



MONTSERRAT

CHAPTER 1.02

INTERPRETATION ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2008

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—

INTERPRETATION ACT

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Act 12 of 1955 .. in force 28 February 1955

Amended by Acts 3/1956, 15/1956, 5/1960, 23/1961 and S.R.O. 15/1956

Amended by Acts: 7 of 1966 .. in force 13 August 1966

5 of 1967 .. in force 25 February 1967

12 of 1967 .. in force 3 July 1967

6 of 1980 .. in force 25 March 1980

11 of 1982 .. in force 1 June 1982

24 of 1982 .. in force 29 December 1982

12 of 1983 .. in force 1 June 1990 (S.R.O. 5/1990)

7 of 1998 .. in force 24 November 1998

8 of 1999 .. in force 10 November 1999

15 of 2000 .. in force 8 December 2000

16 of 2005 .. in force 30 December 2005

PUBLICATION BY EXHIBITION ORDER – Sections 2 and 23

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S.R.O. 26 of 1980 .. in force 1 April 1980

S.R.O. 60 of 1997 .. in force 16 August 1997

S.R.O. 66 of 1997 .. in force 21 August 1995

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CHAPTER 1.02

INTERPRETATION ACT

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CHAPTER 1.02

INTERPRETATION ACT

*(Acts 12 of 1955, 3 of 1956, 15 of 1956, 5 of 1960,
23 of 1961, 7 of 1966, 5 of 1967, 12 of 1967, 6 of 1980,
11 of 1982, 24 of 1982, 12 of 1983, 7 of 1998, 8 of 1999,
15 of 2000 and 16 of 2005)*

Commencement

[28 February 1955]

Short title

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

General Principles of Interpretation

Interpretation of certain terms

2. (1) In this Act and in all other laws, and in all public documents, enacted, made or issued before or after the commencement of this Act, the following words and expressions shall have the meanings hereby assigned to them respectively, unless there is something in the subject or context inconsistent with such construction or unless it is therein otherwise expressly provided—

“**Act**” used in relation to legislation shall include Ordinance, or private Act or Ordinance of the Legislative Council and any subsidiary legislation made under the authority of any Act or Ordinance;

“**act**” used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts done extend to illegal omissions;

“**Administrator**” means the Governor;

“**Administrator in Council**” means the Governor in Council;

“**belonger**” means a person who is deemed to belong to Montserrat pursuant to the Immigration Act;

“**British citizen**”, “**British Dependent Territories citizen**” and “**British protected person**” have the meanings respectively given to those expressions in the British Nationality Act 1981 (U.K.);

“**British possession**” means any part of Her Majesty’s dominions other than the United Kingdom;

“**Chapter**”, “**Part**”, “**section**”, “**paragraph**” and “**Schedule**” denote respectively a Chapter, Part, section and paragraph of, and Schedule

to the Act in which the word occurs and “**subsection**” and “**sub-paragraph**” denote a subsection or sub-paragraph of the section or paragraph in which the word occurs;

“**Chief Justice**” means the Chief Justice of the Eastern Caribbean Supreme Court;

“**Christian name**” means any name prefixed to a surname, whether received in Christian baptism or otherwise;

“**coin**” means any coin legally current in Montserrat;

“**the Colony**” means the Colony of Montserrat and includes the territorial waters thereof; (*Amended by Act 12 of 1983*)

“**commencement**” used with reference to a law means the date on which the law comes into force;

“**committed for trial**” used in relation to any person means committed to prison with the view of being tried before a judge and jury by any authority having power to commit a person to prison with a view to his trial, and includes a person who is admitted to bail upon a recognizance to appear and take his trial before a judge and jury;

“**common law**” means the common law of England;

“**Commonwealth citizen**” has the meaning given to that expression in the British Nationality Act 1981 (U.K.);

“**constable**” means a police officer who is not a subordinate police officer of the Police Force and includes a Local Constable appointed under the Local Constables Act;

“**Consul**” or “**consular officer**” includes Consul General, Consul, Vice-Consul, Consular Agent and any person for the time being authorized to discharge the duties of a Consul General, Consul or Vice-Consul;

“**contravene**” with its grammatical variations and cognate expressions, in relation to any requirement or condition prescribed in any law, or in any permit, licence, or other authority, granted under or in pursuance of any law, includes a failure to comply with that requirement or condition;

“**court**” means any court of Montserrat of competent jurisdiction;

“**Court of Appeal**” means the Court of Appeal constituted under the Supreme Court Order 1967 (S.I. 1967 No.223 (U.K.));

“**Crown Agents**” means the persons for the time being acting in the United Kingdom as the Crown Agents for Oversea Governments and Administrations;

“**Crown Attorney**” means the Attorney General;

“**day**” means a full day of twenty-four hours, and when used in relation to any act or omission or occurrence shall commence at the first

moment of the day on which such act, omission or occurrence is done or happens after midnight of the previous day and shall end at the last moment of the day on which such act, omission or occurrence as aforesaid is done or happens before midnight of such last mentioned day as aforesaid;

“dollar” means a dollar of Eastern Caribbean currency as provided in the East Caribbean Central Bank Act;

“Dominion” means a Dominion as defined in the Statute of Westminster, 1931;

“the Gazette” means the official publication printed and published in Montserrat for and on behalf of the Government of Montserrat under the title of “The Montserrat Gazette”;

“gazetted” means published in the *Gazette* and includes publication in accordance with section 23; (*Substituted by Act 8 of 1999*)

“Government Printer” means any printer for the time being authorized by the Government to print the *Gazette* or any laws;

“Government officer” means any person for the time being in the employment of the Government of Montserrat;

“Her Majesty” or **“His Majesty”**, **“the Queen”** or **“the King”** or **“the Crown”** means Her Majesty the Queen or His Majesty the King, the Sovereign for the time being of Great Britain and Northern Ireland and all British possessions, and includes the predecessors and the heirs and successors of such Queen or King;

“house” includes any messuage, part of a messuage, house, part of a house, building, or other construction, whether wholly or in part above or below the surface of the ground, inhabited or occupied either by day or by night by man, whether beneficially or otherwise, or intended to be so inhabited or occupied;

“Imperial Act” or **“Statute”** means an Act passed by the Imperial Parliament and assented to by Her Majesty;

“Imperial Parliament” or **“Parliament”** means the Parliament of the United Kingdom;

“Judge” includes the Chief Justice and any Puisne Judge of the High Court;

“a Justice” or **“a Justice of the Peace”** means a person appointed by the Governor to be a Justice of the Peace for Montserrat;

“land” and **“premises”** includes all tenements or hereditaments, and also all messuages, houses, buildings, or other constructions, whether the property of Her Majesty, Her heirs or successors, or of any corporation, or of any private individual, except where there are words to exclude houses and other buildings;

“**law**” includes any Act, Ordinance, Act of the Imperial Parliament and any subsidiary legislation or rule of court made or given under the authority of any law;

“**Legislative Council**” means the Legislative Council of Montserrat;

“**Magistrate**” has the meaning given in the Magistrate’s Court Act;

“**Magistrate’s Court**” means the Court exercising jurisdiction under the Magistrate’s Court Act;

“**Master**” means a Master of the Supreme Court; (*Inserted by Act 15 of 2000*)

“**master**” used with reference to a ship means any person (except a pilot or harbour master) having for the time being control or charge of the ship;

“**medical practitioner**” or “**duly qualified medical practitioner**” or “**registered medical practitioner**” means any person duly registered or licensed to practise medicine under the provisions of any law for the time being applicable to medical practitioners;

“**month**” means a calendar month unless words be added showing lunar month to be intended;

“**oath**” and “**affidavit**” in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and “**swear**” in the like case, includes “**affirm**” and “**declare**”;

“**or**”, “**other**” and “**otherwise**” are, unless a contrary intention appears, to be construed disjunctively and not as implying similarity, unless the word “**similar**” or some other word of like meaning is added;

“**Ordinance**” includes private Ordinance and any Act or private Act of the Legislative Council and any subsidiary legislation made or given under the authority of any Ordinance;

“**person**” includes any corporation, either aggregate or sole, and any club, society, association or other body, of one or more persons;

“**Police Force**” has the meaning given in the Police Act;

“**police officer**” means a member of the Police Force;

“**prescribed**” means prescribed by the law in which the word occurs and in relation to any subsidiary legislation means prescribed by the Governor in Council unless some other authority is mentioned in the law in which the word occurs;

“**print**” with its grammatical variations and cognate expressions includes reproduction or representation by means of a typewriter, roneo, cyclostyle or other similar apparatus or by any other method by which words, figures, signs or symbols may be reproduced or represented in visible form;

- “Prison or Gaol”** includes the common prison or gaol of Montserrat in which a person is committed to prison;
- “property”** includes money, goods, things in action, land and every description of property, whether real or personal; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incidental to property as herein defined;
- “public holiday”** means any day or part of a day which under the provisions of any law for the time being in force is or is declared to be or proclaimed as a public holiday;
- “public place”** includes every public highway, street, road, square, court, alley, land, bridleway, footway, parade, wharf, jetty, quay, bridge, public garden, or open space, and every theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment, or to which the public have access;
- “public service”** means the public service of Montserrat;
- “recorded”** used with reference to a document means recorded under provisions of the law applicable to the recording of such document;
- “registered”** used with reference to a document means registered under the provisions of the law applicable to the registration of such document;
- “rules of court”** when used in relation to any court means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court;
- “sell”** with its grammatical variations and cognate expressions, includes exchange and barter;
- “a Secretary of State”** means one of Her Majesty’s Principal Secretaries of State;
- “service by post”**—where any law authorizes or requires any document to be served by post, whether the expression **“serve”**, or the expression **“give”** or **“send”**, or any other expression is used, then, unless a contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post;
- “ship”** means every description of vessel used in navigation not exclusively propelled by oars;
- “sign”** with its grammatical variations and cognate expressions, with reference to a person who is unable to write his name, includes **“mark”** with its grammatical variations and cognate expressions;
- “street”** or **“road”** includes any public highway, street, road, thoroughfare, square, court, alley, lane, bridle-way, footway, parade, passage, or

open place used or frequented by the public, or to which the public have or are permitted to have access;

“**subsidiary legislation**” means any regulation, rule, by-law, proclamation, order in council, order, direction, notice, form or other instrument made under any Act or other lawful authority and having legislative effect;

“**summary**” in relation to any trial or conviction means a trial or conviction before the Magistrate’s Court and cognate expressions shall be construed accordingly; (*Amended by Act 12 of 1983*)

“**Supreme Court**” means the Eastern Caribbean Supreme Court;

“**Treasurer**” means the Accountant General except in the Acts specified in the Second and Third Schedules of Act 7 of 1966;

“**United Kingdom**” means Great Britain and Northern Ireland;

“**vessel**” includes any ship, boat, lighter, hovercraft or other craft used for transportation by water; (*Amended by Act 12 of 1983*)

“**will**” includes codicil;

“**writing**” with its grammatical variations and cognate expressions, includes printing, lithography, typewriting, photography and other modes of representing or reproducing words or figures in visible form;

“**year**” means a year reckoned according to the British calendar.

(2) Wherever in any Act the expression “**British Empire**” occurs there shall be substituted therefor the expression “**British Commonwealth**”.

Construction of references to Act, section, etc

3. (1) Where in any Act or Ordinance there is a reference to a section, Part, Chapter or Schedule by number or letter only, and not in conjunction with the title or short title of any other enactment, such reference shall be construed as a reference to the section, Part, Chapter or Schedule of that number or letter contained in the Act or Ordinance in which such reference occurs.

(2) Where in any section of any Act or Ordinance there is a reference to a subsection, paragraph or sub-paragraph or other division by number or letter only, and not in conjunction with the number of any section of that or any other Ordinance, such reference shall be construed as a reference to the subsection, paragraph, subparagraph or other division of that number in the section in which the reference occurs.

(3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to subsidiary legislation.

(4) Any reference in any Act or Ordinance to that or any other Act or Ordinance shall be deemed to include a reference to any subsidiary legislation made under the Act or Ordinance to which reference is made.

(Inserted by Act 11 of 1982)

General interpretation of gender and number

4. In this Act, and in every other Act whether passed or made before or after the commencement of this Act, unless there is something in the subject or context inconsistent with such construction, or unless it is therein otherwise expressly provided—

- (a) words importing the masculine gender include females; and
- (b) words in the singular include the plural, and words in the plural include the singular.

Reference to public officers by title of office

5. A reference in any law to any public officer by the usual title of his office shall, if there be such an office customarily in Montserrat and unless the contrary intention appears, be read and construed as referring to the person for the time being holding or carrying out the duties of that office.

References to Crown

6. In any law references to the Sovereign reigning at the time of the passing or making of the law or the Crown shall, unless the contrary intention appears, be construed as references to the Sovereign for the time being.

Computation of time

7. In computing time for the purposes of any law, unless the contrary intention appears—

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done;
- (b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day, not being an excluded day;
- (c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

Provisions when no time prescribed

8. Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed, and as often as the prescribed occasion arises.

Measurement of distances

9. In the measurement of any distance for the purposes of any law, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

References to the number of a line

10. A reference in any Act to the number of a line of any section of any Act shall mean such line in the latest printed copy of such Act as contained in any printed collection of laws purporting to be printed and published by authority or by the Government Printer at the time of the passing of the Act containing such reference.

Definitions in law to apply subject to context

11. (1) Where terms are defined in any law, such terms shall have the meanings assigned to them, unless there is anything in the subject or context repugnant to or inconsistent with such meaning.

(2) Where terms defined in any Act are used in any instrument (that is to say, any regulation, rule, by-law, proclamation, order in council, order, direction, notice or form) made or issued under such Act, such terms shall have the respective meanings assigned to them by the Act, unless they are otherwise defined in such instrument or are inconsistent with the subject or context.

*Commencement and Citation of Laws***Time when law comes into operation**

12. When any law or part of any law came or comes into operation on a particular day, it shall be deemed to have come or shall come into operation immediately on the expiration of the day next preceding such day.

Acts to be public Acts

13. Every Act shall be a public Act and shall be judicially noticed as such unless the contrary is expressly provided by the Act.

Sections to be substantive enactments

14. Every section of an Act shall have effect as a substantive enactment without any introductory words.

Citation of original or revised Acts

15. When an Act is referred to, it shall be sufficient for all purposes to cite the Act either by the short title if any, by which it is made citable, or by the year of its passing and its number among the Acts of that year or in the case of the revised edition of the laws issued under any Act providing for the issue of a revised edition, by its short title or its chapter and number and the reference may in all cases be made according to the copies of Acts purporting to be printed by the Government Printer.

Citation of amended Acts

16. Whenever the Principal Act on any subject is amended by any Act and the title or short title of the Principal Act admits of it, the Principal Act and every Act amending it may for all purposes be cited by the title or short title, as the case may be, of the Principal Act, substituting therein the word “Acts” for the word “Act” and omitting the year and number, or adding the years of the first and last Acts referred to; and whenever two or more Acts are cited in the manner authorized by this section, the authorized short title used shall be construed to mean all the Acts covered by that short title or either or any of them.

Provisions as to Repeals

Repeal of a repealing enactment

17. Where any law repealing in whole or in part any former law is itself repealed, such last repeal shall not revive the law before repealed unless words be added reviving such law.

Repeal and substitution

18. Where any law repeals wholly or partially any former law and substitutes provisions for the law repealed, the repealed law shall remain in force until the substituted provisions come into operation.

Effect of repeal

19. (1) Where any law repeals and re-enacts, with or without modification, any provision of a former law, references in any other law to the provision so repealed, shall unless the contrary intention appears, be construed as references to the provision so re-enacted.

(2) Where any law repeals any other law, then, unless the contrary intention appears, the repeal shall not—

- (a)* revive anything not in force or existing at the time at which the repeal takes effect; or
- (b)* affect the previous operation of any law so repealed or anything duly done or suffered under any law so repealed; or

- (c) affect any right, privilege, or obligation or liability acquired, accrued, or incurred under any law so repealed; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any law so repealed; or
- (e) affect any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing law had not been passed.

Effect of repeal on subsidiary legislation

20. Whenever any Act shall hereafter be repealed and other provisions are substituted by the repealing Act all subsidiary legislation and appointments made under the repealed Act, and in force at the time of such repeal, shall until annulled, continue good and valid in so far as they are not inconsistent with the substituted Act or provisions.

Construction of amending law with amended law

21. Where one law amends another law the amending law shall, so far as it is consistent with the tenor thereof and unless the contrary intention appears, be construed as one with the amended law.

Provisions as to Subsidiary Legislation

General provision with respect to power given to any authority to make subsidiary legislation etc

22. Where any Act confers power on any authority to make or issue any instrument (that is to say, any regulation, rule, by-law, proclamation, order in council, order, form or notice) the following provisions shall, unless the contrary intention appears, have effect with reference to the making, issue and operation of such instrument—

- (a) any instrument as aforesaid may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made;
- (b) there may be annexed to the breach of any regulation, rule, by-law, order in council or order such penalty not exceeding \$48 as the authority making the regulation, rule, by-law, order in council or order may think fit;

- (c) no regulation, rule, by-law, order in council or order shall be inconsistent with the provisions of any Act;
- (d) where any Act confers power on any authority to make any regulation, rule, by-law, order in council or order for any general purpose, and also for any special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e) where any such instrument purports to be made or issued under any particular provision, then it shall be deemed also to be made under all other powers thereunto enabling; and
- (f) any reference in any regulation, rule, by-law, order in council or order to “the Act” or “the Ordinance” shall be read and construed as a reference to the Act or the Ordinance conferring the power to make or issue such regulation, rule, by-law, order in council or order.

Commencement and judicial notice of subsidiary legislation

23. (1) All subsidiary legislation made under any Act or lawful authority and intended to have legislative effect, shall be published in accordance with this section, and unless it is therein otherwise provided shall take effect and come into operation as law on the date of first publication.

(2) Subsidiary legislation shall be published in the first instance by exhibition on one or more public notice boards designated for that purpose by the Governor in Council, and on the government website by a public officer and in a manner approved by the Governor in Council.

(Amended by Act 16 of 2005)

(3) All subsidiary legislation published by exhibition in accordance with subsection (2) shall be notified in the next possible *Gazette* by—

- (a) printing and publication in full, together with a note of the date and place of exhibition, certified by the relevant public officer; or
- (b) publication of a notice—
 - (i) that the subsidiary legislation has been published by exhibition,
 - (ii) stating the date, place and manner of such exhibition and a certificate to that effect by the relevant public officer,
 - (iii) stating the name and number of the subsidiary legislation,
 - (iv) giving the general import and effect of the subsidiary legislation, and

(v) giving advice of where a full copy of the subsidiary legislation may be inspected and purchased.

(4) Judicial notice shall be taken of—

(a) a copy of any instrument of subsidiary legislation bearing on its face a certificate of a public officer that the instrument has been published by exhibition in accordance with this section;

(b) subsidiary legislation published in full in the *Gazette*.

(5) All subsidiary legislation published in a printed annual volume of Montserrat laws shall be deemed to have been duly made and published in accordance with the legal requirements applying when it was made, and shall be deemed to have come into operation on the date therein specified, or if no such date is specified then on the date endorsed thereon as the date of publication by exhibition; or if neither such date is specified, then on the date of the publication of the annual volume.

(Substituted by Act 8 of 1999)

Acts done under subsidiary legislation to be deemed done under law by which subsidiary legislation authorized

24. An act shall be deemed to be done under any law or by virtue of the powers conferred by any law or in pursuance or execution of the powers of or under the authority of any law if it is done under or by virtue of or in pursuance of any regulation, rule, by-law, proclamation, order in council, order or notice made or issued under any power contained in such law.

Provisions as to Powers

Exercise of statutory powers between passing and commencement of Act

25. Where any Act which is not to come into operation immediately on the passing thereof, confers power to make any appointment, or to make, grant or issue any instrument (that is to say any regulation, rule, by-law, proclamation, order in council, order, warrant, scheme or letters patent) or to give notices, or to do any other thing for the purposes of the Act, such power may, unless the contrary intention appears, be exercised at any time after the passing of the Act so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to the restriction, that any appointment, instrument, notice or thing, made, granted, issued, given or done under such power shall not, unless the contrary intention appears in the Act, or the appointment, notice or thing is necessary for bringing the Act into operation, have any effect until the Act comes into operation.

Construction of provisions as to exercise of powers and duties

26. (1) Where any Act confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(2) Where any Act confers power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder for the time being of the office, or by a person appointed to act for him.

Power to appoint includes power to remove, etc

27. Where any Act confers upon any person or authority power to make appointments to any office or place the power shall be construed as including the power to remove or suspend any person appointed, and to reappoint or reinstate him, and to appoint another person temporarily in the place of any person so removed or suspended or in place of any holder of the office or place who has died or is ill or absent, and to appoint another person temporarily to fill any vacancy in the office or place arising from any other cause:

Provided that where the power of the person or authority to make any such appointment is only exercisable upon the recommendation or subject to the approval, consent or concurrence of some other person or authority the power of removal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval, consent or concurrence of that other person or authority.

Power of Governor to provide for execution of duties of public officers during temporary absence or inability

28. Where by or under any Act any powers are conferred or any duties are imposed upon a public officer, the Governor may direct that, if during any period owing to absence or inability to act from illness or any other cause such public officer shall be unable to exercise the powers or perform the duties of his office in any place under his jurisdiction or control, such powers shall be had and may be exercised and such duties shall be performed in such places by the person named by, or by the public officer holding the office designated by, the Governor, and thereupon such person or public officer, during any period as aforesaid shall have and may exercise the powers and shall perform the duties aforesaid, subject to such conditions, exceptions and qualifications, as the Governor may direct.

Power to the Governor to appoint public officers as such to serve on boards, etc., and to appoint chairman

29. (1) Where by or under any Act power is given to the Governor to appoint any person to be members of any board, commission, committee or similar body it shall be lawful for the Governor, in the absence of any provision to the contrary, to so appoint, by his official designation, any

public officer, and, on such appointment and until such appointment shall be cancelled or otherwise determined, the person for the time being filling the office in question shall be a member of such board, commission, committee or similar body.

(2) Where by or under any Act power is given to the Governor to appoint any board, commission, committee or similar body, it shall be lawful for the Governor, in the absence of any provision to the contrary, to appoint a chairman of such board, commission, committee or similar body.

Appointment of officers by name or office

30. Where by or under any Act the Governor or any other public officer or body is empowered to appoint or name a person to have and exercise any powers or perform any duties the Governor or such public officer or body may either appoint a person by name or direct the person for the time being holding the office designated by the Governor or by such public officer or body to have the exercise such powers and perform such duties; and thereupon or from the date specified by the Governor or by such public officer or body, the person appointed by name or the person for the time being holding the office aforesaid shall have and may exercise such powers and perform such duties accordingly.

Change in title of public office

31. When the Governor considers it necessary to change the title of any public office, he shall cause a notice to that effect to be published in the *Gazette** setting out the former title and the substituted title or titles of such office, and declaring that such change of title shall take effect, or shall be deemed to have taken effect, from a date specified in such notice, and with effect from such date—

- (a) where the change in title consists in the substitution of a single title for the former title, the substituted title shall replace the former title wherever the former title appears in any Act or in any deed or other instrument made or issued pursuant to or consequent upon any such Act; and
- (b) where the change in title consists in the substitution of two or more titles for the former title, the former title shall be replaced, in the provisions of any such Act, deed or other instrument as may be specified in such notice, by such substituted titles as may be specified in such notice.

Powers of board, etc, not affected by vacancy, etc

32. Where by or under any Act any board, commission, committee or similar body, whether corporate or unincorporate, is established, then,

* G.N. 11/1980 Crown Attorney changed to Attorney General.

G.N. 13/1982 Legal Assistant changed to Crown Counsel and Senior Crown Counsel.

unless the contrary intention appears, the powers of such board, commission, committee or similar body shall not be affected by—

- (a) any vacancy in the membership thereof;
- (b) the fact that it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member thereof;
- (c) the fact that there was any minor irregularity in the convening of any meeting thereof.

Construction of enabling words

33. Where in any law power is given to any person to do or enforce the doing of any act or thing all such powers shall be understood to be also given as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.

Power of majority of more than two persons

34. Save as is otherwise expressly provided by any law, whenever any act or thing is required to be done by more than two persons, a majority of them may do it.

Appointment of successor to office during leave of absence prior to retirement of substantive holder

35. When a substantive holder of any office constituted by or under any Act is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office.

Provisions as to offences under two or more laws

36. Where an act or omission constitutes an offence, under two or more Acts, or both under an Act and under any other law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or under such other law, but shall not be liable to be punished twice for the same offence.

Attempt to commit an offence to be deemed an offence

37. A provision which constitutes an offence shall, unless the contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence against such provision, punishable as if the offence itself had been committed.

*Provisions as to Penalties***Penalties prescribed to be maximum penalties**

38. (1) Whenever in any law a penalty is provided for an offence against that law, such provision shall, unless the contrary intention appears, be construed as fixing the maximum penalty for that offence, and the offender, on being found guilty, shall be liable to any penalty not exceeding the prescribed penalty; and it shall not be necessary in the law prescribing the penalty to use the expressions “not exceeding”, “a term not exceeding”, “on conviction thereof” or any similar expressions.

Statement of penalty at foot of section

(2) Whenever in any law a penalty is set out at the foot or end of any section the same shall indicate that any contravention of the section whether by act or omission shall be an offence against that law and shall, unless the contrary intention appears, be punishable by a penalty not exceeding the penalty stated.

Disposal of forfeits

39. (1) Where under any law, any money or any animal or any thing is adjudged by any court or other authority to be forfeited it shall unless the contrary is otherwise provided or unless it is expressed by law to be forfeited to any person, be forfeited to the Crown, and the money or the net proceeds of the animal or thing, if it is ordered by competent authority to be sold, shall be paid into the Consolidated Fund and shall form part of the public revenue, unless other provision is made.

(2) Nothing in this section shall affect any provision in any law whereby any portion of any fine or forfeit or of proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

Imposition of penalty not to bar civil action

40. The imposition of a penalty or fine by any law, in the absence of express provision to the contrary, shall not relieve any person from liability to answer for damages to a person injured.

*Miscellaneous***Imperial Acts to be read with necessary modifications**

41. Whenever any Imperial Act is extended to Montserrat such Act shall be read with such formal alterations as to names, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make the same applicable to the circumstances.

Evidence of signature of Governor and Attorney General

42. Whenever the *fiat* of the Governor or the Attorney General is necessary before any prosecution or action is commenced, any document purporting to bear the *fiat* of the Governor or the Attorney General shall be received as *prima facie* evidence in any proceeding without proof being given that the signature to such *fiat* is that of the Governor or the Attorney General.

Reprint of amended laws

43. When any law is amended it shall be lawful for the Government Printer with the authority of the Governor to print copies of the law with all the necessary additions, omissions, substitutions and amendments affected by the amending law or laws and such copies shall be deemed to be authentic copies of the law so amended.

Forms

44. Whenever forms are prescribed in any Act, slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.

Amendment or repeal in same session

45. Any Act may be altered, amended, or repealed in the same session of the Legislature in which it passed.

Saving of rights of the Crown

46. No law shall in any manner whatsoever affect the rights of the Crown, unless it is therein expressly stated, or unless it appears by necessary implication, that the Crown is bound thereby.

Law binding on Crown

47. This Act shall be binding on the Crown.

Construction of Acts of the former Federation of the West Indies

48. (1) In this section “**Federal Act**” means any Act, which applies to Montserrat, which was enacted by the legislature of the former Federation of the West Indies, and includes any subsidiary legislation made under any such Act and also any regulations made under section 2 of the West Indies Order in Council 1957.

(2) The provisions of this Act shall apply for the interpretation and operation of any Federal Act as they apply for the interpretation and operation of any Act.

(3) Where in any Federal Act there is a reference to any specific authority, department, office or person and there is no longer such authority, department, office or person, any such reference shall be

construed as a reference to such other authority, department, office or person as may be specified by order by the Governor in Council.

(Inserted by Act 11 of 1982)

PUBLICATION BY EXHIBITION ORDER

(S.R.O.s 26 of 1980, 60 of 1997, 66 of 1997, 77 of 2000 and 40 of 2002)

*Made by the Governor in Council under
sections 2 and 23 of the Interpretation Act.*

Commencement

[1 April 1980]

Short title

1. This Order may be cited as the Publication by Exhibition Order.

Designation for Publication

2. The Public notice board at the entrance of the Clerk of Councils Office situated at Farara Plaza in Brades is hereby designated for the purpose of publication by exhibition of subsidiary legislation and public notices.

Designation of Public Officer

3. The person for the time being acting as Clerk of Councils is hereby designated as the public officer by whom subsidiary legislation and public notices shall be exhibited for purposes of publication.

Designation of manner of Publication

4. The designated public officer shall affix an authenticated copy of the subsidiary legislation or public notice on the designated notice board and shall certify the date of such publication on such copy, which shall remain on display for so long as space on the notice board permits.
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