visiting Montserrat;
  - (iii) permits of permanent residence; (*Inserted by Act 18 of 1970*)
- (h) non refundable process fee for appeal under section 52; (*Inserted by Act 1 of 2009*)
- (i) the permits and the certificates which may be issued under this Act, the conditions upon which any such permit or certificate shall be issued, the circumstances under which they may be cancelled and the fees which may be charged for any such permit or certificate; and the amount and nature of the security to be found for the due carrying out of any conditions upon which a permit to enter and reside for a specified period may be issued to an immigrant;
- (j) the forms of warrants, permits, certificates or other documents to be issued or used or of the declarations to be made or of the

books to be kept for the purposes of this Act and the particulars to be inserted in any such document, declaration or book;

(k) generally for the better carrying out of the objects and purposes of this Act;

(l) penalties for the breach of any regulation made under this Act.

*(Amended by Act 9 of 2011)*

### **Appeal against detention or restriction of prohibited immigrant**

**41. (1)** Whenever leave to enter Montserrat is withheld by an immigration officer or whenever any person is detained, restricted or arrested as a prohibited immigrant notice of that fact and the grounds of refusal, detention, restriction or arrest shall be given by the officer to such person in the prescribed form. If such notice is given within seven days of the arrival of any immigrant, the immigration officer giving such notice shall also inform, if known, the master or owner or local agent of the vessel by which the immigrant arrived that such notice has been given.

**(2)** Except as provided in this section, every immigrant to whom such notice has been given may appeal to the Magistrate's Court. Notice of the appeal must be given to the Magistrate's Court and to the Chief Immigration Officer within seven days of the decision appealed against.

**(3)** An appeal shall lie from the decision of the Magistrate's Court to the Court of Appeal.

**(4)** No court fee shall be charged for the hearing of any appeal.

**(5)** Pending the hearing of an appeal to the Magistrate's Court no warrant shall be issued or enforced for the removal as a prohibited immigrant of the person so appealing but should it be held on the hearing of any such appeal that the immigrant to whom notice has been given under subsection (1) is a prohibited immigrant and should no appeal to the Court of Appeal from such decision be noted within fourteen days of the date of such decision, the Magistrate shall issue a warrant for the removal of the prohibited immigrant. In like manner should it be held on appeal to the Court of Appeal that the appellant is a prohibited immigrant, the Court shall issue a warrant for the removal of the prohibited immigrant.

**(6)** No appeal shall lie against the decision of the Governor, or the Governor acting on the advice of Cabinet, as the case may be, in regard to any of the persons mentioned in sections 9(f) and 10 unless such appeal be directed to identity only of the person affected by the decision.

*(Amended by Act 9 of 2011)*

### **Offences**

**42. (1)** Any prohibited immigrant who knowingly and wilfully lands or suffers himself to be landed and any person who knowingly lands or permits to land or procures to be landed or who aids or assists in landing any prohibited

immigrant contrary to the provisions of this Act shall be guilty of an offence against this Act.

**(2) Any person who—**

- (a)* lands or wilfully assists any person to land in Montserrat contrary to the provisions of this Act; or
- (b)* for the purpose of entering Montserrat, or of remaining therein, in contravention of this Act, or of assisting any other person so to enter or so to remain, fabricates or falsifies any permit, passport, visa, certificate or other document or utters, uses or attempts to use any permit, passport, visa, certificate or other document which has not been issued by lawful authority, or which, though issued by lawful authority, he is not entitled to use, or any fabricated or falsified permit, passport, visa, certificate or other document, knowing it to have been fabricated or falsified; or
- (c)* fails to comply with or contravenes the conditions under which any permit, passport, visa, certificate or other document has been issued to him under this Act; or
- (d)* obstructs, hinders or opposes any immigration officer or police officer in the execution of his duty under this Act,

shall be guilty of an offence against this Act.

**Penalty**

**43.** Any person guilty of an offence against this Act for which no express penalty is provided shall be liable on summary conviction to a fine of \$1,000 or to imprisonment for a term of six months; and in any case in which the offender has contravened or failed to comply with the provisions of section 16(1), (2) or (3), proceedings may, notwithstanding anything to the contrary in any other law, be brought at any time. *(Amended by Acts 25 of 1975 and 24 of 1982)*

**PART 2**

**ASYLUM**

**Meaning of refugee**

**44. (1)** Subject to the provisions of this section, a person shall be a refugee for the purposes of this Act if—

- (a)* owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, he is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or

- (b) not having a nationality and being outside the country of his former habitual residence, he is unable or, owing to a well-founded fear of being persecuted for reasons of race, religion, membership of a particular social group or political opinion, is unwilling to return to it.

(2) A person shall not be a refugee for the purposes of this Act if—

- (a) he has committed a crime against peace, a war crime or a crime against humanity, as defined in any international instrument to which United Kingdom is a party by virtue of its extension to Montserrat and which has been drawn up to make provision in respect of such crimes; or
- (b) he has committed a serious non-political crime outside Montserrat prior to his admission to Montserrat as a refugee; or
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations Organization; or
- (d) having more than one nationality, he has not availed himself of the protection of one of the countries of which he is a national and has no valid reason, based on well-founded fear of persecution, for not having availed himself of its protection.

if—

(3) A person shall cease to be a refugee for the purposes of this Act

- (a) he voluntarily re-avails himself of the protection of the country of his nationality; or
- (b) having lost his nationality, he voluntarily re-acquires it; or
- (c) he becomes a person belonging to Montserrat under section 2 of this Act or as may be amended, or acquires the nationality of some other country and enjoys the protection of the country of his new nationality; or
- (d) he voluntarily re-establishes himself in the country which he left, or outside which remained, as the case may be; or
- (e) he can no longer, because the circumstances in connection with which he was recognized as a refugee have ceased to exist—
  - (i) continue to refuse to avail himself of the protection of his country of nationality; or
  - (ii) if he has lost his nationality, continue to refuse to return to the country of his former habitual residence.

*(Inserted by Act 1 of 2009)*

## Asylum claim

**45.** (1) Any person who is within Montserrat, whether he has entered Montserrat lawfully or otherwise, and who wishes to remain in Montserrat as a refugee shall within fourteen days of this arrival in Montserrat or within such

further period as the Chief Immigration Officer may allow for good cause shown to his satisfaction, may apply to the Chief Immigration Officer for recognition of his status as a refugee in terms of the Refugee Convention.

- (2) (a) If, as a result of a decision to vary, or to refuse to vary a person's limited leave to enter or remain in Montserrat, any person to whom a permission to remain in Montserrat has been granted under section 13, 19 or 22 may be required to leave Montserrat, such person may within fourteen days of being notified of the decision requiring him to leave Montserrat, apply to the Chief Immigration Officer and make an asylum claim for recognition of his status as a refugee in terms of the Refugee Convention on the ground that such a requirement would be contrary to the Refugee Convention;
- (b) Any person who is held to be a prohibited immigrant, and ordered by the Chief Immigration Officer to leave Montserrat under section 26(a) or ordered by the Magistrate's Court to be removed from Montserrat on an application made in terms of section 27(1)(a), (c), (d) or (e), may apply to the Chief Immigration Officer and make an asylum claim for recognition of his status as a refugee in terms of the Refugee Convention on the ground that his removal would be contrary to the Refugee Convention.
- (3) For the purposes of this Part, a person is eligible to apply for asylum if—
- (a) he is at least eighteen years of age or is an unaccompanied minor;
- (b) he is in Montserrat; and
- (c) the application for asylum has been made by him at a place designated by the Governor.
- (4) (a) Where a minor not accompanied by parents submits an application, his rights and lawful interests shall be represented during the asylum procedure by an independent authorised representative nominated by the Chief Immigration Officer. The duty of such representative is to act objectively in the interest of the minor.
- (b) Protection of the rights of the child shall be ensured for a minor who is not accompanied by parents in accordance with the procedures prescribed by rules.
- (c) A minor who is not accompanied by parents has the right to receive legal assistance free of charge during the asylum procedure.
- (d) The minor children of an asylum seeker or minor asylum seekers shall ensure the acquisition of education in conformity with the laws in force. The Cabinet shall determine the

procedures by which education shall be ensured. (*Amended by Act 9 of 2011*)

(5) Where an asylum claim is made, it shall be recorded by the Chief Immigration Officer who, if satisfied that the claim was made as soon as reasonably practicable after the applicant's arrival in Montserrat, shall—

- (a) on being satisfied that for obvious and compelling reasons the applicant cannot be returned to his country of origin or nationality, grant him exceptional leave to remain in Montserrat; and
- (b) make arrangements for his support, accommodation and upkeep.

(6) The grant of exceptional leave under this section—

- (a) does not confer on the grantee any right to gainful occupation in Montserrat; and
- (b) may be revoked, varied or modified by the Chief Immigration Officer.

(7) Where a person who has applied for or intends to apply for asylum is desirous of voluntarily leaving Montserrat for a country in which he hopes to take up residence, the Chief Immigration Officer may render to him—

- (a) advice and other help in relation to his proposed journey; and
- (b) financial assistance to defray the cost of his travel and upkeep.

(8) Where an applicant under this Part is to be deported to a country of which he is a national or citizen and—

- (a) he does not possess a passport or other travel document; and
- (b) the country to which he is to be deported requires the Chief Immigration Officer to provide identification data in respect of the applicant as a condition of the admission of the applicant to that country,

the Chief Immigration Officer shall provide the requested data but shall not disclose whether the applicant had sought asylum.

(*Inserted by Act 1 of 2009*)

### Consideration of asylum claims

**46. (1)** Unless it is impossible or inexpedient to do so, the Chief Immigration Officer shall consider every asylum application made in terms of section 45(1) or (2) within thirty days of the application being so made, and may either within such period of thirty days or thereafter make such inquiry or investigation as he thinks necessary into such application.

(2) The Chief Immigration Officer in considering such application shall have regard to the Refugee Convention and any directions given by the Governor relating to asylum applications.

(3) The Chief Immigration Officer, for the purpose of inquiring or investigating any such application, may—

- (a) co-opt the services of any expert as an advisor;
- (b) seek the assistance or cooperation of UNHCR or any Non Governmental Organisation within or outside Montserrat.

*(Inserted by Act 1 of 2009)*

### **Grant of refugee status and rights of a recognized refugee**

47. (1) After the inquiry or investigation the Chief Immigration Officer may recognize or refuse to recognize the applicant as a refugee and shall notify the applicant of his decision in writing.

(2) Where a person is recognized as a refugee under subsection (1) he shall be granted—

- (a) leave to remain indefinitely in Montserrat; and
- (b) the right to work for any employer in any occupation.

(3) Any person whose asylum claim under this section has been successful may also apply for asylum for his—

- (a) spouse including a common law spouse;
- (b) dependent children under eighteen years of age; or
- (c) any other person who is related to him by blood or marriage; and who is dependent upon him,

and are with him in Montserrat or outside Montserrat.

(4) Every recognized refugee within Montserrat shall be—

- (a) entitled to the rights and be subject to the duties contained in the Refugee Convention as if the references therein to refugee were references to recognized refugee;
- (b) subject to all laws in force within Montserrat; and
- (c) afforded a reasonable opportunity to work and contribute to the development of Montserrat.

*(Inserted by Act 1 of 2009)*

### **Directions by the Governor**

48. The Governor may, from time to time, issue directions to the Chief Immigration Officer for his guidance in the exercise of his powers, duties and functions under this Part and Part 3, and it shall be the duty of the Chief Immigration Officer to put into effect and to carry out such directions.  
*(Inserted by Act 1 of 2009)*

## Appeals to the Immigration Appeals Tribunal

**49.** A person whose asylum claim has been refused may appeal to the Tribunal, within fourteen days of his being notified of the decision, against the refusal on the grounds that requiring him to leave Montserrat would be contrary to the Refugee Convention. (*Inserted by Act 1 of 2009*)

## Removal of Asylum Claimant to safe third country

**50. (1)** A person may not bring an appeal under section 49, if the Governor certifies that—

- (a) it is proposed to remove the person to a country of which he is not a national or citizen; and
- (b) there is no reason to believe that the person rights under the Human Right Convention will be breached in that country.

**(2)** In determining whether a person in relation to whom a certificate has been issued under subsection (1) may be removed from Montserrat, the country specified in the certificate is to be regarded as—

- (a) a place where a person's life and liberty is not threatened by reason of his race, religion, nationality, membership of a particular society, group, or political opinion; and
- (b) a place from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention.

**(3)** The person in respect of whom the certificate was issued may appeal against the decision to remove to the Tribunal on the ground that any of the conditions applicable to that certificate was not satisfied when it was issued or has since ceased to be satisfied.

*(Inserted by Act 1 of 2009)*

## Limitations on rights of appeal under section 49

**51.** Section 49 does not entitle a person to appeal against a refusal of an application if—

- (a) there are reasonable grounds for regarding the appellant as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country; or
- (b) the Governor has certified that the appellant's departure and exclusion from Montserrat would be in the interest of national security; or
- (c) the reason for the refusal was that he was a person to whom the Refugee Convention did not apply by reason of Article 1(F) of that Convention; and



- (d) the Governor has certified that the disclosure of material on which the refusal was based is not in the interest of national security.

*(Inserted by Act 1 of 2009)*

### **Conduct of appeals**

**52. (1)** Appeals under section 49 shall be by notice in writing addressed to the Secretary of the Tribunal, and such notice—

- (a) shall set forth—
  - (i) the decision against which the appeal is made;
  - (ii) the grounds of the appeal; and
  - (iii) whether or not the appellant wishes to be heard personally or by a representative; and
- (b) shall be accompanied by a copy of the original application and the prescribed non-refundable processing fee.

**(2)** On receipt of the notice of appeal, the Tribunal shall—

- (a) notify the immigration officer of the decision against which the appeal is made and the grounds of the appeal and give the immigration officer twenty eight days or such longer period as the Chairman of the Tribunal may, for good cause shown, allow, to provide a written defence to the appeal; and
- (b) if the appellant has applied to be heard personally or by a representative, fix a time and a date for such hearing and notify the appellant and, the immigration officer.

**(3)** At every hearing of an appeal where the appellant or his representative is present, the appellant or his representative shall be given an opportunity to address the Tribunal, and the immigration officer or his representative, shall be heard in answer but the Tribunal may, in its absolute discretion, call upon either party further to address it.

**(4)** Representatives appearing on behalf of either party need not be persons having legal qualifications.

**(5)** The decision of the Tribunal shall be notified to the appellant with the least possible delay.

**(6)** Neither an applicant for asylum nor an appellant against the decision of the Chief Immigration Officer shall be required to leave Montserrat pending the outcome of his application or appeal; and, for the purposes of this section, an application or appeal is pending—

- (a) beginning on the date when it is submitted or instituted; and
- (b) ending on the date when the claimant or appellant-
  - (i) is formally notified of the outcome of the application or appeal; or

- (ii) withdraws or abandons the application or appeal.

*(Inserted by Act 1 of 2009)*

### **Orders of Immigration Appeals Tribunal and appeals from its decisions**

**53. (1)** On an appeal, the Tribunal may make such order, including an order for costs, as it thinks fit.

**(2)** Where an appeal is allowed under this section, the Tribunal may give direction to the Chief Immigration Officer to give effect to its decision.

**(3)** An appeal may be made to the High Court from a decision of the Tribunal on a point of law only.

*(Inserted by Act 1 of 2009)*

### **Rules relating to appeals**

**54.** The Governor acting on the advice of Cabinet may make rules relating to the procedure and forms to be used for the notice of appeal to the court and the admission of evidence of any appeal heard by the Tribunal. *(Inserted by Act 1 of 2009)*

### **Helping asylum-seeker to enter Montserrat**

**55. (1)** A person who—

(a) knowingly and for gain facilitates the arrival in Montserrat of an individual; and

(b) knows or has reasonable cause to believe that the individual intends to apply for asylum under section 45,

is guilty of an offence and shall be liable on conviction to imprisonment for a term of six months or to a fine of \$1,000 or to both.

**(2)** Subsection (1) does not apply to anything done by a person acting on behalf of an organisation which—

(a) aims to assist individuals seeking asylum pursuant to the Refugee Convention; and

(b) does not charge for its services.

*(Inserted by Act 1 of 2009)*

**PART 3**

**DEPORTATION**

**Power of Governor to make, vary and modify a deportation order and duty to report to Secretary of State**

**56. (1)** The Governor may, if he thinks fit, make a deportation order in respect of any person who is a person whose application for asylum has been refused under section 47.

**(2)** The Governor—

*(a)* may, at any time, revoke a deportation order and may vary or modify its terms so as to permit the person in respect of whom it is made, to enter and land in Montserrat for such purpose and subject to such conditions as may be specified; and

*(b)* shall report any deportation order made, varied or modified by him, to the Secretary of State for Foreign and Commonwealth Affairs.

**Form of deportation order**

**57.** A deportation order shall be in such form as the Governor may approve.

**Service of deportation order and power to detain deportees**

**58. (1)** A deportation order shall be served upon the person to whom it is directed, by any immigration officer or constable.

**(2)** A person in respect of whom a deportation order is made may be detained in such manner and in such place as may be directed by the Governor and may be placed on board a vessel about to leave Montserrat, and shall be deemed to be in lawful custody while so detained and until the vessel finally leaves Montserrat.

**Duty to comply with deportation order**

**59. (1)** A person in respect of whom a deportation order is made shall leave Montserrat in accordance with the terms of the order, and shall thereafter, so long as the order is in force, remain out of Montserrat.

**(2)** Whoever contravenes subsection (1) is guilty of an offence.

**(3)** Whoever returns to Montserrat in contravention of a deportation order is guilty of an offence and may again be deported under the original order, and section 58(2) shall apply accordingly in respect of such person.

**Duty to afford transportation of deportee to a place outside Montserrat**

**60. (1)** The Governor deportation order under section 56 in respect of a person who has been refused asylum—

- (a) may require the master of a vessel to remove the person from Montserrat; and
- (b) provide to bear the cost of such removal, including the cost of providing escorts to and from the receiving country.

(2) The master of a vessel about to call at any place outside Montserrat shall, if so required by the Governor or by an immigration officer, receive a person against whom a deportation order has been made and his dependants, if any, on board the vessel, and shall afford him and them a passage to that place and proper accommodation and maintenance during the journey.

(3) Whoever contravenes subsection (1) is guilty of an offence.

(4) The Governor may apply any money or property of a person against whom a deportation order has been made in payment of the whole or any part of the expenses of or incidental to the journey from Montserrat and of the maintenance, until departure, of such person and his dependants, if any.

(5) Except so far as they are defrayed under subsection (4), any such expenses shall be payable out of public funds.

### **Harbouring deportee**

61. Whoever, without lawful excuse, knowingly harbours or conceals any person who is in Montserrat in contravention of a deportation order is guilty of an offence.

### **Arrest of person contravening, etc., this Part**

62. Whoever acts in contravention of this Part or is reasonably suspected of having so acted or being about so to act, may be taken into custody without warrant by an immigration officer or constable.

### **Evidence in proceedings taken under this Part**

63. In any proceedings taken under, or in connection with, this Part—

- (a) any document purporting to be a deportation order shall, until the contrary is proved, be presumed to be such an order; and
- (b) any deportation order shall be presumed, until the contrary is proved, to have been validly made and to have been made on the date upon which it purports to have been made.

### **Proceedings to be sanctioned by Attorney General**

64. No proceedings shall be instituted under this Part or Part 2 except by the Attorney General or with his previous sanction in writing.

### **Power to put questions and require production of documents**

65. (1) The Tribunal or any immigration officer, constable or other person lawfully acting in the execution of this Act may—

- (a) put any question to any person, being a question reasonably required in connection with the proper discharge of their, its or his functions under this Act; and
  - (b) require any person to produce for inspection any document which he may have in his possession or under his control, being a document of which the inspection is reasonably required in connection with the proper discharge of such function as aforesaid.
- (2) Whoever fails without lawful excuse (the proof of which shall be upon him) to answer fully and truthfully to the best of his knowledge and belief any such question, or to produce for inspection any such document, is guilty of an offence.
- (3) Any power to require the production of a document for inspection shall be construed as including a power to take copies of such document and to retain such document for a reasonable time for such purpose.

*(Inserted by Act 1 of 2009)*

### **Transitional**

**66.** Any application for asylum claim submitted on or before the coming into force of this Act and regarding which a decision has not been taken in conformity with the Immigration Act shall be dealt with in accordance with the procedure prescribed by Parts 2 and 3.

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**IMMIGRATION REGULATIONS**  
**ARRANGEMENT OF REGULATIONS**

**REGULATION**

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**IMMIGRATION REGULATIONS – SECTION 40**

*(S.R.O.s 14/1947, 19/1950, 3/1951, 24/1953, 20/1957, 5/1959, 19/1970, 5/1973, 44/1975, 4/1984, 13/1985, 34/1985, 10/1988, 6/1993, 21/1993, 16/1994, 41/1994, 60/1999, 7/2008, 33/2010 and Acts 9 of 2011 and 10 of 2012)*

**Short title**

1. These Regulations may be cited as the Immigration Regulations.

**Interpretation**

2. In these Regulations “**the Act**” means the Immigration Act.

**Return of Passengers**

3. (1) The master of every ship, whether a British or a foreign ship, carrying any passengers to a port in Montserrat from any place out of Montserrat, shall furnish to an immigration officer, at the time of his visiting the ship on arrival, a correct return in the Form “**A**” in the Schedule.

(2) The master of every aircraft arriving in Montserrat with passengers from any place outside Montserrat shall furnish to the immigration officer a correct Passenger Manifest in the Form “**A1**” in the Schedule.

**Examination of Immigrants**

4. (1) An examination of persons arriving in Montserrat from a place outside Montserrat shall be conducted by an immigration officer on the vessel by which such persons arrived, or at any other place convenient for the purpose as the immigration officer may direct.

(2) Every person referred to in subregulation (1), (except a person upon whose travel document there is a permit exempting him from preparing an Embarkation/Disembarkation Card when leaving or entering Montserrat), before being permitted to enter or leave Montserrat shall complete as appropriate and sign in duplicate an Embarkation/Disembarkation Card in the Form “**B**” in the Schedule.

*(Substituted by S.R.O. 33 /2010)*

**Evidence of means and security to be furnished**

5. (1) Whenever security has to be furnished by an immigrant, such security shall be in the form of a deposit made with the Accountant General and the amount shall be not less than that required to pay for a single economy class air fare to the country having a legal duty to receive him (as shown by the country issuing his passport, or other travel documents). *(Substituted by S.R.O. 5/1973)*

(2) The amount of such deposit shall be applied in indemnifying public funds for all costs, charges and expenses incurred in regard to the immigrant within two years of his arrival in Montserrat (the balance, if any, or the whole if no part is applied as aforesaid being repaid to the immigrant).

(3) A person on a temporary visit to Montserrat, shall, if required by an immigration officer, produce evidence to his satisfaction—

- (a) of being in employment elsewhere and intent to return thereto; or
- (b) of possession of a return ticket; or
- (c) of the possession of a sum of money sufficient to enable him to maintain himself during the period of his visit and to provide for his return fare or of its immediate availability.

(4) Subregulation 3(b) shall not apply for the purposes of section 18(5)(a) of the Act. (*Inserted by Act 10 of 2012*)

(5) The immigration officer may accept as sufficient evidence that the immigrant is not likely to become a public charge if (not being a person suffering from infirmity of mind or body or ill-health) he is satisfied that *bona fide* employment is awaiting the immigrant in Montserrat; the evidence to support such contention must show the nature and period of the employment and the proposed wage, and be supported as to the ability of the prospective employer to carry out his undertaking and include an undertaking by the employer to repatriate the immigrant if the engagement is terminated within 2 years from the time he landed in Montserrat.

### Medical examination

6. (1) A medical officer shall, when necessary and required,<sup>\*</sup> be present at the examination of persons entering or seeking to enter Montserrat from a place outside Montserrat, and shall indicate to the immigration officer any person who ought, in the opinion of such medical officer, to be medically examined. The immigration of any such person, and of any other officer to make a medical examination of any such person, and of any other person entering or found within Montserrat from a place outside Montserrat who is required to submit to such medical examination.

(2) The medical examination of any person entering or seeking to enter or found in Montserrat from a place outside Montserrat shall take place at such place as may be convenient, and as soon as possible after the arrival of such person, or after the person is found and a report as to the result of such examination shall be rendered to the immigration officer.

### Certificate of Identity

7. (1) A certificate of identity issued in terms of section 34 of the Act to persons who belong to Montserrat may be in the Form “D” in the Schedule, and subject to the conditions therein set out, or to any modifications required in the particular circumstances; and every such certificate shall contain such particulars as may be deemed necessary for the purpose of identification.

(2) No certificate of identity shall be issued unless there be presented to the immigration officer such evidence as he may require as to the identity of the applicant and of his claim that he belongs to Montserrat, and of the particulars required.

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<sup>\*</sup> See the Immigration (Health Certificate) Regulations at page 89 in this Chapter.  
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(3) The applicant for a certificate of identity shall submit to the immigration officer his application in the Form “E” in the Schedule.

### **Permit in Respect of Sick Persons**

8. The temporary permit which may be issued to a sick person under section 20 of the Act shall be in the Form “F” in the Schedule and under the conditions set out in regulation 10. Every such permit shall, further, be issued subject to such of the special conditions set out in the Form “F” as may be prescribed in any case, and such conditions shall be accepted in writing by the holder of the permit before the permit is issued to him.

### **Permits in Respect of Temporary Immigrants**

9. (1) The temporary permit which may be issued to an immigrant under sections 13, 19 and 22 of the Act shall be in the Form “G” in the Schedule and subject to the conditions set out in the said Form and in regulation 10, and shall entitle such person to enter or pass through Montserrat to some destination beyond or to reside temporarily in Montserrat for some approved purpose. Every permit shall contain such particulars and marks together with any fingerprints as may be deemed necessary for purposes of identification.

(2) Notwithstanding the provisions of subregulation (1), an immigration officer may endorse on the passport or other travel document of a visitor or passenger intransit permission to remain in Montserrat for such period and on such terms and conditions as he may state thereon and such endorsement shall be in such form as the Chief Immigration Officer may from time to time determine.

*(Inserted by S.R.O. 19/1970)*

### **Conditions of Temporary Permits**

10. (1) Unless in any individual case the giving of security is considered unnecessary by the Governor the immigrant who applies for a temporary permit shall be required to deposit the amount appropriate to his case, or if the Governor so approves, give a security bond for such amount as provided by regulation 5(1), as a security for the observance by him of the conditions imposed under the permit. The deposit shall only be refunded upon the fulfilment of such conditions and upon such person leaving Montserrat within the period for which the permit was issued, or upon the cancellation of the conditions by the Governor.

(2) It shall be deemed to be a condition of every temporary permit that the holder shall report to the officers and at the periods and places specified in such permit, and, if the holder gives any false or misleading address, he shall be liable to a forfeiture of his permit and of the deposit made or bond given by him or on his behalf, and to be dealt with as a prohibited immigrant.

### **Work Permits**

11. (1) Every application for a work permit under the Labour Code in relation to a person who is, or is about to be employed by another shall be in the form set out as Form “L” in the Schedule hereto.

(2) Every application for a work permit to engage in any occupation in Montserrat shall be in the form set out as Form “M” in the Schedule hereto.

(3) A work permit issued under the Act shall be in the form set out as Form “N” in the Schedule hereto.

(4) Upon receipt by the applicant of a notification issued by or on behalf of the Governor that his application has been approved, the applicant shall pay the prescribed fee in stamps to be affixed to the permit and upon such payment the Governor shall cause to be issued to the applicant a work permit in the prescribed form.

(5) (a) Any employer who has in his employment any holder of a work permit or other person to whom the Act applies shall between the 1st day of January and 15 January of each year furnish to the Governor a return in the form set out as Form “O” in the Schedule hereto.

(b) Notwithstanding the provisions of sub-paragraph (a) the Governor may at any time, request any employer to submit to him a return and every employer shall comply with any request so made.

(c) The person to whom, or in relation to whom, a work permit has been issued, shall, within fourteen days, notify the Governor in writing of any change in circumstances affecting the accuracy of the particulars furnished by, or in relation to, such persons or recorded in the register of work permits established under regulation 12.

(6) Any person exempt from the provisions of the Labour Code may, if he so desires, apply to the Governor for a certificate of exemption which shall be in the form set out as Form “R” in the Schedule hereto.

*(Inserted by S.R.O. 19/1970)*

## Registers

12. (1) There shall be established and maintained at the office of the Chief Immigration Officer a register, together with an alphabetical index thereto, of persons to whom permits of permanent residence have been issued. The register shall be in the form set out as Form “Q” in the Schedule hereto.

(2) There shall be established and maintained at the office of the Chief Immigration Officer a register, together with an alphabetical index thereto of persons to whom, or in respect of whom work permits have been issued. The register shall be in the form set out as Form “R” in the Schedule hereto.

(3) Where, in the exercise of the power conferred by section 25 of the Act, the Governor revokes or varies a permit, the entry in the register relating to the issue of such permit shall thereupon be altered accordingly.

*(Inserted by S.R.O. 19/1970)*

## Replacement or Amendment of Permits

13. (1) Where a permit has been lost, damaged or defaced the person to whom such permit was issued may in writing, setting out the circumstances, apply to the Governor for the replacement of the same; and the Governor shall if he thinks fit issue

to such person a new permit. The appropriate entry in the register in relation to the permit so lost, damaged or defaced shall thereupon be cancelled.

(2) The holder of a permit who desires to have the same amended may apply in writing to the Governor setting out the details of the proposed amendments and the reasons therefor together with the permit; and the Governor may amend or vary the permit as he may think fit.

(3) The Governor may waive the fee payable in respect of the replacement, amendment or variation of permit under this regulation.

*(Inserted by S.R.O. 19/1970)*

### **Provisional Restriction**

14. The immigration officer, after commencing his examination of any person who has not satisfied him that he is not a prohibited immigrant, may provisionally restrict the admission to Montserrat of such person, or cause his detention in custody, and may cause such enquiries to be made, or await such further information as may be necessary, before finally informing any person in accordance with section 41 of the Act that he is a prohibited immigrant, and that he may appeal to the Magistrate's Court.

### **Arrest of Suspected Prohibited Immigrant**

15. In the event of an immigration officer becoming aware of any circumstances constituting reasonable grounds for suspecting that any person within Montserrat is a prohibited immigrant in Montserrat he shall apply to a Magistrate for a warrant of arrest, in the Form "H" in the Schedule, and shall cause such person to be brought before him, and thereupon proceed to examine him in order to ascertain whether such person is a prohibited immigrant, and such person may, if necessary, be detained pending the completion of such enquiry, and may be further detained thereafter as hereinafter provided if it is found that he is a prohibited immigrant, or shall otherwise proceed in terms of section 26 of the Act.

### **Records of Prohibited Immigrants**

16. The immigration officer shall, in the case of every person deemed to be a prohibited immigrant, enter on the Form "I" in the Schedule a full record of his examination of such person.

### **Taking of Photographs, etc., of Prohibited Immigrants**

17. The immigration officer may, for the purposes of identification, take or cause to be taken, the measurements, photograph and fingerprint impressions of any person believed to be a prohibited immigrant.

### **Procedure on Appeal by Prohibited Immigrant**

18. (1) It shall be the duty of an immigration officer, after having notified a person whom he has declared to be a prohibited immigrant and when he is informed by such person that it is his intention to appeal to a Court, to supply to such person for completion by him in duplicate a notice of appeal in Form "J" in the Schedule.

(2) On receipt of such notice of appeal by the immigration officer in a completed form from the appellant, he shall arrange for the reception of the appellant at the detention depot, or at such other place as may be approved for his accommodation, pending the determination of his appeal; or should the appellant so request, and on his giving security in the manner provided by regulation 5 (1), the immigration officer shall issue a temporary permit allowing him to remain in Montserrat and release him from detention pending the hearing of his appeal to the Magistrate or any subsequent appeal.

(3) At the hearing of an appeal to the Magistrate there shall be placed before the Magistrate a statement by the immigration officer of the grounds upon which he has deemed the appellant to be a prohibited immigrant, and the Court shall inform the appellant accordingly. The appeal shall then be heard summarily in the same manner as on a complaint made and the Magistrate shall at the conclusion thereof endorse on the notice of appeal which was completed by the appellant in accordance with subregulation (1) his decision in regard to that appeal.

(4) The Magistrate shall, in his consideration of a case brought before him, determine on the facts whether the appellant is or is not a prohibited immigrant coming within the class or classes alleged by the immigration officer or of any of the other classes described in the Act, or, if he is one of such classes, shall determine whether he has or has not brought proper proof that he is a person exempt under the Act from being a prohibited immigrant and if the Magistrate finds as a fact that the appellant comes within one of the classes of prohibited immigrants and the appellant has not brought proper proof or has otherwise failed to satisfy him that he is a person so exempt, he shall dismiss the appeal.

(5) If the appeal be dismissed, the appellant shall remain in the custody of the immigration officer who shall forthwith take such steps as may be required for his removal from Montserrat, or for such temporary or conditional residence within Montserrat as may be permitted under the Act, unless the appellant shall have notified his intention to appeal further to the Court of Appeal in which case the appellant shall remain at the detention depot or other approved place or continue under the terms of his temporary permit until the further appeal has been heard; and if such further appeal has been dismissed, the immigration officer shall then arrange for the removal of the appellant from Montserrat. If the appeal to the Magistrate's Court or to the Court of Appeal be allowed, the appellant shall be discharged from custody or shall be relieved from the conditions of any temporary permit issued to him.

### **Order of Removal of Prohibited Immigrant**

19. Any order which may be issued under the Act for the removal of a prohibited immigrant from Montserrat shall be in Form "K" in the Schedule.

### **Detention of Prohibited Immigrants or Suspected Immigrants**

20. (1) Any gaoler or other officer shall accept custody of any person on the order of the immigration officer, or on the order of a Magistrate issued at the request of the immigration officer, but no person shall be so detained in custody for any longer period than is necessary for the purpose of any prescribed enquiry or for the completion by the immigration officer of arrangements for the removal of such person from Montserrat at the first reasonable opportunity.

(2) The production of an order of removal shall be sufficient authority to any gaoler or other officer to deliver the person named therein to the escort appointed to bring such person to any place for the purpose of removal in terms of such order.

### **Duties of Person in Charge of Prohibited Immigrant**

21. Any person empowered to have custody and control of any person detained as a prohibited immigrant shall carry out such duties as are assigned to him by an immigration officer.

### **Authority to Board Vessels**

22. For the purpose of administering the Act and these Regulations, all officers appointed thereunder are hereby authorized and empowered to board any vessel at any time and at all places in Montserrat.

### **Applications for Passport**

23. Applications for passports must be addressed to the Officer Administering the Government of Montserrat. Applications must be accompanied by two photographs of the applicant.

### **Issue of Passports**

24. Passports may be issued to the following persons within Montserrat—

- (a) British citizens;
- (b) British Overseas Territories citizens;
- (c) British Overseas citizens;
- (d) British Protected Persons;
- (e) British subjects under sections 30, 31, 32 or 33 of the British Nationality Act, 1981.

*(Substituted by S.R.O. 4/1984, amended by S.R.O. 34/1985 and Act 9 of 2011)*

### **Declarations to be made**

25. Passports will be issued—

- (a) in the case of persons over sixteen years upon the presentation of a completed application in the form prescribed by the Governor acting on the advice of Cabinet duly countersigned and certified by a member or officer of any banking firm established in Montserrat, or by any Magistrate, Justice of the Peace, Minister of Religion, Barrister-at-Law, Medical Officer or Notary Public resident in Montserrat. The applicant's certificate of birth and other evidence may also be required.
- (b) in the case of persons under sixteen years requiring a separate passport, upon the presentation of a completed application in the form prescribed by the Governor acting on the advice of Cabinet duly

countersigned and certified by any one of the persons named in the preceding paragraph.

*(Amended by S.R.O. 34/1985 and Act 9 of 2011)*

### Evidence of British Nationality

**26.** All applicants for passports claiming British Nationality under the British Nationality Act, 1981, will be required to produce such evidence as is necessary to establish their British nationality. *(Substituted by S.R.O. 4/1984)*

### Duration of Passport

**27.** Passports are available and valid for a period of ten years only, or for such lesser time as the Governor, in his discretion, may prescribe. *(Substituted by S.R.O. 4/1984)*

### Renewals

**28.** Persons applying for the renewal of their passports should complete the form of application prescribed by the Governor acting on the advice of Cabinet and pay the prescribed fee in stamps.

*(Substituted by S.R.O. 10/1988 and amended by Act 9 of 2011)*

### Loss of Passports

**29.** No passport will be issued to replace the one lost without producing a written statement from the Commissioner of Police certifying that the loss was reported to the police and that the matter has been fully investigated without result. *(Inserted by S.R.O. 10/1988)*

### Fees for Passports, Certificates of Identity and Related Matters

**30.** The fees for the issue of passports, certificates of identity and related matters shall be as follows—

(a)	issue of passport for adult .....	\$150
(b)	issue of passport for a child .....	\$75
(c)	replacing lost passport—	
	(i) adult.....	\$350
	(ii) child.....	\$275
(d)	replacing damaged or defaced passport —	
	(i) adult.....	\$350
	(ii) child.....	\$275
(e)	issue of certificate of identity .....	\$50
(f)	replacing passport lost due to fire, flood or hurricane—	
	(i) adult .....	\$150
	(ii) Child.....	\$75
(g)	grant of extension of permit to remain in Montserrat as a visitor.....	\$75
(h)	issue of certificate of character.....	\$50
(i)	Emergency certificate.....	\$50

*(Substituted by S.R.O. 7/2008)*

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### **Persons Abroad**

**31.** Except with the approval of the Governor, a passport will not be issued in Montserrat on behalf of a person already abroad; such person should apply for one to the nearest British Mission or Consulate.

*(Amended by S.R.O. 13/1985)*

### **Offences and Penalties**

**32.** Any person who fails to comply with the provisions of these Regulations shall be guilty of an offence and shall on summary conviction be liable to a fine of \$1,000, and in default of payment, to a term of imprisonment of six months.

*(Inserted by S.R.O. 19/1970 and amended by Act 8 of 1999)*

---

## SCHEDULE

## FORM A

## RETURN OF PASSENGERS

List of Passengers who have arrived in Montserrat by the ..... on ..... 19/20.....

r.3.

No.	Cabin or Steerage.	Port of Embarkation.	Surname.	Christian Name.	Age.	Sex.	Married or Single.	Can you read and write English?	Calling or Occupation.	Number and Particulars of Passport or Identity Document.	Birthplace Nationality and Race.	Amount of money in your possession.	Have you been to the Colony before? If so, state date of departure.	For what purpose are you coming into the Colony?	How long do you intend to stay in the Colony?	Address in the Colony.	Signature.
-----	-----------------------	-------------------------	----------	--------------------	------	------	-----------------------	---------------------------------------	---------------------------	--	--	--	--	--	--	---------------------------	------------

Master.....

Dated ..... 19/20.....



## FORM A1

*r.3.*

MONTSERRAT  
IMMIGRATION ACT  
**PASSENGER MANIFEST**

PASSENGER MANIFEST		
Owner or Operator .....		
Aircraft ..... Flight No. .... Date .....		
<i>(Registration Marks and nationality)</i>		
Point of Embarkation ..... Point of Disembarkation .....		
<i>(Place and Country) (Place and Country)</i>		
Surname and Initials	For use by owner or Operator only.	For official use only.
Prepared by ..... Page ..... of ..... Pages		

## FORM B

## EMBARKATION/DISEMBARKATION CARD

(Regulation 4)

<b>Welcome to Montserrat</b> <b>IMMIGRATION/CUSTOMS FORM</b>		
<b>COMPLETE SECTIONS A, B, C of this card.</b> <b>PLEASE PRINT USING BLACK OR BLUE INK</b>		<b>Admission #</b>
<b>ARRIVAL RECORD (SECTION A)</b>		
1. Flight #/ Vessel Name		2. Boarded At
3. Last name		
4. First name		5. Middle name
6. Date of Birth		7. Country of Birth
D   D   M   M   Y   Y   Y   Y		
8. Sex    M <input type="checkbox"/> F <input type="checkbox"/>		9. Marital Status <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Other
10. Occupation		
11. Passport #		11a. Date of Issue
12. Country of Issue		D   D   M   M   Y   Y
13. Home Address (Street Address/Apt #)		
14. City/Town		14a. State/Province
15. Zip/Postal Code		16. Country
17. Countries visited in the last six weeks		
18. Intended Address in Montserrat (Hotel/Street Address/Apt #, Country)		
19. City/Town/Parish		
20. Length of stay		Abroad (resident), in Montserrat    Visitor
21. Purpose of visit (visitors only)		22. Accommodation
<input type="checkbox"/> Vacation <input type="checkbox"/> Business <input type="checkbox"/> Visiting Friends/Relatives <input type="checkbox"/> Honeymoon/Wedding		<input type="checkbox"/> Study <input type="checkbox"/> Meeting <input type="checkbox"/> Convention <input type="checkbox"/> Sports
		<input type="checkbox"/> Hotel <input type="checkbox"/> Guest House <input type="checkbox"/> Private Home <input type="checkbox"/> Apt/Villa <input type="checkbox"/> Dive/Eco Lodge <input type="checkbox"/> Bed & Breakfast <input type="checkbox"/> Other (Specify)
Other (Specify) _____		
Signature _____		Date _____
MCR   MCA   MC   MR   MRP   MRW   CW   VP   VB   VC		TD   TA   TH   TG   TR
		Departure #
<b>DEPARTURE RECORD (SECTION B)</b>		
Please retain Departure record for presentation upon Departure		
1. Flight #/ Vessel Name		2. Port of Final Destination
3. Last Name		
4. First Name		5. Middle Name
6. Date of Birth		7. Sex
D   D   M   M   Y   Y		M   F
9. Nationality		10. Country of Birth
Signature _____		Date _____

NOTICE TO PASSENGER CUSTOMS DECLARATION (SECTION C)		
Every passenger, or head of the family travelling together with children under the age of 18, is required to complete Section C		
1. Spouse and children under age 18 accompanying you:		
Name	Date of Birth (DD/MM/YY)	Relation
2. Number of pieces of luggage		
Accompanied		Unaccompanied
(Checked luggage and hand luggage)		(Luggage sent by Air or Sea Freight)
3. I am (We are) bringing:	YES	NO
(a) fruits, plants, cut flowers, vegetables, soil, meat, live animals and organisms, honey, wildlife products, plant material, food, animal products or live birds;	<input type="checkbox"/>	<input type="checkbox"/>
(b) pharmaceuticals, narcotics and other illicit drugs, and biological substances; or	<input type="checkbox"/>	<input type="checkbox"/>
(c) arms, ammunitions, explosives, fireworks, toy guns or other weapons.	<input type="checkbox"/>	<input type="checkbox"/>
4. I have (We have) commercial merchandise: (articles for sale, samples used for soliciting orders or goods that are not considered personal effects)	<input type="checkbox"/>	<input type="checkbox"/>
5. I am (We are) carrying currency or monetary instruments* over US\$10,000.00 or equivalent	<input type="checkbox"/>	<input type="checkbox"/>
6. General passenger allowances:		
(a) Wines or spirits not exceeding 40 oz;		
(b) Tobacco not exceeding half a pound, cigars not exceeding fifty (50) in number or cigarettes not exceeding two hundred (200) in number.		
Description of Articles	Value in Currency	Official Use Only
I certify that all statements I have made in this declaration are true, correct and complete. I understand that failure to make a full declaration is an offence and can result in seizure of the goods, fines and/or imprisonment.		
Signature X .....	Date .....	
Official Use Only	ID #	
Signature of Examining Officer		
* Monetary instruments include coins, currency, travellers cheques and bearer instruments such as personal or cashier cheques and stocks and bonds.		
Failure to report the total amount that you are carrying may lead to the seizure of all the currency or monetary instruments, and may subject you to all civil penalties/or criminal prosecution.		

(Substituted by S.R.O. 33/2010)

## FORM C

r.5(1).

MONTSERRAT  
IMMIGRATION ACT  
**SECURITY BOND**

Know all Men by these Presents that I, .....,  
..... of .....,  
in Montserrat (hereinafter referred to as the Surety) am held and firmly bound  
unto the Accountant General in the sum of \$..... to be  
paid to the said Accountant General, for which payment well and truly to be  
made I hereby bind myself, my heirs, executors and administrators by these  
presents.

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

Whereas .....  
(herein referred to as the immigrant) who lately arrived in Montserrat by the  
vessel/aircraft ..... is a prohibited  
immigrant\* ..... within the meaning of the  
Immigration Act:

And Whereas the said Surety desires to enable the said immigrant to  
land in Montserrat.

Now the above written obligation is conditioned to be void if the said  
Surety do on demand forthwith pay to the Accountant General any charges  
together with expenses of repatriation (if any) which within two years from  
the date of these presents may be incurred by the Government of Montserrat  
in respect of the said immigrant.

Signed sealed and delivered by the above-named  
in the presence of .....  
Signature of Witness .....  
Address .....  
Occupation .....  
Signature of Surety .....

---

\* or as the case may be.

FORM D

*r.7(1).*

MONTSERRAT  
IMMIGRATION ACT  
CERTIFICATE OF IDENTITY

It is certified that .....  
holding passport No. .... issued by .....  
having appeared before ..... for the  
purpose of supplying the means of identification which are now specified  
herein, and having intimated that he/she is about to absent himself/herself  
from Montserrat for a period of .....  
on a visit to .....  
this document is issued to the said .....  
and, subject to the conditions specified hereunder or endorsed hereon and to  
the verification of the marks of identification, will be accepted by the  
examining immigration officer without further evidence as proof of the  
identity of the said .....  
on his/her return within a period of two years.

Date .....

*Immigration Officer.*

Place .....

CONDITIONS UNDER WHICH THE CERTIFICATE IS ISSUED

1. That, on the return of the person referred to herein to Montserrat, this certificate shall be surrendered to the examining immigration officer.
2. That if the person referred to herein seeks to re-enter Montserrat after a period of two years has elapsed from the date hereof, the protection afforded by this certificate shall be deemed to have lapsed, and he/she shall be required to satisfy the requirements of the Act.
3. This certificate may be held to be invalidated if the person named herein is shown to the immigration officer to have made a false declaration in a material particular when applying for a certificate.

IDENTIFICATION MARKS

.....  
.....



## FORM E

r.7(3).

## MONTSERRAT

## IMMIGRATION ACT

## APPLICATION FOR CERTIFICATE OF IDENTITY

Serial No. ....

Nature of document applied for .....

Period, if any, for which required .....

Port of Entry .....

(If any reply to these questions be in the negative, this should in each case be clearly stated.)

1. Name of applicant in full .....

2. Applicant's age .....

3. Country of origin .....

4. (a) Date and place of applicant's first entry into Montserrat .....

.....

(b) Full particulars with dates of applicant's subsequent movements  
and places of residence .....

.....

5. Particulars of fixed property or other vested interests of applicant in  
Montserrat or elsewhere .....

.....

6. Applicant's occupation and means of subsistence .....

7. Is applicant able to read and write in any European language? If so, in  
what language .....8. Has applicant ever been refused permission to enter Montserrat or any  
part of the British Commonwealth or expelled therefrom? .....9. Has applicant ever been convicted of any crime in any country? If so,  
for what offence .....

.....

10. Is applicant suffering from any mental or physical infirmity?  
.....
11. State whether applicant is or has been married, and place of residence  
of wife or family .....  
.....
12. References and particulars of residence and remarks. Special reference  
should be given to any permit or certificate previously issued  
.....  
.....
13. Particulars of passport issued to applicant .....

I, .....  
having been duly cautioned, hereby declare that I fully understand the above  
questions, and that I have answered them truthfully (and that they have been  
interpreted to me in .....  
which I hereby declare to understand).

Signature or mark of applicant .....

Address in full .....

.....  
.....

Date .....

\_\_\_\_\_

## FORM F

r.8.

## MONTSERRAT

## IMMIGRATION ACT

**PERMIT TO PERSON SUFFERING FROM A  
COMMUNICABLE DISEASE TO ENTER MONTSERRAT  
ISSUED IN TERMS OF SECTION 20 OF THE ACT**

Permission is hereby granted to ..... who  
is suffering from a communicable disease to enter Montserrat subject to the  
conditions prescribed in regulation 8 and to the special conditions specified  
hereunder or endorsed hereon.\*

*Immigration Officer.*

I agree to accept this permit under the conditions herein prescribed.

*Immigrant.*

Dated ....., 20.....

## CONDITIONS

(a) That the place of residence and every change of residence of the holder of this permit and his manner of transport shall be subject to the approval of the immigration officer.

(b) That the holder of this permit shall not at any time use or occupy any bedroom or other sleeping accommodation used by any other person.

(c) That the holder of this permit shall observe and carry out such regulations as to the conditions of residence, disinfection, and otherwise generally for preventing spread of infection, as are laid down in any law for the time being in force.

(d) That immediately on arrival at any place the holder of this permit shall personally report himself to the District Medical Officer of such place and shall notify his place of residence and any subsequent change of residence.

(e) That the holder of this permit shall present himself at such time and at such place as may be prescribed for medical examination by a Government Medical Officer.

---

\* The immigration officer should insert any other condition and/or strike out on this permit such (if any) of the specified conditions contained herein as may not be necessary.

FORM G

*r.9.*

MONTSERRAT  
IMMIGRATION ACT  
**TEMPORARY PERMIT**

Sum deposited (or) guaranteed .....

Deposited (or) guaranteed by .....

(To be refunded on production of this permit when leaving Montserrat,  
and on fulfilment of the other conditions imposed hereunder.)

Subject to the conditions specified hereunder or endorsed hereon and to  
the verification of the marks of identification, the holder .....  
.....of ..... is  
permitted to enter Montserrat for the purpose of

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

*Immigration Officer.*

CONDITIONS

1. The holder of this permit shall leave Montserrat within  
..... from the date hereof, that is to say, on or  
before the ..... day of ..... without expense to  
the Government.

2. The holder of this permit shall report to the ..... at  
..... at periods of ..... and shall keep  
that officer duly advised of his whereabouts.

3. The holder of this permit shall give at least one day's notice of his  
intended departure from Montserrat.

I/We ..... agree to the  
above conditions, and I/We clearly understand that any breach of these will  
involve the forfeiture of the above deposit and will render the holder liable to  
be further dealt with according to law.

Signature of holder .....

Signature of depositor or surety .....

Witness .....

Place .....

IDENTIFICATION MARKS

.....  
.....

I hereby certify that I acted as interpreter for the purpose of this

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application.

Signature .....

Address .....

Declared before me at ..... day of ....., 20.....

*Immigration Officer.*

Fingerprints.

Left.

Fingerprints.

Right.

\_\_\_\_\_

FORM H

*r. 15.*

MONTSERRAT  
IMMIGRATION ACT  
**WARRANT OF ARREST**

On the complaint of ..... Immigration Officer.

vs.

.....

TO ALL CONSTABLES AND OTHERS OF THE LAW,  
PROPER TO THE EXECUTION OF THIS WARRANT

Whereas, from information taken upon oath before me there are  
reasonable grounds of suspicion against .....  
of ..... that he/she is a prohibited  
immigrant and is within Montserrat in contravention of the Immigration Act.

These are therefore, in Her Majesty's name, to command you  
forthwith to apprehend and bring the said ..... or  
cause him/her to be apprehended and brought before the immigration officer  
at ..... to be examined and to answer to  
the said complaint and to be further dealt with according to law.

Given under my hand at .....  
this ..... day of ....., 20 .....

*Magistrate,*

*District ".....".*

\_\_\_\_\_

## FORM I

*r. 16.*

## MONTSERRAT

## IMMIGRATION ACT

**PARTICULARS REGARDING THE IMMIGRANT  
NAMED BELOW WHO HAS BEEN PROVISIONALLY PROHIBITED**

1. Name in full .....
2. Age .....
3. Sex .....
4. Race .....
5. Nationality .....
6. Country of birth .....
7. If Married—
  - (a) Name of husband or wife .....
  - (b) Names of all children and age ..... Sex ..... years.
   
..... Sex ..... years.
   
..... Sex ..... years.
   
..... Sex ..... years.
   
..... Sex ..... years.
   
..... Sex ..... years.
  - (c) Where family now resides .....
  - (d) Whether previously in Montserrat .....
8. (a) Total residence (if any) in Montserrat .....
- (b) Date and place of first entry in Montserrat .....
- (c) Period of absence .....
- (d) Reason for leaving .....

9. Particulars of fixed property or other vested interest in Montserrat or elsewhere .....
10. Occupation and means of subsistence .....
11. Documents and references in support of application to enter into Montserrat .....
12. (a) Description .....
- (b) Build .....
- (c) Height .....
- (d) Distinguishing marks and features .....
13. Whether able to write in a European language, and to what extent educated .....
14. Whether ever prohibited from entering Montserrat or expelled therefrom .....
15. Whether ever convicted of any crime in any country .....
16. Whether suffering from any physical or mental infirmity. If so, attach medical report, and in any case state examining officer's views as to physical type .....
17. For what purpose is entry desired? .....
18. Any other particulars relevant to the case .....

*Immigration Officer.*

Port of entry .....

Date ....., 20.....

Final decision and disposal of the case



## FORM J

*r. 18(1).*

MONTSERRAT  
IMMIGRATION ACT  
**NOTICE OF APPEAL**

I, ..... being a  
person arrested at .....  
and detained as a prohibited immigrant hereby notify my intention to appeal  
against the declaration of the Immigration Officer that I am a prohibited  
immigrant within the meaning of the Immigration Act.

Signature .....

Date .....

Place .....

## FORM K

*r. 19.*

MONTSERRAT  
IMMIGRATION ACT  
**ORDER FOR THE REMOVAL OF A PROHIBITED IMMIGRANT**

To .....

Whereas .....  
has rendered himself/herself liable to removal from Montserrat by reason that  
in terms of section ..... of the Immigration Act, the said  
.....

You are hereby authorized to cause the said .....  
to be removed from Montserrat under proper escort and subject to necessary  
detention in custody as provided under the Act.

*Magistrate,*  
*District “ ..... ”.*

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

FORM L

*r. 11.*

MONTSERRAT  
IMMIGRATION ACT  
**APPLICATION BY EMPLOYER FOR WORK PERMIT**

To the Governor

I hereby apply for the grant of a work permit to employ the under-mentioned persons.

The following details are submitted in support of my application.

1. Name of Employer .....
2. Address .....
3. Nature of Business .....
4. No. of Persons now employed .....
  - (a) Belonging to Montserrat Male ..... Female .....
  - (b) Not belonging to Montserrat Male ..... Female .....
5. Persons to be employed:

Name	Sex	Age	Nationality	Occupation	Qualifications
------	-----	-----	-------------	------------	----------------

Period of Employment

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
6. Employer's Reasons for Application .....

Employer's Signature

Date of application.

---

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Application Approved or refused .....

Fee paid

Signature .....

Date .....

## FORM M

*r. 11.*

MONTSERRAT  
IMMIGRATION ACT  
**APPLICATION FOR WORK PERMIT**

To the Governor

I hereby apply for the grant of a work permit to enable me to engage in the under-mentioned occupation.

The following details are submitted in support of my application.

1. Full name of Applicant .....
2. Age ..... Sex ..... Nationality .....
3. Address in Montserrat .....
4. Last Address outside Montserrat .....
5. Date of arrival in Montserrat .....
6. Occupation in which Applicant will engage .....
7. Name and Address of Employer (if any) .....
8. Qualification and experience .....
9. No. of persons (if any) to be employed by Applicant  
.....

Signature of Applicant .....

Date .....

---

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Application Approved or Refused .....

Fee Paid

Signature of Applicant .....

Date .....

FORM N

*r. 11.*

MONTSERRAT  
IMMIGRATION ACT  
**WORK PERMIT NO. ....**

NAME .....

a citizen of .....

is hereby permitted (a) to be employed in the capacity of .....

..... by .....

or (b) to engage in occupation as \*

This work permit is valid for a period of .....

with effect from ..... and is subject to the  
following conditions:—

I agree to the above conditions, and I clearly understand that any breach of  
them will render me liable to be further dealt with according to law. \*

Signature of holder .....

Address of holder .....

.....

.....

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

Governor.

\_\_\_\_\_  
\* Delete where inapplicable.

## FORM O

*r. 11.*MONTSERRAT  
IMMIGRATION ACT**RETURN BY EMPLOYER OF HOLDER(S) OF WORK PERMIT(S)**

1. Name of Employer .....
2. Business Address .....
3. No. of Employees .....
4. No. of Employees who belong to Montserrat .....
5. List below names etc. of employees other than those mentioned in 4 above.

Name	Address	Nationality
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Signature .....

Date .....

\_\_\_\_\_

FORM P

*r. 11.*

MONTSERRAT  
IMMIGRATION ACT  
**CERTIFICATE OF EXEMPTION**

NAME .....

Nationality .....

Permanent Address .....

Address in Montserrat .....

Occupation .....

The Holder of this Certificate is hereby exempted from the provisions of  
section 21 of the Immigration Act.

This Certificate shall expire on the change of status of the holder thereof.

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

Governor

\_\_\_\_\_

## FORM Q

*r. 12.*

MONTSERRAT  
IMMIGRATION ORDINANCE  
**REGISTER OF PERMANENT RESIDENTS**

Serial No.	Date of Issue	To whom Issued			Conditions	Fees
		Name	Address in Montserrat	Nationality		

FORM R

MONTSERRAT  
IMMIGRATION ORDINANCE  
REGISTER OF WORK PERMITS

r. 12.

Serial No.	Date of Issue	To whom Issued			Name and Address of Employer	Nature of Employment or Occupation	Period of Validity of Permit	Conditions	Fees
		Name	Nationality	Address in Montserrat					









**PASSPORT (EXEMPTION) ORDER – SECTION 17**

*(S.R.O.s 9/1947, 2/1948, 4/1984 and 55/1993)*

**Short title**

1. This Order may be cited as the Passport (Exemption) Order.

**Exemption**

2. (1) The following persons are hereby declared to be exempt from the provisions of section 17(1) of the Immigration Act (which requires them to be in possession of passports)—

- (a) Citizens of the United States of America who are visiting Montserrat for a period not exceeding six months and who are in possession of a valid ticket issued by a steamship or airline company providing for their return to the United States of America;
- (b) Passengers in transit by sea or air who do not intend to remain in Montserrat for more than fourteen days provided they are in possession of through tickets to some other destination;
- (c) Canadian citizens who are visiting Montserrat for a period not exceeding six months and who are in possession of a valid ticket issued by a steamship or airline company providing for their return to Canada;
- (d) British subjects who are visiting Montserrat for a period not exceeding six months and who are in possession of a valid ticket issued by a steamship or airline company providing for their return to the country from which they embarked;
- (e) French citizens who are visiting Montserrat for a period not exceeding six months and who are in possession of a “**Carte Nationale’d Identitie (Identity Card)**” and a valid ticket providing for their return to the country of their origin. *(Inserted by S.R.O. 4/1984)*

(2) Any document or combination of documents which provide the information as is generally contained in the passport of a person being a person who is a national of a Member State of the Organization of the Eastern Caribbean States or a Member State of the Caribbean Community shall be acceptable in lieu of a passport for immigration purposes. *(Inserted by S.R.O. 55 of 1993).*



**IMMIGRATION VISA EXEMPTION ORDER – SECTION 17**

*(S.R.O.s 6/1981 and 21/1982)*

**Commencement**

*[9 March 1981]*

**Short title**

1. This Order may be cited as the Immigration Visa Exemption Order.

**Visa exemption**

2. An alien being a subject of any of the countries mentioned in the Schedule hereto landing in Montserrat from any place beyond Montserrat and in possession of a valid passport issued to him by the proper authority of his country of nationality shall be exempt from the provision in section 17(1) of the Immigration Act requiring passports of aliens to be visaed by a British Consular Officer or other person duly so authorized.

---

**SCHEDULE**

- (a) AFRICA
  - (i) Algeria
  - (ii) Ivory Coast
  - (iii) Morocco
  - (iv) Nigeria
  - (v) Tunisia
  - (vi) Republic of South Africa
- (b) AMERICA (NORTH)
  - (i) Mexico
  - (ii) United States of America, including Commonwealth of Puerto Rico Possessions & Trust Territories
- (c) AMERICA (CENTRAL) AND WEST INDIES
  - (i) Costa Rica
  - (ii) Dominican Republic
  - (iii) Guatemala
  - (iv) Haiti
  - (v) Honduras

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- (vi) Nicaragua
- (vii) Panama
- (viii) El Salvador

(d) AMERICA (SOUTH)

- (i) *(Repealed)*
- (ii) Bolivia
- (iii) Brazil
- (iv) Chile
- (v) Colombia
- (vi) Ecuador
- (vii) Paraguay
- (viii) Peru
- (ix) Surinam
- (x) Uruguay
- (xi) Venezuela

(e) ASIA

- (i) Bahrain
- (ii) Brunei
- (iii) Israel
- (iv) Japan
- (v) Pakistan
- (vi) Philippines
- (vii) Turkey
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- (iv) Iceland
- (v) Liechtenstein

- (vi) Member States of the European Community, including their overseas dependencies, departments, possessions and territories
  - (vii) Monaco
  - (viii) Norway
  - (ix) Portugal
  - (x) San Marino
  - (xi) Spain
  - (xii) Sweden
  - (xiii) Vatican City State
- (h) OCEANIA (All countries are included in other categories).
-





**IMMIGRATION (PERMANENT RESIDENCE PERMITS) REGULATIONS**  
– SECTION 23

*(S.R.O.s 66/2005, 6/2012 and Act 9 of 2011)*

**Commencement**

*[5 October 2005]*

**Short title**

1. These Regulations may be cited as the Immigration (Permanent Residence Permits) Regulations.

**Interpretation**

2. In these Regulations—

<sup>1</sup>“**dependant**” in relation to a person who has been granted a permit of permanent residence means—

- (a) the wife of that person provided she is not living apart from him under a decree of a competent court or a deed of separation;
- (b) a child or step-child under the age of sixteen years, of that person; or
- (c) an adopted child under the age of sixteen years having been adopted by that person in a manner recognised by law;

“**minor child**” means a child who has not attained the age of eighteen years;

“**the Act**” means the Immigration Act.

**Eligibility and Condition for grant of permanent residence on the basis of 5 year’s residence**

3. (1) A person may apply to the Governor acting on the advice of Cabinet for a permit of permanent residence if—

- (a) he was ordinarily resident in Montserrat before 1 January, 2003;
- (b) he has been ordinarily resident in Montserrat for the period of five years immediately preceding his application;
- (c) he provides proof that he has been gainfully employed during the six months immediately preceding his application for permanent residence;
- (d) he provides proof that he has maintained a savings account with an average monthly balance of at least \$5,000 during the six months immediately preceding his application;

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<sup>1</sup> Insert by S.R.O 6/2012  
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- (e) he produces a Medical Certificate from a Medical Practitioner registered in Montserrat certifying that he is free from all notifiable communicable diseases specified in Schedule I to the Immigration (Health Certificate) Regulations:

Provided that, a certificate from a Medical Practitioner other than a Medical Practitioner registered in Montserrat may be accepted in exceptional cases at the discretion of the Governor acting on the advice of Cabinet; (*Amended by Act 9 of 2011*)

- (f) he produces character certificate from the Police Department of the country or countries where he resided for the last twelve years; and
- (g) he satisfies the Governor acting on the advice of Cabinet that the number of days on which he was absent from Montserrat during the five years immediately preceding his application does not exceed 150.

(2) The power conferred upon the Governor acting on the advice of Cabinet by subsection (a)—

- (a) extends to a minor child accompanying the person referred to in that subsection if proof is produced that the minor child has been ordinarily resident in Montserrat and is living with him at the date of this application;
- (b) the dependant of a person who has been granted a permit of economic residence in accordance with the Immigration (Economic Residence Permit) Regulations.

(*Amended by Act 9 of 2011*)

### **Eligibility and Condition for grant of permanent residence on the basis of 8 year's residence**

4. (1) A person may apply to the Governor acting on the advice of Cabinet for a permit of permanent residence if—

- (a) he entered Montserrat on or after 1 January, 2003;
- (b) he has been ordinarily resident in Montserrat for the period of eight years immediately preceding his application;
- (c) he provides proof that he has been gainfully employed during the six months immediately preceding his application for permanent residence;
- (d) he provides proof that he has maintained a savings account with an average monthly balance of at least \$5,000 during the six months immediately preceding his application;
- (e) he produces a Medical Certificate from a Medical Practitioner registered in Montserrat certifying that he is free from all notifiable communicable diseases specified in Schedule I to the Immigration (Health Certificate) Regulations:

Provided that, a certificate from a Medical Practitioner other than a Medical Practitioner registered in Montserrat may be accepted in

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exceptional cases at the discretion of the Governor acting on the advice of Cabinet; (*Amended by Act 9 of 2011*)

- (f) he produces character certificate from the Police Department of the country or countries where he resided for the last twelve years; and
  - (g) he satisfies the Governor acting on the advice of Cabinet that during the eight years immediately preceding his application he has not been absent from Montserrat in excess of ninety days during any one year.
- (2) The power conferred upon the Governor acting on the advice of Cabinet by subsection (1) extends to—
- (a) a minor child accompanying the person referred to in that subsection if proof is produced that the minor child has been ordinarily resident in Montserrat and is living with him at the date of his application;
  - (b) the dependant of a person who has been granted a permit of economic residence in accordance with the Immigration (Economic Residence Permit) Regulations.

*(Amended by Act 9 of 2011)*

### **Form of application and form of permit**

5. (1) Every application for a permit of permanent residence under section 23 of the Act shall be in Form “S” set out in the Schedule hereto obtainable from the Permanent Secretary Administration, Government Headquarters.

(2) Upon receipt by the applicant of a notification issued by or on behalf of the Governor acting on the advice of Cabinet that his or her application has been approved, the applicant shall pay the prescribed fee to the Accountant General and on production of the receipt for payment, the Governor acting on the advice of Cabinet shall cause to be issued to the applicant a permit of permanent residence in the prescribed form. (*Amended by Act 9 of 2011*)

(3) A permit of permanent residence issued under the Act shall be in Form “T” set out in the Schedule hereto.

### **Special provisions**

6. Notwithstanding regulations 3 and 4 the Governor acting on the advice of Cabinet may in the national interest grant a permit of permanent residence to any person on such conditions as it may specify.

*(Amended by Act 9 of 2011)*

**SCHEDULE****FORM S****IMMIGRATION ACT****APPLICATION FOR PERMIT OF PERMANENT RESIDENCE**

To the Governor

1. Full name of Applicant.....
2. Date and Country of Birth.....
3. Nationality: At Birth.....Present.....
4. Marital Status (Married, Single, Widowed, Divorced).....
5. Date and Place of Marriage.....
6. Maiden Name if Married Woman.....
7. Name of Husband/Wife.....
8. Nationality of Husband/Wife: At Birth.....  
Present.....
9. Passport/Travel Document No: .....  
Date and Place of Issue.....
10. Place of Residence outside Montserrat.....  
  - From 20 to 20.....
  - From 20 to 20.....
  - From 20 to 20.....

11. Previous convictions:

Date	Court	Places	Nature of Offences
------	-------	--------	--------------------

\*12. Academic, Professional, Technical Qualifications (State schools and universities attended and Degree or other qualifications gained).

.....

\*13. Present Employment.....

\*14. Previous Employment during past three years:

.

15. Dependants: Names, Relationship, Date and Country of Birth

16. Parents: (Names, Dates and Country of Birth).

\*17. State purpose of intended residence in Montserrat.

(a) If to invest money, state nature of business, the amount of capital required, the ..... source from which it will be received, and the employment potential.

(b) If to reside only, state financial resources in detail e.g. investments, certificate of bank balance, pensions, letter of appointment from present employer, etc.

N.B. Documentary Evidence must be supplied in all cases

18. Have you resided in Montserrat before: (Yes)..... (No).....

Dates:

From 20 to 20.....

From 20 to 20.....

From 20 to 20.....

From 20 to 20.....

From 20 to 20.....

- \*19. References: Names and Addresses of (two) referees who have known the applicant for at least two years and who are a member of the Legislative Assembly or Parliament, Justice of the Peace, Minister of Religion, Established Civil Servant, Professionally qualified person eg. Lawyer, Engineer, Doctor, School Teacher, Police Officer or a person of similar standing.

I ..... do solemnly swear (or affirm) that the statements which appear in this application have been made by me and are correct to the best of my knowledge and belief.

.....

Sworn to (or affirmed) before me this ..... day of .....,  
20.....

.....

Justice of the Peace/Notary Public

#### FOR OFFICIAL USE

Application Approved or Refused

Fee paid

Signature .....

Date .....

\* Not applicable in the case of an applicant applying under Regulation 3(a)

*(Amended by Act 9 of 2011)*

\_\_\_\_\_

FORM T

*r. 5.*

MONTSERRAT  
WEST INDIES  
**PERMIT OF PERMANENT RESIDENCE  
ISSUED UNDER THE IMMIGRATION ACT**

No. .... /20

Name ..... a citizen  
of ..... is hereby permitted to reside  
permanently in Montserrat subject to the following conditions:

CONDITIONS

I ..... of .....  
agree to the aforementioned conditions, and clearly understand that any  
breach of these will render me liable to be further dealt with according to  
law.

Signature of bearer.....

Address of bearer: .....  
.....  
.....

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

Governor.

\_\_\_\_\_





**IMMIGRATION (ECONOMIC RESIDENCE PERMIT) REGULATIONS**

– SECTION 40

*(S.R.O. 8/1998 and Act 9 of 2011)*

**Commencement**

*[24 February 1998]*

**Short title**

1. These Regulations may be cited as the Immigration (Economic Residence Permit) Regulations.

**Interpretation**

2. In these Regulations—

“**dependant**” in relation to a person who has been granted a permit of economic residence means—

- (a) the spouse of that person provided they are not living apart under a decree of a competent court or a deed of separation;
- (b) a child or step-child under the age of sixteen years, of that person; or
- (c) an adopted child under the age of sixteen years having been adopted by that person in a manner recognised by law.

**Eligibility for grant**

3. An applicant is eligible for the grant of a permit of economic residence if he satisfies the Governor acting on the advice of Cabinet of his intention to make a commercial investment in Montserrat and—

- (a) (i) maintains a property investment in Montserrat of at least the equivalent of 400,000 Eastern Caribbean dollars; or
- (ii) maintains a deposit of at least the equivalent of 400,000 Eastern Caribbean dollars at a commercial bank operating in Montserrat; or
- (iii) holds Montserrat government securities to the value of at least the equivalent of 400,000 Eastern Caribbean dollars; and
- (b) is a fit and proper person to be granted a right to reside in Montserrat.  
*(Amended by Act 9 of 2011)*

**Conditions of grant**

4. (1) The Governor acting on the advice of Cabinet may, as a condition of the grant of a permit of economic residence under these Regulations impose such conditions as the Governor acting on the advice of Cabinet thinks fit.

(2) Without restricting the generality of subregulation (1) the Governor acting on the advice of Cabinet may require that a person to whom a permit of economic residence is being granted create employment in Montserrat for a specified number of persons within a specified period. (*Amended by Act 9 of 2011*)

(3) A permit of economic residence is subject to revocation for failure to fulfill a condition of its grant.

### **Permit issued in the national interest**

5. Notwithstanding the provisions of regulation 3, the Governor acting on the advice of Cabinet may in any case in which it deems it expedient in the national interest grant a permit of economic residence to any person on such conditions as it may specify. (*Amended by Act 9 of 2011*)

### **Exemption**

6. A person granted a permit of economic residence under these Regulations is for the period of validity of the permit of economic residence.

### **Eligibility of dependants for permanent residence permit**

7. (1) A dependant of a person to whom a permit of economic residence has been granted is eligible for the grant of a permit of permanent residence if—

- (a) at the time of application he resides in Montserrat; and
- (b) in the opinion of the Governor acting on the advice of Cabinet he is a fit and proper person to be granted a right to permanently reside in Montserrat.

(*Amended by Act 9 of 2011*)

(2) A permit of permanent residence granted under this Regulation is valid only for the period of validity of the permit of economic residence to which it relates.

### **Form of application and form of permit**

8. (1) An application for a permit of economic residence shall be made to the Governor acting on the advice of Cabinet through the Financial Secretary in the form set out as Form A in the Schedule.

(2) Upon receipt by the Applicant of a notice issued by or on behalf of the Governor acting on the advice of Cabinet that his application for a permit of economic residence has been approved, the applicant shall pay the prescribed fee to the Accountant General and upon the production of the receipt the Governor acting on the advice of Cabinet shall cause to be issued to the applicant a permit of economic residence in the form set out as Form B in the Schedule. (*Amended by Act 9 of 2011*)

(3) An application by a dependent for a permanent residence permit shall be in the form set out as Form C in the Schedule, and the procedure for application shall be that specified in regulation 6 of the Immigration (Permanent Residence Permits) Regulations.

**FIRST SCHEDULE**

**FORM A**

*r. 8.*

**MONTSERRAT  
IMMIGRATION ACT  
APPLICATION FOR PERMIT OF ECONOMIC RESIDENCE**

**TO THE GOVERNOR ACTING ON THE ADVICE OF CABINET**

1. Full name of Applicant .....
2. Date of Birth ..... Country of Birth .....  
Address outside Montserrat .....  
.....
3. Nationality at Birth .....
4. Marital Status .....
5. Name of Husband/Wife .....
6. Nationality of Husband/Wife .....
7. Type of Passport and Number .....
8. Date and place of issue of Passport .....
9. Profession .....
10. If you have been convicted of any offence (whether in or outside  
Montserrat) other than a minor traffic offence, state the offence and  
the court in which you were convicted.  
.....  
.....  
.....
11. State nature of investment proposed .....  
.....  
.....
12. State details of any existing investment in Montserrat or the  
particulars of any capital in your control and which is available for

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investing in Montserrat. (Documentary evidence to be attached).

.....  
 .....  
 .....

13. I ..... do solemnly swear (or affirm) that the statements which appear in this application and which have been made by me are true to the best of my knowledge and belief.

Sworn to (or affirmed)

before me this .....

day of ....., 20.....

}

.....

.....

*(Amended by Act 9 of 2011)*

\_\_\_\_\_

FORM B

*r. 8.*

MONTSERRAT  
WEST INDIES  
**PERMIT OF ECONOMIC RESIDENCE**  
**ISSUED UNDER THE IMMIGRATION ACT**

No. .... /20.....

Name .....

a citizen of .....

is hereby granted a permit of economic residence on the following  
conditions:

CONDITIONS

I .....  
of ..... agree to the aforementioned  
conditions, and clearly understand that any breach of these will render  
the permit liable to revocation.

Signature of bearer .....

Address of bearer .....

.....

.....

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

Governor.

\_\_\_\_\_

## FORM C

r. 8.

## MONTSERRAT

## IMMIGRATION ACT

**APPLICATION FOR PERMIT OF PERMANENT RESIDENCE**

## TO THE GOVERNOR ACTING ON THE ADVICE OF CABINET

1. Full name of Applicant .....
2. Date of Birth ..... Country of Birth .....  
Address outside Montserrat .....  
.....  
.....
3. Nationality at Birth .....
4. Marital Status .....
5. Name of Husband/Wife .....
6. Nationality of Husband/Wife .....
7. Type of Passport and Number .....
8. Date and place of issue of Passport .....
9. Profession .....
10. If you have been convicted of any offence (whether in or outside  
Montserrat) other than a minor traffic offence, state the offence  
and the court in which you were convicted.  
.....  
.....  
.....
11. State the name of the person on whose economic residence permit  
your application is based and the relationship between yourself and  
that person (documentary evidence required).  
.....

- .....
- .....
12. I ..... do solemnly swear (or affirm) that the statements which appear in this application and which have been made by me are true to the best of my knowledge and belief.

Sworn to (or affirmed) }  
before me this ..... day } .....  
of ....., 20..... }

.....

*(Amended by Act 9 of 2011)*

\_\_\_\_\_





**IMMIGRATION (HEALTH CERTIFICATE) REGULATIONS**

– SECTION 40

(S.R.O. 9/1990 and 5/2004)

**Commencement**

[8 May 1990]

**Short title**

1. These Regulations may be cited as the Immigration (Health Certificate) Regulations.

**Health Certificate**

2. (1) Every application for—
- (a) a work permit other than one for employment for a period of less than a week;
  - (b) a student permit or a renewal of a student permit;
  - (c) a visa to remain in Montserrat for a period in excess of three months, other than applications from persons who before the coming into force of these Regulations have been permitted to remain in Montserrat in excess of three months,

shall be accompanied *inter alia* by a valid health certificate.

For the purpose of these Regulations a valid health certificate is a certificate issued not more than three months prior to the date of application by a registered Medical Practitioner certifying that the applicant is free from any notifiable communicable diseases specified in Schedule 1 and when it is issued in Montserrat substantially in Form 1 .

(2) Every person entering Montserrat from countries endemic for diseases specified in Schedule 2 shall present a valid certificate of vaccination at the port of entry in Montserrat.

(3) Every person entering Montserrat from countries infected with diseases specified in Schedule 3 shall be issued on arrival at the port of entry in Montserrat with a Health Alert Card.

**Duty of Registered Medical Practitioner**

3. (1) A Registered Medical Practitioner who examines any person in Montserrat in terms of Regulations 2 and discovers in the course of such examination that such person is suffering from any notifiable communicable diseases specified in Schedule 1 shall as soon as possible notify the Director of Health Services to arrange for treatment and counselling of the person affected. He shall make out a Certificate in Form 2 of Schedule 4 in triplicate and issue one copy of each to the Director of Health Services and the person examined and retain one copy for himself.

(2) It shall be the duty of every Registered Medical Practitioner to retain a copy of the Certificate issued by himself for a period of one year.

---

## SCHEDULE 1

### LIST OF NOTIFIABLE COMMUNICABLE DISEASES

HIV/AIDS	Polio Myelitis Acute
Cholera	Rabies
Dengue	Syphillis
Dyptheria	Tetanus
Gonococcal Infection	Tuberculosis
Leptospirosis	Typhoid Fever
Malaria	Viral Encephalitis
Meningococcal Infection	Viral Hepatitis
Plague	Yellow Fever-Sylvatic Clebon

*(Amended by S.R.O. 5/2004)*

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**SCHEDULE 2**

**LIST OF DISEASES AGAINST WHICH VACCINATION CERTIFICATE  
IS REQUIRED FOR PERSONS TRAVELLING FROM  
ENDEMIC COUNTRIES TO MONTSERRAT**

Cholera

Plague

Yellow Fever

---

**SCHEDULE 3**

**LIST OF DISEASES FOR WHICH 'HEALTH ALERT CARD'  
MUST BE ISSUED TO PERSONS TRAVELLING  
FROM CURRENTLY INFECTED COUNTRIES**

Cholera

Dengue

Malaria

Plague

Typhoid Fever

Viral Encephalitis

Yellow Fever

---

**SCHEDULE 4****HEALTH CERTIFICATE****FORM 1**

NAME ..... PASSPORT NO .....

AGE ..... ISSUED AT .....

SEX ..... EXAMINED ON .....

ADDRESS IN MONTSERRAT .....

COUNTRY OF ORIGIN OR LAST RESIDENCE .....

MR/MRS/MISS .....

has been examined by me and found to be free from the notifiable  
communicable diseases indicated at the reverse of this certificate.

.....  
Signature of Registered  
Medical Practitioner

Name: .....

Qualifications: .....

LIST OF NOTIFIABLE COMMUNICABLE DISEASES

HIV/AIDS	Polio Myelitis Acute
Cholera	Rabies
Dengue	Syphillis
Dyphtheria	Tetanus
Gonococcal Infection	Tuberculosis
Leptospirosis	Typhoid Fever
Malaria	Viral Encephalitis
Meningococcal Infection	Viral Hepatitis
Plague	Yellow Fever – Sylvatic Clebon

*(Amended by S.R.O. 5/2004)*

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**HEALTH CERTIFICATE**

## FORM 2

NAME ..... PASSPORT NO .....

AGE ..... ISSUED AT .....

SEX ..... EXAMINED ON .....

ADDRESS IN MONTSERRAT .....

COUNTRY OF ORIGIN OR LAST RESIDENCE .....

MR/MRS/MISS ..... has  
 been examined by me and found to be suffering from notifiable communicable  
 disease and appropriate treatment and advice given. The Chief Medical Officer  
 is being notified.

.....  
 Signature of Registered  
 Medical Practitioner

Name: .....

Qualifications: .....

Copied to: Chief Medical Officer

**IMMIGRATION (RESIDENCE PERMIT FEES) REGULATIONS**

– SECTION 40

*(S.R.O.s 5/1984, 5/1993, 23/2004)*

**Commencement**

*[1 March 1984]*

**Short title**

1. These Regulations may be cited as the Immigration (Residence Permit Fees) Regulations.

**Interpretation**

2. In these Regulations—

“**Caricom National**” means a person who—

- (i) is a citizen of a member state of the Caribbean Community (Caricom);  
or
- (ii) has a connection with a member state of the Caribbean Community (Caricom) of a kind which entitles that person to be regarded as belonging to it, or, if it be so expressed as being a native or national of that member state for the purpose of its laws relating to Immigration.

**Fees**

3. (1) The fees payable for the issue of a permit of permanent residence shall be in accordance with the scale set out in Schedule.

(2) The fee payable for the replacement, amendment or variation of a permit of permanent residence shall be \$15.

*(Amended by S.R.O. 23/2004)*

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**SCHEDULE***(Inserted by S.R.O. 23/2004)*

(a)	Application fees for permit of permanent residence .....	\$150
(b)	Permit of permanent residence—	
	(i) Caricom National .....	\$1,500
	(ii) Non-Caricom National .....	\$2,500
	(iii) Spouse of British Overseas Territory .....	\$500
(c)	Addition of Minor to a permit of permanent residence ...	\$250

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**IMMIGRATION (ASYLUM APPEALS) RULES**

**ARRANGEMENT OF RULES**

**PART 1**

**INTRODUCTION**

**RULES**

1. Short title
2. Interpretation
3. Scope of these Rules
4. Overriding objective

**PART 2**

**APPEALS TO THE IMMIGRATION APPEALS TRIBUNAL**

5. Scope of this Part
6. Giving notice of appeal
7. Rejection of invalid notice of appeal
8. Late notice of appeal
9. Special provisions for imminent removal cases
10. Service of notice of appeal on respondent
11. Filing of documents by respondent
12. Variation of grounds of appeal
13. Method of determining appeal
14. Certification of pending appeal
15. Withdrawal of appeal
16. Abandonment of appeal
17. Hearing appeal in absence of a party
18. Hearing two or more appeals together
19. Adjournment of appeals
20. Time limits and procedure in asylum appeal

**PART 3**

**REHEARING AND APPEALS**

21. Scope of this Part
22. Applying for permission to appeal on a point of law only
23. Time limit for application
24. Determining the application

## PART 4

## GENERAL PROVISIONS

25. Conduct of appeals and applications
26. Directions
27. Notification of hearings
28. Adjournment
29. Representation
30. United Kingdom Representative
31. Summoning of witnesses
32. Evidence
33. Language of documents
34. Burden of proof
35. Admission of public to hearings
36. Filing and service of documents
37. Address for service
38. Calculation of time
39. Signature of documents
40. Errors of procedure
41. Correction of orders and determinations

## PART 5

## TRANSITIONAL PROVISIONS

42. Transitional provisions

**IMMIGRATION (ASYLUM APPEALS) RULES – SECTION 54**

*(S.R.O. 59/2009)*

**Commencement**

*[30 October 2009]*

**PART 1**

**INTRODUCTION**

**Short title**

1. These Rules may be cited as the Immigration (Asylum Appeals) Rules.

**Interpretation**

2. In these Rules—

“**Act**” means the Immigration Act;

“**appellant**” means a person who has given a notice of appeal to the Immigration Appeals Tribunal against a relevant decision in accordance with section 53 of the Act and these Rules;

“**asylum claim**” is a claim made under section 45 of the Act;

“**business day**” means any day other than a Saturday or Sunday, a bank holiday, 25 to 31 December or Good Friday;

“**Chairman**” means the Chairman of the Immigration Appeals Tribunal;

“**determination**”, in relation to an appeal, means a decision by the Immigration Appeals Tribunal in writing to allow or dismiss the appeal, and does not include a procedural, ancillary or preliminary decision;

“**immigration decision**” means a decision of the Chief Immigration Officer under section 47, or of the Governor under section 50;

“**Immigration Appeals Tribunal**” means the Immigration Appeals Tribunal established under section 4 of the Act;

“**Chairman**” means the Chairman of the Immigration Appeals Tribunal;

“**relevant decision**” means a decision against which there is an exercisable right of appeal to the Immigration Appeals Tribunal;

“**respondent**” means the decision maker specified in the notice of decision against which a notice of appeal has been given;

“**United Kingdom Representative**” means the United Kingdom Representative of the United Nations High Commissioner for Refugees.

**Scope of these Rules**

3. These Rules apply to the following proceedings—

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- (a) appeals from a relevant decision to the Immigration Appeals Tribunal under sections 49 and 50 of the Act;
- (b) re-hearing of appeals by the Immigration Appeals Tribunal under rule 24(3); and
- (c) applications to the Immigration Appeals Tribunal for permission to appeal to High Court under section 53(3) of the Act;

### **Overriding objective**

4. The overriding objective of these Rules is to secure that proceedings before the Immigration Appeals Tribunal are handled as fairly, quickly and efficiently as possible; and, where appropriate, that members of the Immigration Appeals Tribunal have responsibility for ensuring this, in the interests of the parties to the proceedings and in the wider public interest.

## **PART 2**

### **APPEALS TO THE IMMIGRATION APPEALS TRIBUNAL**

#### **Scope of this Part**

5. This Part applies to appeals to the Immigration Appeals Tribunal.

#### **Giving notice of appeal**

6. An appeal to the Immigration Appeals Tribunal may only be instituted by giving notice of appeal against a relevant decision in accordance with section 52 of the Act.

#### **Rejection of invalid notice of appeal**

7. (1) Where—

- (a) a person has given a notice of appeal to the Immigration Appeals Tribunal; and
- (b) there is no relevant decision,

the Immigration Appeals Tribunal shall not accept the notice of appeal.

(2) Where the Immigration Appeals Tribunal does not accept a notice of appeal, it must—

- (a) notify the person giving the notice of appeal and the respondent; and
- (b) take no further action.

#### **Late notice of appeal**

8. (1) If a notice of appeal is given outside the applicable time limit, it must include an application for an extension of time for appealing, which must—

- (a) include a statement of the reasons for failing to give the notice within that period; and

- (b) be accompanied by any written evidence relied upon in support of those reasons.
- (2) If a notice of appeal appears to the Immigration Appeals Tribunal to have been given outside the applicable time limit but does not include an application for an extension of time, unless the Immigration Appeals Tribunal extends the time for appealing of its own initiative, it must notify the person giving notice of appeal in writing that it proposes to treat the notice of appeal as being out of time.
- (3) Where the Immigration Appeals Tribunal gives notification under paragraph (2), if the person giving notice of appeal contends that -
- (a) the notice of appeal was given in time; or
  - (b) there were special circumstances for failing to give the notice of appeal in time which could not reasonably have been stated in the notice of appeal;
- he may file with the Immigration Appeals Tribunal written evidence in support of that contention.
- (4) Written evidence under paragraph (3) must be filed within three days after notification is given under paragraph 2.
- (5) Where the notice of appeal was given out of time, the Immigration Appeals Tribunal may extend the time for appealing if satisfied that by reason of special circumstances it would be unjust not to do so.
- (6) The Immigration Appeals Tribunal must decide any issue as to whether a notice of appeal was given in time, or whether to extend the time for appealing, as a preliminary decision without a hearing, and in doing so may only take account of—
- (a) the matters stated in the notice of appeal;
  - (b) any evidence filed by the person giving notice of appeal in accordance with paragraph (1) or (3); and
  - (c) any other relevant matters of fact within the knowledge of the Immigration Appeals Tribunal.
- (7) Subject to paragraphs (8) and (9), the Immigration Appeals Tribunal must serve written notice of any decision under this rule on the parties.
- (8) Where—
- (a) a notice of appeal which relates in whole or in part to an asylum claim was given out of time;
  - (b) the Immigration Appeals Tribunal refuses to extend the time for appealing,

the Immigration Appeals Tribunal must serve written notice of its decision on the respondent, which must—

- (i) serve the notice of decision on the person giving notice of appeal not later than twenty eight days after receiving it from the Immigration Appeals Tribunal; and

- (ii) as soon as practicable after serving the notice of decision, notify the Immigration Appeals Tribunal on what date and by what means it was served.

(9) Where paragraph (8) applies, if the respondent does not give the Immigration Appeals Tribunal notification under sub-paragraph (ii) within twenty nine days after the Immigration Appeals Tribunal serves the notice of decision on it, the Immigration Appeals Tribunal must serve the notice of decision on the person giving notice of appeal as soon as reasonably practicable thereafter.

### **Special provisions for imminent removal cases**

9. (1) This rule applies in any case in which the respondent notifies the Immigration Appeals Tribunal that removal directions have been issued against a person who has given notice of appeal, pursuant to which it is proposed to remove him from Montserrat within five calendar days of the date on which the notice of appeal was given.

(2) The Immigration Appeals Tribunal must, if reasonably practicable, make any preliminary decision under rule 8 before the date and time proposed for his removal.

(3) Rule 8 shall apply subject to the modifications that the Immigration Appeals Tribunal may—

- (a) give notification under rule 8(2) orally, which may include giving it by telephone;
- (b) shorten the time for giving evidence under rule 8(3); and
- (c) direct that any evidence under rule 8(3) is to be given orally, which may include requiring the evidence to be given by telephone, and hold a hearing or telephone hearing for the purpose of receiving such evidence.

### **Service of notice of appeal on respondent**

10. When the Immigration Appeals Tribunal receives a notice of appeal it shall serve a copy upon the respondent as soon as reasonably practicable.

### **Filing of documents by respondent**

11. (1) When the respondent is served with a copy of a notice of appeal, it must (unless it has already done so) file with the Immigration Appeals Tribunal a copy of—

- (a) the notice of the decision to which the notice of appeal relates, and any other document served on the appellant giving reasons for that decision, and certification by the Governor that any of the grounds in 51 of the Act are satisfied;
- (b) any—
  - (i) statement of evidence form completed by the appellant; and
  - (ii) record of an interview with the appellant,

in relation to the decision being appealed;

- (c) any other unpublished document which is referred to in a document mentioned in sub-paragraph (a) or relied upon by the respondent; and
- (d) the notice of any other immigration decision made in relation to the appellant in respect of which he has a right of appeal under the Act.

(2) Subject to paragraph (3), the respondent must file the documents listed in paragraph (1)—

- (a) in accordance with any directions given by the Immigration Appeals Tribunal; and
- (b) if no such directions are given, as soon as reasonably practicable and in any event not later than 2 p.m. on the business day before the earliest date appointed for any hearing of or in relation to the appeal.

(3) If the Immigration Appeals Tribunal considers the timeliness of a notice of appeal as a preliminary issue under rule 8, the respondent must file the documents listed in paragraph (1) as soon as reasonably practicable after being served with a decision of the Immigration Appeals Tribunal allowing the appeal to proceed, and in any event not later than 2 p.m. on the business day before the earliest date appointed for any hearing of or in relation to the appeal following that decision.

(4) The respondent must, at the same time as filing them, serve on the appellant a copy of all the documents listed in paragraph (1), except for documents which the respondent has already sent to the appellant.

### **Variation of grounds of appeal**

12. The appellant may vary his grounds of appeal only with the permission of the Immigration Appeals Tribunal.

### **Method of determining appeal**

13. (1) An appeal must be considered by the Immigration Appeals Tribunal at a hearing, except where—

- (a) the appeal—
  - (i) is in respect of a decision taken in the interest of the relationship between the United Kingdom or Montserrat on one hand and another country;
  - (ii) is in respect of a decision taken in the interest of the public good;
  - (iii) is treated as abandoned because the appellant is granted leave to enter Montserrat or leaves Montserrat;
  - (iv) is treated as finally determined as a deportation order has been made against the appellant under Part 3 of the Act; or
  - (v) is withdrawn by the appellant or treated as withdrawn in accordance with rule 15;
- (b) paragraph (2) of this rule applies; or



- (c) any other provision of these Rules or of any other enactment permits or requires the Immigration Appeals Tribunal to dispose of an appeal without a hearing.

(2) The Immigration Appeals Tribunal may determine an appeal without a hearing if—

- (a) all the parties to the appeal consent;
- (b) it is impracticable to give the appellant notice of a hearing and, he is unrepresented;
- (c) a party has failed to comply with a provision of these Rules or a direction of the Immigration Appeals Tribunal, and the Immigration Appeals Tribunal is satisfied that in all the circumstances, including the extent of the failure and any reasons for it, it is appropriate to determine the appeal without a hearing; or
- (d) subject to paragraph (3), the Immigration Appeals Tribunal is satisfied, having regard to the material before it and the nature of the issues raised, that the appeal can be justly determined without a hearing.

(3) Where paragraph (2)(d) applies, the Immigration Appeals Tribunal must not determine the appeal without a hearing without first giving the parties notice of its intention to do so, and an opportunity to make written representations as to whether there should be a hearing.

### **Certification of pending appeal**

**14. (1)** If the Governor issues a certificate confirming the existence of any of the grounds in section 51 of the Act in relation to a pending appeal, notice of the certification must be filed with the Immigration Appeals Tribunal.

(2) Where a notice of certification is filed under paragraph (1), the Immigration Appeals Tribunal must—

- (a) notify the parties; and
- (b) take no further action in relation to the appeal.

### **Withdrawal of appeal**

**15. (1)** An appellant may withdraw an appeal—

- (a) orally, at a hearing; or
- (b) at any time, by filing written notice with the Immigration Appeals Tribunal.

(2) An appeal shall be treated as withdrawn if the respondent notifies the Immigration Appeals Tribunal that the decision (or, where the appeal relates to more than one decision, all of the decisions) to which the appeal relates has been withdrawn.

(3) If an appeal is withdrawn or treated as withdrawn, the Immigration Appeals Tribunal must serve on the parties a notice that the appeal has been recorded as having been withdrawn.

### **Abandonment of appeal**

**16. (1)** A party to a pending appeal must notify the Immigration Appeals Tribunal if they are aware of an event specified in rule 13(1)(a)(iii) and (iv).

**(2)** Where an appeal is treated as abandoned or finally determined the Immigration Appeals Tribunal in accordance with rule 13 must—

- (a) serve on the parties a notice informing them that the appeal is being treated as abandoned or finally determined; and
- (b) take no further action in relation to the appeal.

### **Hearing appeal in absence of a party**

**17. (1)** The Immigration Appeals Tribunal must hear an appeal in the absence of a party or his representative, if satisfied that the party or his representative—

- (a) has been given notice of the date, time and place of the hearing; and
- (b) has given no satisfactory explanation for his absence.

**(2)** Where paragraph (1) does not apply, the Immigration Appeals Tribunal may hear an appeal in the absence of a party if satisfied that

- (a) a representative of the party is present at the hearing;
- (b) the party is outside Montserrat;
- (c) the party is suffering from a communicable disease or there is a risk of him behaving in a violent or disorderly manner;
- (d) the party is unable to attend the hearing because of illness, accident or some other good reason;
- (e) the party is unrepresented and it is impracticable to give him notice of the hearing; or
- (f) the party has notified the Immigration Appeals Tribunal that he does not wish to attend the hearing.

### **Hearing two or more appeals together**

**18.** Where two or more appeals are pending at the same time, the Immigration Appeals Tribunal may direct them to be heard together if it appears that—

- (a) some common question of law or fact arises in each of them;
- (b) they relate to decisions or action taken in respect of persons who are members of the same family; or
- (c) for some other reason it is desirable for the appeals to be heard together.

### **Adjournment of appeals**

**19. (1)** Where a party applies for an adjournment of a hearing of an appeal, he must—

- (a) if practicable, notify all other parties of the application;
- (b) show good reason why an adjournment is necessary; and
- (c) produce evidence of any fact or matter relied upon in support of the application.

(2) The Immigration Appeals Tribunal must not adjourn a hearing of an appeal on the application of a party, unless satisfied that the appeal cannot otherwise be justly determined.

(3) The Immigration Appeals Tribunal must not, in particular, adjourn a hearing on the application of a party in order to allow the party more time to produce evidence, unless satisfied that—

- (a) the evidence relates to a matter in dispute in the appeal;
- (b) it would be unjust to determine the appeal without permitting the party a further opportunity to produce the evidence; and
- (c) where the party has failed to comply with directions for the production of the evidence, he has provided a satisfactory explanation for that failure.

(4) Where the hearing of an appeal is adjourned, the Immigration Appeals Tribunal will fix a new hearing date which—

- (a) shall be not more than twenty eight days after the original hearing date, unless the Immigration Appeals Tribunal is satisfied that because of exceptional circumstances the appeal cannot justly be heard within that time; and
- (b) shall in any event be not later than is strictly required by the circumstances necessitating the adjournment.

### **Time limits and procedure in asylum appeal**

#### **20. (1) Subject to paragraph (2)—**

- (a) where an appeal is to be considered by the Immigration Appeals Tribunal at a hearing, the hearing must be fixed for a date not more than twenty eight days after the later of—
  - (i) the date on which the Immigration Appeals Tribunal receives the notice of appeal; or
  - (ii) if the Immigration Appeals Tribunal makes a preliminary decision under rule 8 (late notice of appeal), the date on which notice of that decision is served on the appellant; and
- (b) where an appeal is to be determined without a hearing, the Immigration Appeals Tribunal must determine it not more than twenty eight days after the later of those dates.

(2) If the respondent does not file the documents specified in rule 11(1) within the time specified in rule 11 or directions given under that rule—

- (a) paragraph (2) does not apply; and

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- (b) the Immigration Appeals Tribunal may vary any hearing date that it has already fixed in accordance with paragraph (1)(a), if it is satisfied that it would be unfair to the appellant to proceed with the hearing on the date fixed.
- (3) The Immigration Appeals Tribunal must serve its determination on the respondent—
  - (a) if the appeal is considered at a hearing, by sending it not later than ten days after the hearing finishes; or
  - (b) if the appeal is determined without a hearing, by sending it not later than ten days after it is determined.
- (4) The respondent must—
  - (a) serve the determination on the appellant not later than twenty eight days after receiving the determination from the Immigration Appeals Tribunal; and
  - (b) as soon as practicable after serving the determination, notify the Immigration Appeals Tribunal on what date and by what means it was served.
- (5) If the respondent does not give the Immigration Appeals Tribunal notification under paragraph (4)(b) within twenty nine days after the Immigration Appeals Tribunal serves the determination on it, the Immigration Appeals Tribunal must serve the determination on the appellant as soon as reasonably practicable thereafter.
- (6) In paragraph (1), references to a hearing do not include a case management review hearing or other preliminary hearing.

### PART 3

#### REHEARING AND APPEALS

##### **Scope of this Part**

**21.** This Part applies to applications for permission to appeal to the High Court on a point of law only in accordance with section 53(3) of the Act.

##### **Applying for permission to appeal on a point of law only**

**22.** (1) An application to the Immigration Appeals Tribunal under this rule must be made by filing with the Secretary of Immigration Appeals Tribunal an application notice for permission to appeal.

(2) The application notice for permission to appeal to the High Court on a point of law under section. 53(3) of the Act must—

- (a) be in the appropriate prescribed form;
- (b) state the grounds of appeal; and
- (c) be signed by the applicant or his representative, and dated.

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(3) If the application notice is signed by the applicant's representative, the representative must certify in the application notice that he has completed the application notice in accordance with the applicant's instructions.

(4) As soon as practicable after an application notice for permission to appeal is filed, the Immigration Appeals Tribunal must notify the other party to the appeal to the Immigration Appeals Tribunal that it has been filed.

### **Time limit for application**

**23. (1)** An application notice for permission to appeal must be filed in accordance with rule 22 not later than ten days after he is served with the Immigration Appeals Tribunal's determination.

(2) The Immigration Appeals Tribunal may not extend the time limits in paragraph (1).

### **Determining the application**

**24. (1)** An application for permission to appeal must be determined by a senior immigration judge without a hearing.

(2) The Immigration Appeals Tribunal may either grant or refuse permission to appeal.

(3) Where the Immigration Appeals Tribunal intends to grant permission to appeal it may, if it thinks that the Immigration Appeals Tribunal has made an administrative error in relation to the proceedings, instead set aside the Immigration Appeals Tribunal's determination and direct that the proceedings be reheard by the Immigration Appeals Tribunal.

(4) The Immigration Appeals Tribunal must serve on every party written notice of its decision, including its reasons, which may be in summary form.

## **PART 4**

### **GENERAL PROVISIONS**

#### **Conduct of appeals and applications**

**25. (1)** The Immigration Appeals Tribunal may, subject to these Rules, decide the procedure to be followed in relation to any appeal or application.

(2) Anything of a formal or administrative nature which is required or permitted to be done by the Immigration Appeals Tribunal under these Rules may be done by a member of the Immigration Appeals Tribunal's staff.

#### **Directions**

**26. (1)** The Immigration Appeals Tribunal may give directions to the parties relating to the conduct of any appeal or application.

(2) The power to give directions is to be exercised subject to any specific provision of these Rules.

- (3) Directions must be given orally or in writing to every party.
- (4) Directions of the Immigration Appeals Tribunal may, in particular—
- (a) relate to any matter concerning the preparation for a hearing;
  - (b) specify the length of time allowed for anything to be done;
  - (c) vary any time limit in these Rules or in directions previously given by the Immigration Appeals Tribunal for anything to be done by a party;
  - (d) provide for—
    - (i) a particular matter to be dealt with as a preliminary issue;
    - (ii) a case management review hearing to be held;
    - (iii) a party to provide further details of his case, or any other information which appears to be necessary for the determination of the appeal;
    - (iv) the witnesses, if any, to be heard;
    - (v) the manner in which any evidence is to be given (for example, by directing that witness statements are to stand as evidence in chief);
  - (e) require any party to file and serve—
    - (i) statements of the evidence which will be called at the hearing;
    - (ii) a paginated and indexed bundle of all the documents which will be relied on at the hearing;
    - (iii) a skeleton argument which summarises succinctly the submissions which will be made at the hearing and cites all the authorities which will be relied on, identifying any particular passages to be relied on;
    - (iv) a time estimate for the hearing;
    - (v) a list of witnesses whom any party wishes to call to give evidence;
    - (vi) a chronology of events; and
    - (vii) details of whether an interpreter will be required at the hearing, and in respect of what language and dialect;
  - (f) limit—
    - (i) the number or length of documents upon which a party may rely at a hearing;
    - (ii) the length of oral submissions;
    - (iii) the time allowed for the examination and cross-examination of witnesses; and
    - (iv) the issues which are to be addressed at a hearing; and

- (g) require the parties to take any steps to enable two or more appeals to be heard together under rule 18.
- (h) provide for a hearing to be conducted or evidence given or representations made by video link or by other electronic means; and
- (i) make provision to secure the anonymity of a party or a witness.

(5) The Immigration Appeals Tribunal must not direct an unrepresented party to do something unless it is satisfied that he is able to comply with the direction.

(6) The Chairman may direct that, in individual cases or in such classes of case as he shall specify, any time period in these Rules for the Immigration Appeals Tribunal to do anything shall be extended by such period as he shall specify.

### Notification of hearings

27. (1) When the Immigration Appeals Tribunal fixes a hearing it must serve notice of the date, time and place of the hearing on every party.

(2) The Immigration Appeals Tribunal may vary the date of a hearing, but must serve notice of the new date, time and place of the hearing on every party.

### Adjournment

28. Subject to any provision of these Rules, the Immigration Appeals Tribunal may adjourn any hearing.

### Representation

29. (1) An appellant may act in person or be represented by any person not prohibited from representing by an attorney at law entitled by law to practise in Montserrat.

(2) A respondent to an appeal, be represented by any person authorised to act on his behalf.

(3) If a party to whom paragraph (1) applies is represented by a person not permitted by that paragraph to represent him, any determination given or other step taken by the Immigration Appeals Tribunal in the proceedings shall nevertheless be valid.

(4) Where a representative begins to act for a party, he must immediately notify the Immigration Appeals Tribunal and the other party of that fact.

(5) Where a representative is acting for a party, he may on behalf of that party do anything that these Rules require or permit that party to do.

(6) Where a representative is acting for an appellant, the appellant is under a duty—

- (a) to maintain contact with his representative until the appeal is finally determined; and
- (b) to notify the representative of any change of address.

(7) Where a representative ceases to act for a party, the representative and the party must immediately notify the Immigration Appeals Tribunal and the other party of that fact, and of the name and address of any new representative (if known).

(8) Notification under paragraph (4) or (7)—

(a) may be given orally at a hearing to the Immigration Appeals Tribunal and to any other party present at that hearing; but

(b) must otherwise be given in writing.

(9) Until the Immigration Appeals Tribunal is notified that a representative has ceased to act for a party, any document served on that representative shall be deemed to be properly served on the party he was representing.

### **United Kingdom Representative**

**30. (1)** The United Kingdom Representative may give notice to the Immigration Appeals Tribunal that he wishes to participate in any proceedings where the appellant has made an asylum claim.

(2) Where the United Kingdom Representative has given notice under paragraph (1)—

(a) rules 35(5) and 36(6) shall apply; and

(b) the Immigration Appeals Tribunal must permit him to make representations in the proceedings if he wishes to do so, and may give directions for that purpose.

### **Summoning of witnesses**

**31. (1)** The Immigration Appeals Tribunal may, by issuing a summons (“a witness summons”), require any person in Montserrat—

(a) to attend as a witness at the hearing of an appeal; and

(b) subject to rule 32(2), at the hearing to answer any questions or produce any documents in his custody or under his control which relate to any matter in issue in the appeal.

(2) A person is not required to attend a hearing in obedience to a witness summons unless—

(a) the summons is served on him; and

(b) the necessary expenses of his attendance are paid or tendered to him.

(3) If a witness summons is issued at the request of a party, that party must pay or tender the expenses referred to in paragraph (2)(b).

### **Evidence**

**32. (1)** The Immigration Appeals Tribunal may allow oral, documentary or other evidence to be given of any fact which appears to be relevant to an appeal, even if that evidence would be inadmissible in a court of law.



(2) The Immigration Appeals Tribunal may not compel a party or witness to give any evidence or produce any document which he could not be compelled to give or produce at the trial of a civil claim in Montserrat.

(3) The Immigration Appeals Tribunal may require the oral evidence of a witness to be given on oath or affirmation.

(4) Where the Immigration Appeals Tribunal has given directions setting time limits for the filing and serving of written evidence, it must not consider any written evidence which is not filed or served in accordance with those directions unless satisfied that there are good reasons to do so.

(5) Where a party seeks to rely upon a copy of a document as evidence, the Immigration Appeals Tribunal may require the original document to be produced.

(6) The Immigration Appeals Tribunal must not take account of any evidence that has not been made available to all the parties except if the evidence is in support of an allegation that a document relied on by the appellant is a forgery and disclosure to the appellant of a matter relating to the detection of a forgery would be contrary to the public interest.

### Language of documents

33. (1) Subject to paragraph (2)—

- (a) any notice of appeal or application notice filed with the Immigration Appeals Tribunal must be completed in English; and
- (b) any other document filed with the Immigration Appeals Tribunal must be in English, or accompanied by a translation into English signed by the translator to certify that the translation is accurate.

(2) The Immigration Appeals Tribunal shall be under no duty to consider a document which is not in English or accompanied by a certified translation.

### Burden of proof

34. (1) If an appellant asserts that a relevant decision ought not to have been taken against him on the ground that the statutory provision under which that decision was taken does not apply to him, it is for that party to prove that the provision does not apply to him.

(2) If—

- (a) an appellant asserts any fact; and
- (b) by virtue of any law, if he had made such an assertion to the Chief Immigration Officer, it would have been for him to satisfy the Chief Immigration Officer or officer that the assertion was true,

it is for the appellant to prove that the fact asserted is true.

### Admission of public to hearings

35. (1) Subject to the following provisions of this rule, every hearing before the Immigration Appeals Tribunal must be held in public.

(2) Where the Immigration Appeals Tribunal is considering an allegation that a document relied on by the appellant is a forgery and disclosure to the appellant of a matter relating to the detection of a forgery would be contrary to the public interest—

- (a) all members of the public must be excluded from the hearing; and
- (b) any party or representative of a party may be excluded from the hearing.

(3) The Immigration Appeals Tribunal may exclude any or all members of the public from any hearing or part of a hearing if it is necessary—

- (a) in the interests of public order or national security; or
- (b) to protect the private life of a party or the interests of a minor.

(4) The Immigration Appeals Tribunal may also, in exceptional circumstances, exclude any or all members of the public from any hearing or part of a hearing to ensure that publicity does not prejudice the interests of justice, but only if and to the extent that it is strictly necessary to do so.

(5) The United Kingdom Representative, where he has given notice to the Immigration Appeals Tribunal under rule 30, is entitled to attend any hearing, and may not be excluded pursuant to paragraph (3) or (4).

### **Filing and service of documents**

**36. (1)** Any document which is required or permitted by these Rules or by a direction of the Immigration Appeals Tribunal to be filed with the Immigration Appeals Tribunal, or served on any person may be—

- (a) delivered, or sent by post, to an address;
- (b) sent via a document exchange to a document exchange number or address;
- (c) sent by fax to a fax number; or
- (d) sent by e-mail to an e-mail address,

specified for that purpose by the Immigration Appeals Tribunal or person to whom the document is directed.

(2) A document to be served on an individual may be served personally by leaving it with that individual.

(3) Where a person has notified the Immigration Appeals Tribunal that he is acting as the representative of an appellant and has given an address for service, if a document is served on the appellant, a copy must also at the same time be sent to the appellant's representative.

(4) If any document is served on a person who has notified the Immigration Appeals Tribunal that he is acting as the representative of a party, it shall be deemed to have been served on that party.

(5) Subject to paragraph (6), any document that is served on a person in accordance with this rule shall, unless the contrary is proved, be deemed to be served—

- (a) where the document is sent by post or document exchange from and to a place within Montserrat, on the second day after it was sent;
- (b) where the document is sent by post or document exchange from or to a place outside Montserrat, on the twenty-eighth day after it was sent; and
- (c) in any other case, on the day on which the document was sent or delivered to, or left with, that person.

(6) Where the United Kingdom Representative has given notice to the Immigration Appeals Tribunal under rule 30 in relation to any proceedings, any document which is required by these Rules or by a direction of the Immigration Appeals Tribunal to be served on a party in those proceedings must also be served on the United Kingdom Representative.

### Address for service

**37. (1)** Every party, and any person representing a party, must notify the Immigration Appeals Tribunal in writing of a postal address at which documents may be served on him and of any changes to that address.

(2) Until a party or representative notifies the Immigration Appeals Tribunal of a change of address, any document served on him at the most recent address which he has notified to the Immigration Appeals Tribunal shall be deemed to have been properly served on him.

### Calculation of time

**38. (1)** Where a period of time for doing any act is specified by these Rules or by a direction of the Immigration Appeals Tribunal, that period is to be calculated—

- (a) excluding the day on which the period begins; and
- (b) where the period is ten days or less, excluding any day which is not a business day (unless the period is expressed as a period of calendar days).

(2) Where the time specified by these Rules or by a direction of the Immigration Appeals Tribunal for doing any act ends on a day which is not a business day, that act is done in time if it is done on the next business day.

### Signature of documents

**39.** Any requirement in these Rules for a document to be signed by a party or his representative shall be satisfied, in the case of a document which is filed or served electronically in accordance with these rules, by the person who is required to sign the document typing his name or producing it by computer or other mechanical means.

### Errors of procedure

**40. (1)** Where, before the Immigration Appeals Tribunal has determined an appeal or application, there has been an error of procedure such as a failure to comply with a rule—

- (a) subject to these Rules, the error does not invalidate any step taken in the proceedings, unless the Immigration Appeals Tribunal so orders; and
  - (b) the Immigration Appeals Tribunal may make any order, or take any other step, that it considers appropriate to remedy the error.
- (2) In particular, any determination made in an appeal or application under these Rules shall be valid notwithstanding that—
  - (a) a hearing did not take place; or
  - (b) the determination was not made or served,within a time period specified in these Rules.

### **Correction of orders and determinations**

- 41. (1)** The Immigration Appeals Tribunal may at any time amend an order, notice of decision or determination to correct a clerical error or other accidental slip or omission.
- (2) Where an order, notice of decision or determination is amended under this rule—
- (a) the Immigration Appeals Tribunal must serve an amended version on the party or parties on whom it served the original; and
  - (b) if rules 8(8) and (9), 20(4) and (5) applied in relation to the service of the original, it shall also apply in relation to the service of the amended version.
- (3) The time within which a party may apply for permission to appeal against, or for a review of, an amended determination runs from the date on which the party is served with the amended determination.

## **PART 5**

### **TRANSITIONAL PROVISIONS**

#### **Transitional provisions**

- 42. (1)** Subject to paragraphs (2) and (3), these Rules apply to an appeal from a relevant decision taken before the commencement of these Rules.
- (2) A person against whom a relevant decision is taken before the commencement of these Rules is deemed to have filed a notice of appeal in accordance with section 52 of the Act and the Rules on the commencement date of these Rules.
- (3) The Immigration Appeals Tribunal may suspend the application of these Rules to an appeal instituted by paragraph (2) if they think it is in the interest of justice to do so.



