



MONTSERRAT

## CHAPTER 8.06

# MONTSERRAT LAND DEVELOPMENT AUTHORITY ACT

### 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—

### MONTSERRAT LAND DEVELOPMENT AUTHORITY ACT

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Act 9 of 1971 .. in force 1 April 1972 (S.R.O. 10/1972)

Amended by Acts: 13 of 1982

17 of 1993

6 of 1998

18 of 1999

4 of 2005 .. in force 5 May 2005

5 of 2011 .. in force 8 July 2011

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





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## CHAPTER 8.06

### MONTSERRAT LAND DEVELOPMENT AUTHORITY ACT

*(Acts 9 of 1971, 13 of 1982, 17 of 1993, 6 of 1998,  
18 of 1999, 4 of 2005 and 5 and 9 of 2011)*

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A LAND DEVELOPMENT AUTHORITY IN MONTSERRAT AND FOR PURPOSES INCIDENTAL THERETO OR CONNECTED THEREWITH.

#### Commencement

*[1 April 1972]*

#### PART 1

#### PRELIMINARY

#### Short title

1. This Act may be cited as the Montserrat Land Development Authority Act.

#### Interpretation

2. In this Act, unless the context otherwise requires—

“**agriculture**” includes horticulture, fruit growing, dairy farming and livestock and poultry breeding, the use of land as grazing land, meadow land, market gardens and nursery grounds and the use of land for woodlands when that use is ancillary to the farming of land for other agricultural purposes and “**agricultural**” shall be construed accordingly;

“**Authority**” means the Montserrat Land Development Authority established under and for the purposes of this Act;

“**Chairman**”, means the person so designated under section 4(1);  
*(Substituted by Act 5 of 2011)*

“**contract of tenancy**” means a contract creating a yearly tenancy, or a tenancy for a term longer than a year in respect of a farm holding;

“**Deputy Chairman**” means a person appointed by the Governor acting on the advice of Cabinet under section 4(2); *(Inserted by Act 4 of 2005 and amended by Act 9 of 2011)*

“**designated area**” means any area of land owned or acquired by or vested in the Authority and designated under section 18;

“**development**” includes re-development;

“**farm holding**” means a parcel of land intended for cultivation or pasturage, with or without buildings thereon;

“**land**” shall include buildings and erections thereon;

“**land settlement scheme**” means a scheme prepared in accordance with the provisions of section 19;

“**Manager**” means the Manager of the Authority appointed under section 15;

“**Member of the Authority**” includes the Chairman and Deputy Chairman;

“**Minister**” means the Member of Cabinet to whom has been assigned for the time being responsibility for the subject of Lands; (*Amended by Act 9 of 2011*)

“**owner**” includes—

- (a) the duly authorised attorney of such owner;
- (b) the executor, governor or trustee of a deceased owner;
- (c) a trustee, receiver or guardian appointed by order of the High Court;
- (d) a mortgagee in possession;
- (e) a lessee of land.

## PART 2

### THE ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF THE AUTHORITY

#### **Establishment and Constitution of the Authority**

**3. (1)** There shall be established for the purposes of this Act a body corporate to be called the Montserrat Land Development Authority.

**(2)** The Authority shall have perpetual succession and shall be entitled to make contracts and sue and be sued in its corporate name.

**(3)** The Authority shall have a common seal which shall be officially and judicially noticed, and such seal shall be authenticated by the signatures of the Chairman and one other member of the Authority.

**(4)** Until a seal is provided in accordance with the provisions of this section, a stamp bearing the words “**Montserrat Land Development Authority**”, and authenticated as in subsection (3) provided, may be used in place of such seal.

**(5)** The seal of the Corporation shall be kept in the custody of the Manager.



## Membership of the Authority

4. (1) The Authority shall comprise the following—

- (a) the Permanent Secretary of the department of government responsible for land or his designate who shall be the Chairman;
- (b) the Financial Secretary or his designate;
- (c) not less than three not more than six other persons appointed by the Governor acting on the advice of Cabinet who have expertise or experience relevant to the function of the Authority.

*(Substituted by Act 5 of 2011)*

(2) The Governor acting on the advice of Cabinet shall appoint a Deputy Chairman from among the members of the Authority.

(3) A member of the Authority other than a member appointed under section 4(1)(a) or (b), shall, subject to the provisions of subsections (5) and (6), hold office for such period not exceeding three years, as the Governor acting on the advice of Cabinet may direct but any member of the Authority shall be eligible for re-appointment. *(Amended by Acts 5 and 9 of 2011)*

(4) The Governor acting on the advice of Cabinet acting in his discretion may appoint any person to act temporarily in place of any member of the Authority other than a member appointed under section 4(1)(a) or (b) in the case of the absence or inability to act of such member.

(5) Any member of the Authority other than a member appointed under section 4(1)(a) or (b) may at any time resign his office by instrument in writing addressed to the Chairman who shall forthwith cause it to be forwarded to the Governor acting on the advice of Cabinet:

*(Amended by Acts 5 and 9 of 2011)*

Provided, however, that in the case of the Chairman, any such resignation shall be addressed directly to the Governor acting on the advice of Cabinet. *(Amended by Act 9 of 2011)*

(6) The Governor acting on the advice of Cabinet, acting in his discretion may at any time revoke the appointment of any member of the Authority other than a member appointed under section 4(1)(a) or (b) if he thinks it expedient to do so. *(Amended by Acts 5 and 9 of 2011)*

(7) The appointment of any member of the Authority and the termination of office of any person as a member whether by death, resignation, revocation, effluxion of time or otherwise shall be notified in the *Gazette*.

(8) No elected member of the Legislative Assembly shall be eligible for appointment as a member of the Authority. *(Amended by Act 9 of 2011)*  
*(Amended by Act 4 of 2005)*

### **Functions and powers of the Authority**

5. (1) It shall be the function of the Authority to encourage and secure the efficient and economic utilization of land vested in it or acquired by it in a manner which is best suited to serve the economic and social interests and requirements of the people of Montserrat.

(2) In particular and without prejudice to the generality of subsection (1) it shall be the function of the Authority to develop land for agricultural settlement schemes in any area designated by the Governor acting on the advice of Cabinet under section 18. *(Amended by Act 9 of 2011)*

(3) Subject to the provisions of this Act the Authority shall have power for the purpose of the discharge of its functions under subsections (1) and (2)—

- (a) to acquire, hold, manage and dispose of land or other property or interest therein;
- (b) to undertake or cause to be undertaken such building and engineering operations as may appear to it to be requisite, advantageous or convenient for and in connection with the discharge of its said functions;
- (c) to undertake farming activities or other land development activities on its own account or in association with other bodies or persons;
- (d) to do anything and to enter into transactions of any nature whatsoever, whether or not involving expenditure, borrowing or lending money in accordance with the provisions of this Act in that behalf, the acquisition of any property or rights or the disposal of any property or rights which in its opinion is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto.

### **Acquisition of land by the Authority and extinguishment of public rights of way over land acquired**

6. (1) Any land (including land with buildings thereon) which the Authority proposes to acquire for the purpose of carrying out its functions under this Act shall be acquired only with the approval of the Governor acting on the advice of Cabinet.

(2) Where the Authority is unable to acquire by agreement and on reasonable terms any land which it considers it necessary to acquire for the purposes of this Act, the Authority shall report the fact to the Governor acting on the advice of Cabinet and, if the Authority so requests, the

Governor acting on the advice of Cabinet may if he thinks fit, acquire such land compulsorily under the provisions of the Land Acquisition Act.

(3) The cost and expenses of every acquisition of land by the Governor acting on the advice of Cabinet pursuant to a request by the Authority under subsection (2) shall be defrayed from the funds of the Authority.

(4) The Governor acting on the advice of Cabinet may by Order published in the *Gazette* extinguish any public right of way over any land acquired by the Authority for the purposes of this Act.

(5) A draft of every Order proposed to be made under subsection (4) shall be published in two ordinary issues of the *Gazette* as well as in six weekly issues of a newspaper printed and circulating in Montserrat and any objection to the making of the Order may be made to the Governor acting on the advice of Cabinet in writing by any person before the expiration of six weeks from the date of the first publication of the draft Order.

(6) The Governor acting on the advice of Cabinet shall before making any Order under subsection (4) consider every objection made in accordance with subsection (5) hereof. (*Amended by Act 9 of 2011*)

### **Powers of dealing with land and buildings**

7. (1) Subject to this section and to the provisions of Part 3 and to any directions that may be given by the Governor acting on the advice of Cabinet the Authority may dispose of any land acquired by it or vested in it or any interest therein to such person or persons in such manner and subject to such covenants or conditions as it may consider expedient:

Provided, however, that the Authority shall not without prior approval in writing of the Governor acting on the advice of Cabinet dispose absolutely of any land or grant a lease of any land for a term exceeding twenty one years.

(2) In this section “**disposal of land**” means disposal thereof by sale, exchange, lease or otherwise or by the creation of any easement, servitude, right or privilege.

(*Amended by Act 9 of 2011*)

### **Procedure and meetings**

8. (1) The Authority shall meet at least once every quarter and at such other times as may be necessary or expedient for the transaction of business.

(2) The Chairman may at any time call a special meeting of the Authority, and shall call a special meeting within seven days of a requisition for that purpose addressed to him by any two members of the Authority.

(3) The Chairman shall call a special meeting of the Authority if directed by the Governor acting on the advice of Cabinet or the Minister to do so.

(4) The Chairman, or in his absence, the Deputy Chairman, shall preside at all meetings of the Authority.

(5) The Chairman, or in his absence, the Deputy Chairman and two other members of the Authority shall form a quorum.

(6) The decisions of the Authority shall be by a majority of votes and in addition to an original vote, in any case in which the voting is equal, the Chairman or Deputy Chairman presiding at the meeting shall have a casting vote.

(7) Minutes in proper form shall be kept by the Authority and shall be confirmed by the Chairman or Deputy Chairman (as the case may be) as soon as practicable thereafter at a subsequent meeting.

(8) The Authority may co-opt any one or more persons to attend any particular meeting of the Authority for the purpose of assisting or advising the Authority, but no such person shall have any right to vote.

(9) Subject to the provisions of this section the Authority shall have the power to regulate its own proceedings.

### **Power to appoint Committee**

9. (1) The Authority may appoint a committee of the Authority to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act.

(2) The Authority may, by resolution, reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Authority may think fit.

### **Declaration of interests of members of Authority**

10. (1) Any member of the Authority whose interest is likely to be affected whether directly or indirectly by a decision of the Authority on any matter whatsoever, shall disclose the nature of his interest at the first meeting of the Authority at which he is present after the relevant facts have come to his knowledge.

(2) The disclosure under subsection (1) shall be recorded in the Minutes of the Authority and after the disclosure, the member making it shall, unless the Authority otherwise directs, not be present at or take part in the deliberations or vote at any meeting of the Authority during the time when such matter is being decided by the Authority.

### **Protection of Authority**

11. The validity of any act done or proceedings taken under this Act shall not be questioned on the ground—

- (a) of the existence of any vacancy in the membership of or of any defect in the constitution of the Authority; or
- (b) of the contravention by a member of the Authority of the provisions of section 10; or
- (c) of any omission, defect or irregularity not affecting the merits of the case.

### **Protection of members of Authority**

**12.** No personal liability shall attach to any member of the Authority in respect of anything done or suffered in good faith under the provisions of this Act, and any sums of money, damages or costs, which may be recovered against any such member in respect of any act or thing done *bona fide* and for the purpose of carrying this Act into effect, shall be paid out of the funds and resources of the Authority.

### **Execution and service of documents**

**13. (1)** All deeds, instruments, contracts, and other documents, other than those required by law to be under seal, shall be deemed to be duly executed or signed by or on behalf of the Authority, if they are signed by the Chairman or Manager and some other person duly authorised by the Authority in that behalf.

**(2)** Service upon the Authority of any notice, order or other document shall be executed by delivering the same or by sending it by registered post addressed to the Manager at the head office of the Authority.

### **Remuneration of members of Authority**

**14.** The Authority shall pay to each member of the Authority, in respect of his office, such, if any, remuneration as the Governor acting on the advice of Cabinet may determine. (*Amended by Act 9 of 2011*)

### **Appointment of Manager**

**15. (1)** A Manager shall be appointed by the Governor acting on the advice of Cabinet by instrument under his hand on the recommendation of the Authority:

Provided that, in the case of the first Manager he shall be appointed by the Governor acting on the advice of Cabinet in his discretion.

**(2)** The Manager shall be appointed for the period that the Governor acting on the advice of Cabinet determines upon such terms and conditions of service as may be decided by the Governor acting on the advice of Cabinet on the recommendation of the Authority and shall be eligible for re-appointment:

Provided that, in the case of the first Manager he shall be appointed for such shorter period and upon such terms and conditions of service as the Governor acting on the advice of Cabinet may in his discretion decide.

(3) The Manager shall be the chief executive officer of the Authority and in the capacity as Secretary to the Authority shall be present at all meetings of the Authority unless he has obtained leave of absence from the Chairman or is incapacitated by sickness or other cause from attending such meetings.

(4) The Governor acting on the advice of Cabinet may on the recommendation of the Authority by instrument under his hand appoint any suitable qualified person to act temporarily in place of the Manager during the absence of the Manager through illness or inability from whatsoever cause arising.

*(Amended by Acts 5 and 9 of 2011)*

### **Appointment of officers and servants**

16. (1) The Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers, servants and agents as it may deem necessary for the proper carrying out of its functions under this Act:

Provided that, no salary in excess of the rate of \$15,000 per annum shall be assigned to a post without the prior approval of the Governor acting on the advice of Cabinet. *(Amended by Acts 13 of 1982 and 9 of 2011)*

(2) The Authority shall within a period of three years of its establishment, provide for the establishment and maintenance of a Pension Scheme or Social Security Fund for the benefit of the officers and servants of the Authority.

(3) The Governor acting on the advice of Cabinet, acting in his discretion may approve the transfer or secondment of a public officer to the service of the Authority and where such a transfer or secondment is approved, the Authority shall pay to the Government such contribution as may be required by the Government to be paid in respect of the pension and gratuity of the officer transferred. *(Amended by Act 9 of 2011)*

### **Authority to act in conformity with directions of Governor acting on the advice of Cabinet**

17. In the exercise of its powers and the discharge of its functions the Authority shall conform with any general or special directions given to it by the Governor acting on the advice of Cabinet. *(Amended by Act 9 of 2011)*

## PART 3

### DESIGNATION OF AREAS FOR LAND SETTLEMENT SCHEMES

#### **Designation of areas for land settlement schemes**

**18. (1)** The Governor acting on the advice of Cabinet may, at the request of the Authority and if he is satisfied that it is expedient to do so in the interest of Montserrat, by Order to be published in the *Gazette* designate any land acquired by or vested in the Authority as a land settlement area.

**(2)** Any Order made under this section shall be laid before the Legislative Assembly within a period of thirty days after having been made and the Legislative Assembly may by resolution annul the said Order and thereupon such Order shall become null and void, but without prejudice to the making of a new Order. *(Amended by Act 9 of 2011)*

#### **Preparation of land settlement schemes**

**19. (1)** There shall be prepared by the Department of Agriculture a land settlement scheme in relation to lands within a land settlement area designated under section 18 which are suitable for agricultural development to provide for the settlement and resettlement of farmers in such areas. In preparing such scheme the Department of Agriculture shall have regard to the financial and other resources at the disposal of the Authority and the need to conserve the natural resources of the land in a manner which is best suited to serve the economic and social interests and requirements of the people of Montserrat, and the economic and efficient utilization of the land.

**(2)** A land settlement scheme prepared under subsection (1) shall, after consideration by the Authority be submitted to the Governor acting on the advice of Cabinet for approval. *(Amended by Act 9 of 2011)*

**(3)** The Governor acting on the advice of Cabinet may approve a land settlement scheme with such modifications as he thinks fit and shall cause notice of his approval to be published in the *Gazette* and thereupon such scheme with or without modifications shall have effect as an approved land settlement scheme. *(Amended by Act 9 of 2011)*

#### **Duties of the Authority in relation to land settlement schemes**

**20. (1)** The Authority shall carry out or secure the laying out and primary development of every designated area in accordance with the approved land settlement scheme relating thereto:

Provided that, any land in a designated area which is not suitable for agricultural development may be developed by the Authority for other purposes.

**(2)** For the purposes of this section “**primary development**” means the demarcation and rock-raking of farm holdings, the laying out and completion of roads, soil and water conservation works, the provisions of

water supplies and such other works of a similar nature as may be provided for in the approved scheme.

(3) Where the laying out and development of a designated area requires the determination of contracts of tenancy of persons in possession of any small holding in the said area, such contracts of tenancy shall be terminated by the Authority in accordance with the provisions of the Agricultural Small Holdings Act and any compensation paid on determination of such contracts of tenancy shall be charged against the funds of the Authority.

(4) Subject to the provisions of this Act the Authority may lease or otherwise dispose of farm holdings in a designated area to suitable persons approved by the Director of Agriculture and may attach such conditions or covenants to leases or other conveyances as will ensure the observance of good farming and land management practices in respect of such holdings:

Provided that, in the leasing or disposition of farm holdings to suitable persons consideration shall be given to the suitability of persons whose contracts of tenancy in respect of land in such designated areas have been determined by the Authority.

### **Conditions to be attached to leases of farm holdings in designated areas**

**21.** Where the Authority disposes by lease of any farm holding in a designated area, or any interest therein to any person, the conditions of such disposition shall include—

- (a) that the farm holding shall be used exclusively for the purpose of agriculture and purposes related thereto;
- (b) that the farm holding shall not be sub-divided, charged, let, sub-let or assigned without the consent of the Authority given in writing;
- (c) that the farm holding or such part thereof as may be specified by the Authority shall be farmed to the satisfaction of the Authority;
- (d) that such soil and water conservation measures as have been established by the Authority on the holding shall be maintained to the satisfaction of the Authority;
- (e) that upon any breach of the conditions set out in paragraph (a), (b), (c) or (d) the farm holding and all rights thereover shall become liable to forfeiture to the Authority:

Provided that, such forfeiture shall not be enforceable by re-entry, suit or otherwise unless a notice has been served by the Authority on the owner or occupier of such holding specifying the particular breach complained of and requiring the owner or occupier to remedy such breach within a reasonable period of time and the requirements in such notice have not been complied with.



### **Conditions to be attached to freehold of farm holding in designated areas**

22. Where the Authority conveys the freehold of a farm holding in a designated area to any person there shall be attached to such conveyance in respect to such farm holding restrictive covenants to the effect—

- (a) that the farm holding shall be used exclusively for the purpose of agriculture and purposes related thereto;
- (b) that the said farm holding shall not be subdivided or let without the consent of the Authority given in writing.

### **Authority may give directions in certain circumstances**

23. (1) Where a farm holding in a designated area is not farmed to the satisfaction of the Authority, the Authority may by notice in writing served upon the owner or occupier of such holding give such directions as it may think fit to secure the observance of good farming and land management practices.

(2) Directions given under subsection (1) may impose requirements, restrictions or prohibitions as to the carrying out of work and the manner in which the holding is to be farmed.

(3) Where a direction under this section to carry out any work is not complied with within a reasonable period of time any person authorised in writing by the Authority in that behalf may enter upon the farm holding to which the direction relates and carry out the work required by the direction and the reasonable cost of carrying out such work shall be recoverable from the person to whom the direction was given.

### **Right of an occupier of a farm holding to compensation for improvements in certain circumstances**

24. (1) Where a person in occupation of a farm holding in a designated area whether as lessee or mortgagee forfeits or otherwise surrenders to the Authority his rights in respect of such farm holding he shall be entitled to receive from the Authority compensation for such improvements as he may have made to such farm holding in such sum as fairly represents the residuary value to the Authority of the work done by him on such improvements.

(2) All claims to recover possession of farm holdings and all disputes and differences arising out of contracts of tenancy shall be within the jurisdiction of a Magistrate and shall be heard and determined on the Civil Side of the Magistrate's Court; and the provisions of the Magistrate's Code of Procedure Act shall apply *mutatis mutandis* to all proceedings brought before a Magistrate by virtue of this Act so far as the same can be made applicable thereto and are not inconsistent with any of the provisions of this Act.

(3) A Magistrate shall have power to appoint persons to assist him in the determination of questions of compensation on the application of either party to a contract of tenancy before the institution of proceedings, or in his own discretion after the institution of proceedings.

(4) A Magistrate may make such order as he may think fit in respect of the expenses and remuneration of such persons:

Provided that, the amount of such remuneration shall not exceed the sum of \$25 per valuation.

### **Powers of entry for survey or inspection**

25. The Authority may authorise in writing any of its officers, any public officer or other person to enter at any reasonable time any farm holding or premises thereon in a designated area for the purpose of survey or inspection.

### **Penalty for obstruction**

26. Any person who shall obstruct, hinder or molest any officer or public officer or other person acting under an authority given under section 23 or 25 shall be guilty of an offence and be liable on summary conviction to a fine of \$250.

## **PART 4**

### **MANAGEMENT OF GOVERNMENT HOUSING**

#### **Management of Government land and housing**

27. (1) The Governor acting on the advice of Cabinet may vest land or buildings in the Land Development Authority to be held, managed, maintained and, subject to the approval of the Governor acting on the advice of Cabinet, to be disposed of by way of sale, lease, exchange or otherwise. (*Amended by Act 9 of 2011*)

(2) The Land Development Authority shall, subject to any directions that may be given to it by the Governor acting on the advice of Cabinet—

- (a) prepare a register of the buildings thus vested in it and another register of the bare land so vested in it;
- (b) maintain all such buildings in a good state of repair and maintain a record of all such work carried out in respect of each building;
- (c) rent the buildings and land entrusted to its management to suitable persons at a market rent;
- (d) where the building or land is rented to any person, keep a register of such tenancies and rents along with copies of any leases or licenses;

- (e) maintain proper books of account in respect of property thus vested in it under subsection (1) by the Governor acting on the advice of Cabinet; and
  - (f) at all times be governed in the management of property vested in it under subsection (1) by any directions given by the Governor acting on the advice of Cabinet.  
*(Amended by Act 9 of 2011)*
- (3) No property vested in the Land Development Authority by the Governor acting on the advice of Cabinet under subsection (1) shall be intermingled with other property held or managed by the Authority under this Act except with the prior approval of the Governor acting on the advice of Cabinet. *(Amended by Act 9 of 2011)*
- (4) No transfer or other alienation of property vested in the Land Development Authority under subsection (1) by the Governor acting on the advice of Cabinet shall be valid or of any effect in law unless it is signed by the Governor acting on the advice of Cabinet. *(Amended by Act 9 of 2011)*
- (5) All revenue received from the management of property vested in the Montserrat Land Development Authority under subsection (1) shall, after deduction of such amounts as are necessary to enable the Land Development Authority to discharge its functions under this Act be credited to the Consolidated Fund of the Government of Montserrat at the end of each financial year. *(Substituted by Act 18 of 1999)*
- (6) The Land Development Authority may, with the approval of the Governor acting on the advice of Cabinet appoint staff necessary for the management of properties vested under subsection (1). *(Amended by Act 9 of 2011)*
- (7) For the avoidance of doubt, property vested in the Land Development Authority under subsection (1) shall remain the property of the Crown unless it is disposed of with the prior approval of the Governor acting on the advice of Cabinet.  
*(Inserted by Act 6 of 1998 and 9 of 2011)*

## PART 5

### FINANCIAL PROVISIONS

#### **Funds and resources of the Authority**

**28.** The funds and resources of the Authority shall consist of—

- (a) such sums as may from time to time be placed at its disposal by the Legislative Assembly; *(Amended by Act 9 of 2011)*
- (b) any property or mortgages acquired by or vested in the Authority and monies earned or arising from any such property or mortgages;

- (c) such sums as may be borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its functions;
- (d) such other sums from any source as may be granted, loaned, advanced, paid, allocated to or vested in the Authority in respect of any matter incidental to its powers and duties.

### **Power to borrow or raise capital**

**29. (1)** The Authority may, subject to the approval of the Governor acting on the advice of Cabinet, borrow, secure or raise money for the purpose of meeting any of its obligations or carrying out any of its functions under this Act.

**(2)** With the approval of the Legislative Assembly, the Governor acting on the advice of Cabinet may guarantee, in such manner and upon such conditions as he may think fit, the repayments of the principal and interest of any authorised borrowings by the Authority.

**(3)** Where the Governor acting on the advice of Cabinet is satisfied that there has been default in the repayment of any principal monies or interest guaranteed under this section, he shall direct the repayment out of the General Revenue of Montserrat of the amounts in respect of which there has been such default.

**(4)** The Authority shall make to the Accountant General, at such times and in such manner as the Governor acting on the advice of Cabinet may direct, payments of all or part of the amounts as may be so directed in or towards the repayment of sums issued in fulfilment of any guarantee given under this section:

Provided that, with the prior approval of the Legislative Assembly the Authority may be permitted by the Governor acting on the advice of Cabinet to make payment of a sum less than the whole amount issued in fulfilment of such guarantee.

*(Amended by Act 9 of 2011)*

### **Application of the funds and resources of the Authority**

**30. (1)** The funds and resources of the Authority shall be applied towards—

- (a) financing the purchase of any area of land;
- (b) the costs of laying out and developing such areas and providing services thereto;
- (c) the payment of expenses incurred in the discharge of its duties and obligations under Part 3;
- (d) defraying the following charges:
  - (i) the remuneration of and allowances to members of the Authority;

- (ii) the salaries, remuneration and other allowances of the officers, servants and agents of the Authority, and payments of contributions towards the maintenance of the Pension Scheme or Social Security Fund authorised by this Act;
- (iii) the working and establishment expenses of the Authority;
- (iv) the payment of rates, taxes, insurance premiums and other outgoings and of the expenses of maintenance and disposal in connection with the land and buildings vested in the Authority or over which it has powers of disposition by virtue of this Act;
- (v) the repayment of loans and advances to the Authority and the payment of interest thereon;
- (vi) such sums as it may deem appropriate to set aside in respect of depreciation of the property of the Authority;
- (e) the purchase of plant, equipment, stores and any other materials and the construction of buildings and the carrying out of other works in the discharge of its functions under this Act;
- (f) any other expenditure authorised by the Authority in the execution of its functions under this Act.

(2) The balance of the funds and resources of the Authority shall be dealt with or applied in accordance with any directions which may from time to time be given to the Authority by the Governor acting on the advice of Cabinet. *(Amended by Act 9 of 2011)*

### **Cash Deposits and payments**

**31. (1)** All sums payable to the Authority shall be paid into a bank or banks approved by the Governor acting on the advice of Cabinet, except such sums as any officer of the Authority may be authorised by the rules of the Authority to retain in his hands to meet petty disbursements or immediate payments. *(Amended by Act 9 of 2011)*

(2) All payments out of the Funds of the Authority except petty disbursements not exceeding such sums as may be fixed by rules made by the Authority shall be made by any officer authorised by the Authority in accordance with such rules.

(3) Cheques against any banking account required to be kept and bills of exchange or orders for the payment of money shall be signed by the officer authorised by the Authority in accordance with the rules of the Authority and countersigned by the Chairman or any member of the Authority appointed by resolution of the Authority for the purpose; and a copy of any such resolution shall be certified by the Chairman and forwarded to the bank concerned.

### Authority may make Rules

32. For the purpose of regulating and controlling its financial operations, the Authority may, by resolution, make rules in respect of the following matters—

- (a) the manner in which and the officers by whom payments are to be made and to be approved;
- (b) the bank or banks into which the monies of the Authority are to be paid, the title of any account with any such bank and the transfer of monies from one account to another;
- (c) the sum to be retained by the officer authorised by the rules of the Authority to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment;
- (d) the method to be adopted in making payments out of the funds of the Authority;
- (e) generally as to all matters necessary for the proper keeping and control of the accounts and finances of the Authority.

### Accounts and Audit

33. (1) The Authority shall prepare and submit to the Minister for his approval annual estimates of income and expenditure and shall keep accounts of its transactions to the satisfaction of the Minister; and the accounts shall be audited annually by an Auditor who shall be appointed by the Authority each year with the approval of the Governor acting on the advice of Cabinet.

(2) The members, officers and servants of the Authority shall grant to the Auditor appointed to audit the accounts of the Authority under the provisions of subsection (1), access to all books, documents, cash and securities of the Authority and shall give to him on request all such information as may be within their knowledge in relation to the operations of the Authority.

(3) Notwithstanding anything contained in subsection (1) the Governor acting on the advice of Cabinet may, in his discretion, at any time require the Government Auditor to examine and report on the accounts of the Authority, and the Authority shall provide the Government Auditor with all necessary and appropriate facilities for such examination.

(4) As soon as the accounts have been finally audited the Manager shall send to the Minister a copy thereof together with a copy of any report thereon by the Auditor.

(5) The Authority may with the prior approval of the Governor acting on the advice of Cabinet write off bad debts.

*(Amended by Act 9 of 2011)*

## Reports

**34. (1)** The Authority shall not later than three months from the end of each calendar year submit to the Minister—

- (a) a report dealing generally with the operations of the Authority during the preceding calendar year;
- (b) a statement of the accounts of the Authority audited in accordance with the provisions of section 33.

**(2)** A copy of the report together with a copy of the audited statement of accounts and a copy of the Auditor's report shall be laid before the Legislative Assembly within six weeks of receipt thereof by the Minister, who shall cause a copy of the audited statement of accounts to be published in the *Gazette*. (Amended by Act 9 of 2011)

## PART 6

### MISCELLANEOUS AND GENERAL

## Regulations

**35. (1)** The Authority with the approval of the Governor acting on the advice of Cabinet may make regulations for the proper carrying out of the provisions and purposes of this Act and without prejudice to the generality of the foregoing may make regulations—

- (a) for the proper control and management of a land settlement area and the regulation of any work, service or facility provided therein;
- (b) the fixing of fees or charges for or in connection with any service or facility performed or provided by the Authority and for the payment, exemption from payment, refund or remission thereof;
- (c) any other matter in respect of which the Authority may deem it expedient to make regulations for the purpose of carrying out its functions under this Act;
- (d) governing the control, management and care of buildings entrusted to it by the Government. (Inserted by Act 6 of 1998)

(Amended by Act 9 of 2011)

**(2)** Regulations made under this section may provide for any infringement thereof or failure to comply therewith a penalty not exceeding \$120 on summary conviction.

**(3)** Such regulations shall not have any force or effect until approved by resolution of the Legislative Assembly and when so approved shall have the same force and effect as if they were part of this Act. (Amended by Act 9 of 2011)

**Offences in relation to statements, accounts, etc.**

36. Any member or officer of the Authority or any Auditor who, knowing it to be false in any material particular—

- (a) verifies any statement, account or report of the Authority; or
- (b) causes to be delivered or transmitted such statement, account or report,

shall be guilty of an offence against this Act and shall be liable, on indictment to imprisonment for a term of five years.

**Minutes receivable in evidence**

37. Any minutes made of meetings of the Authority shall, if purporting to be duly signed by the Chairman or Deputy Chairman, be receivable in evidence in all legal proceedings without further proof and every meeting of the Authority in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.

**Exemption from Income and Corporation Tax Act**

38. Notwithstanding anything contained in the Income and Corporation Tax Act, the Authority shall be wholly exempt from the payment of Income Tax in respect to its operations.

**Property Tax**

39. The Authority shall be liable to the payment of property tax in accordance with the provisions of the Property Tax Act as from time to time amended.



