



MONTSERRAT

CHAPTER 8.05

HOUSING ACT

Revised Edition

showing the law as at 1 January 2019

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—

HOUSING ACT

Act 12 of 2016 .. in force 21 April 2017¹ (S.R.O. 28/2017)

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¹ Section 23 is not in force (S.R.O. 28/2017).



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CHAPTER 8.05

HOUSING ACT

AN ACT TO PROVIDE FOR THE EFFECTIVE DEVELOPMENT AND MANAGEMENT OF SOCIAL AND PRIVATE HOUSING IN MONTSEERRAT AND FOR RELATED MATTERS.

Commencement

[21 April 2017, except section 23]

PART 1

PRELIMINARY

Short title

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

Interpretation

2. In this Act—

“**adequate housing**” means housing that meets each of the decent home standards under section 23;

“**assisted care facility**” means a facility for housing—

- (a) older persons; or
- (b) disabled persons,

to which wardens may be assigned by the Ministry with responsibility for social services;

“**charge**”, for the purposes of sections 37, 55 and 77, means an interest in property securing the payment of money, money’s worth or the fulfilment of a condition;

“**child**” means a person under eighteen years of age;

“**Committee**” means the Housing and Land Allocation Committee established under section 9;

“**competent appraiser**” means a person who has the requisite professional qualifications and certification to carry out a financial valuation of property;

“**Constitution**” means the Constitution of Montserrat (Cap. 1.01);

“**co-owner**” means a person who owns a property under a tenancy in common;

“current market value” means the value of a property at the time of purchase or sale;

“de facto spouse” means a single person who lives with another single person of the opposite sex as her husband or his wife for not less than two years, although not married to that other person;

“dependent person” includes—

- (a) a child;
- (b) an older person who normally lives with a household but may be living separately unintentionally;
- (c) a person who is over eighteen years of age and enrolled in an institution of higher learning and has no source of income; or
- (d) a person who suffers from a physical or mental disability;

“Director” means the Director of Housing;

“disabled person” means—

- (a) a person who—
 - (i) suffers from a physical impairment, injury or incapacitation, as certified by a medical practitioner registered under the Medical Act (Cap. 14.02); or
 - (ii) following a process of evaluation and diagnosis by a psychiatrist, is certified by the psychiatrist as satisfying the designated criteria for a mentally challenged person, as adopted by the Ministry with responsibility for mental health; and
- (b) a person who has suffered from the condition under paragraph (a)(i) or (ii) for at least six months;

“Disaster Preparedness and Response Act” means the Disaster Preparedness and Response Act (Cap. 10.03);

“disposal” means the disposal of property by—

- (a) sale, lease, exchange or otherwise; or
- (b) the creation of an easement or other privilege;

“domestic violence” means any controlling or abusive behaviour that harms the health, safety or well-being of a person and includes—

- (a) physical abuse or threats of physical abuse;
- (b) sexual abuse or threats of sexual abuse;
- (c) emotional, verbal or psychological abuse;
- (d) coercion;
- (e) molestation;
- (f) arbitrary deprivation of liberty;

- (g) economic abuse;
 - (h) intimidation;
 - (i) harassment;
 - (j) stalking; or
 - (k) damage to or destruction of property;
- “financial grant”** means monetary assistance awarded to the head of a household that, added to the household’s accumulated savings, is sufficient for the household to meet at least 25% of the cost of—
- (a) constructing a house for the household in accordance with plans approved by the Planning and Development Authority; or
 - (b) purchasing a house;
- “Government”** means Her Majesty’s Government of Montserrat;
- “home improvement grant”** means assistance in the form of building materials or labour given to a person to assist him with constructing his house or making improvements or repairs to his house;
- “homeless person”** means a person under section 27;
- “house”** means a building or part of a building used exclusively for residential purposes;
- “housing incentive”** means a direct contribution by the Government to an individual for the acquisition of housing, including—
- (a) a financial grant;
 - (b) a home improvement grant;
 - (c) a subsidy;
 - (d) cash discounts on rent;
 - (e) social housing;
 - (f) housing or serviced land for sale; and
 - (g) any other type of contribution that the Governor acting on the advice of Cabinet may approve,
- but does not include rental assistance;
- “land”** includes land covered with water and anything growing on land;
- “Landholding Control Act”** means the Landholding Control Act (Cap. 8.02);
- “lease”** means—
- (a) the grant, with consideration, by the proprietor of property, of the right to the exclusive possession of his property, subject to the conditions of the lease; and

(b) the instrument granting the right under paragraph (a);

“lease for life” or “tenancy for life” means a lease or tenancy that is granted to a lessee or tenant for the duration of his life;

“lessee” means the holder of a lease;

“licence” means permission given by the proprietor of property or of a lease to a person, which allows the person to do an act in relation to the land or the land comprised in the lease, which would otherwise be a trespass, but does not include an easement or a profit;

“Minister” means the Minister with responsibility for housing;

“Ministry” means the Ministry with responsibility for housing;

“Montserrat Land Development Authority” means the Authority established under section 3 of the Montserrat Land Development Authority Act;

“Montserrat Land Development Authority Act” means the Montserrat Land Development Authority Act (Cap. 8.06);

“Montserratian” has the same meaning as in section 107(2) of the Constitution;

“older person” means a person who is sixty years of age or older;

“periodic tenancy” means a tenancy from year to year, half year to half year, quarter to quarter, month to month, week to week or for a similar tenancy;

“Physical Planning Act” means the Physical Planning Act (Cap. 8.03);

“Planning and Development Authority” means the Planning and Development Authority established under section 3 of the Physical Planning Act (Cap. 8.03);

“prescribed” means prescribed by Regulations;

“private housing” means housing other than social housing;

“private sector entity” includes a non-Governmental organisation;

“property” includes land, buildings and other things permanently affixed to land;

“proprietor” means the person registered under the Registered Land Act as the owner of property;

“public emergency” means a public emergency existing during a period of public emergency, as declared by the Governor under section 18 of the Constitution;

“Registered Land Act” means the Registered Land Act (Cap. 8.01);

“registered lease” means a lease registered under the Registered Land Act;

“rent” includes payment under a licence to occupy a house;

“**rental assistance**” means assistance provided by the Government under the Social Welfare Act to a person to assist the person in meeting his rental payments for housing;

“**secured tenancy**” means a tenancy under which the lessee—

- (a) is protected from unlawful eviction; and
- (b) may continue to occupy the leased property, on condition that he does not breach an agreement or condition of the lease and continues to live in the leased property;

“**settled housing**” means a housing arrangement under which tenancy is assured over a period of time which provides for the reasonable continuation of occupancy;

“**serviced land**” means land in respect of which—

- (a) access to the land is provided by way of a road;
- (b) utility services are provided or accessible; and
- (c) any other infrastructure necessary for the development of the land is provided or accessible.

“**shared ownership lease**” means a lease that provides the lessee with an opportunity to purchase the leased property on a phased basis, commencing with a tenancy in common arrangement;

“**shelter**” means a church, school, tent or other place designated by the Government as a temporary place of habitation for persons evacuated under the Emergency Powers Regulations 1996 (Cap. 10.08);

“**shelteree**” means a person housed in a shelter;

“**shelter manager**” means the person charged with the responsibility of managing or coordinating the activities of a shelter;

“**short hold tenancy**” means a tenancy that—

- (a) is for a term of not less than six months; and
- (b) may be extended for a further term by mutual agreement of the parties to the lease;

“**social housing**” means housing that is subsidised by the Government and includes—

- (a) temporary housing;
- (b) housing in an assisted care facility;
- (c) housing for a disabled person;
- (d) rented housing other than private rented housing; and
- (e) residential serviced lots;

“**social landlord**” means the proprietor of property which is used for social housing;

“**Social Welfare Act**” means the Social Welfare Act (Cap. 18:03);

“**social welfare assistance**” means assistance provided to a person under the Social Welfare Act;

“**spouse**” includes—

- (a) a *de facto* spouse;
- (b) a former spouse; and
- (c) a former *de facto* spouse;

“**Sub-Committee**” means the Urgency Sub-Committee established under section 13;

“**sublease**” means a lease created by a lessee out of his leasehold interest;

“**temporary housing**” means interim housing provided for a homeless person or a person threatened with homelessness but does not include a shelter under the Emergency Powers (Shelters) Order (S.R.O. No. 42/1996);

“**Tribunal**” means the Housing Appeals Tribunal established under section 98;

“**Unit**” means the Housing Unit;

“**unregistered lease**” means a lease that is not registered under the Registered Land Act;

“**utility services**” means electricity, geothermal power, water or sewerage services;

“**violence**” includes threats of violence and domestic violence;

“**vulnerable household**” means a household under section 28; and

“**vulnerable person**” means a person who is a member of a vulnerable household;

“**warden**” means a person appointed by the Deputy Governor to provide assistance to persons in an assisted care facility.

(2) For the purposes of this Act, “**antisocial behaviour**” includes—

- (a) behaviour which disrupts or is likely to disrupt the peace and good order on or in the vicinity of property being used for social housing, including violence, threats, coercion, harassment, intimidation or obstruction of a person;
- (b) behaviour which causes or is likely to cause any significant or persistent danger, injury, damage, loss, alarm, distress, fear or annoyance to a person in legal occupation of property being used for social housing; or
- (c) any of the following actions—

- (i) defacing, damaging or destroying property being used for social housing; or
- (ii) obstructing any of the common areas on property being used for social housing without the prior written consent of the social landlord.

(3) For the purposes of this Act, a house is overcrowded if the—

- (a) Housing Unit;
- (b) Committee; or
- (c) Sub-Committee,

determines that there is insufficient space in the house to reasonably accommodate the number of persons who live or are required to live in the house.

Act binds the Crown

3. This Act binds the Crown.

Reconciliation with other laws

4. (1) Subject to subsection (2), if any other enactment in force is inconsistent with this Act, that enactment shall, as of the date of coming into force of this Act, cease to apply to the extent of the inconsistency.

(2) If a contrary intention appears, nothing contained in this Act shall be construed as permitting any dealing which is expressly forbidden by any other enactment or as overriding any other enactment requiring the consent or approval of an authority to any dealing.

Application

5. (1) A person discharging a function, duty or power under this Act shall—

- (a) do so in an equitable manner; and
- (b) not discriminate against a person on the grounds of race, colour, language, age, disability, religion, belief, political or other opinion, national or social origin, gender, sexual orientation, familial status, property, birth or any other status.

(2) If under subsection (1), the allocation of property results in the exclusion of certain groups of persons from being eligible for a particular property or benefit, the exclusion shall not be construed as discriminatory for the purposes of this section.

PART 2

ADMINISTRATION

Division 1

*Functions of the Housing Unit***Functions and powers of the Housing Unit****6. (1)** The Unit shall—

- (a) maintain strategic oversight of the operations of the social and private housing sectors, including carrying out related surveys, monitoring and evaluation functions;
- (b) subject to this Act, prepare policies, strategies, plans, guidelines and procedures that it thinks necessary for the development of a sustainable, efficient and responsive national housing sector;
- (c) foster and strengthen partnerships towards the development of a sustainable housing market;
- (d) create and maintain a national housing database and other information systems that it thinks necessary for the effective discharge of its functions;
- (e) identify and research key problems and issues affecting the housing sector and, in consultation with relevant public and private sector entities, devise appropriate strategies for the resolution of the problems and issue solutions;
- (f) in accordance with this Act, facilitate the permanent resettlement of Montserratians who are displaced;
- (g) facilitate the provision of adequate housing for vulnerable persons and disabled persons;
- (h) perform any other duty necessary to enable it to effectively discharge its function as the technical secretariat to the Committee;
- (i) without prejudice to paragraph (h), receive and process applications for housing incentive and submit the applications to the Committee or Sub-Committee for determination in accordance with this Act;
- (j) keep the public informed of the availability of social housing;
- (k) in accordance with this Act, provide advice to persons seeking social housing; and
- (l) undertake any other related function that the Minister may assign to it.

(2) Subject to this Act, the Unit may, with the prior approval of Cabinet, enter into agreements with public and private sector entities in respect of any of its functions.

(3) The Unit may develop protocols with relevant public and private sector entities for the sharing of information as required by the Unit for the effective discharge of its functions.

Division 2

Montserrat Land Development Authority

Montserrat Land Development Authority

7. The Montserrat Land Development Authority is responsible for social housing in accordance with the Montserrat Land Development Authority Act.

Housing Revolving Fund

8. (1) The Housing Revolving Fund is established and is under the administration and control of the Montserrat Land Development Authority.

(2) The Housing Revolving Fund consists of sums and resources as Cabinet may direct.

(3) The Housing Revolving Fund shall be used for the advancement of the work of the Montserrat Land Development Authority, subject to the approval of Cabinet.

Division 3

Housing and land allocation

Establishment of Housing and Land Allocation Committee

9. There is established a Housing and Land Allocation Committee.

Tenure and procedure of Housing and Land Allocation Committee

10. The tenure and procedure of the Committee are set out in Part 1 of Schedule 1.

Membership of Committee

11. (1) Subject to subsection (2), the Committee consists of the following members, appointed by the Governor acting on the advice of Cabinet—

(a) three representatives from civil society; and

(b) as *ex-officio* members—

(i) the Manager of the Montserrat Land Development Authority or his designate;

- (ii) the Permanent Secretary in the Ministry with responsibility for housing or his designate;
- (iii) the Director of Social Services or his designate; and
- (iv) the Director of Policy and Planning Officer in the Cabinet Secretariat in the Office of the Premier or his designate.

(2) The Permanent Secretary in the Ministry with responsibility for housing or his designate is the Chairperson of the Committee.

(3) The Director is the Secretary of the Committee.

Functions of the Committee

12. (1) The Committee—

- (a) is responsible for the award of housing incentive under Part 4; and
- (b) shall undertake any other function as directed in writing by the Governor acting on the advice of Cabinet.

(2) The Committee shall prepare a report of its activities for each financial year for submission to the Minister and the report shall include the following information—

- (a) the number of applications—
 - (i) in respect of which housing incentive has been awarded;
 - (ii) which are pending or which have been deferred; and
 - (iii) which have been rejected;
- (b) the reasons for—
 - (i) an award of housing incentive; or
 - (ii) the reasons for the deferral or rejection of an application for housing incentive;
- (c) a report under section 16(2) by the Sub-Committee; and
- (d) any other information relating to the activities of the Committee or Sub-Committee.

Establishment of the Urgency Sub-Committee

13. There is established a Sub-Committee of the Housing and Land Allocation Committee known as the Urgency Sub-Committee.

Tenure and procedure of the Urgency Sub-Committee

14. The tenure and procedure of the Sub-Committee are set out in Part 2 of Schedule 1.

Membership of Sub-Committee

15. (1) The Sub-Committee consists of the following three members appointed by the Governor acting on the advice of Cabinet—

- (a) the Director of Social Services or his designate;
- (b) the Permanent Secretary in the Ministry with responsibility for housing or his designate; and
- (c) one of the representatives from civil society appointed under section 11(1)(a).

(2) The Director of Social Services or his designate is the Chairperson of the Sub-Committee.

(3) The Manager of the Montserrat Land Development Authority or his designate is the Secretary of the Sub-Committee and shall report to the Committee the consideration of and a decision made by the Sub-Committee.

(4) The Manager of the Montserrat Land Development Authority or his designate shall submit to the Committee the report under subsection (3) immediately after a decision is made by the Sub-Committee.

Functions of Sub-Committee

16. (1) The Sub-Committee is responsible for—

- (a) determining the priority housing needs of homeless persons under Part 4; and
- (b) awarding temporary housing under Part 4.

(2) The Sub-Committee shall prepare a report of its activities for each financial year for submission to the Committee and the report shall include the following information—

- (a) the number of applications—
 - (i) in respect of which temporary housing has been awarded;
 - (ii) which are pending or which have been deferred; and
 - (iii) which have been rejected;
- (b) the reasons for—
 - (i) an award of temporary housing; or
 - (ii) the reasons for the deferral or rejection of an application for temporary housing; and
- (c) any other information relating to the activities of the Sub-Committee.

Decisions of the Sub-Committee

17. The Sub-Committee may opt to make a decision on urgent housing needs or assigning temporary housing by way of a round robin prepared by the Manager of the Montserrat Land Development Authority and signed in support by all the members of the Sub-Committee.

Division 4

Partnership agreements

Interpretation

18. For purposes of this Division, “servicing” means the installation of infrastructure including utilities.

Power to enter into partnership agreement

19. (1) Subject to this section, the Montserrat Land Development Authority may enter into a partnership agreement with a proprietor for—

- (a) the allocation of the proprietor’s property in whole or in part to social housing;
- (b) the regeneration of the proprietor’s property for subsequent allocation in whole or in part to social housing; or
- (c) the servicing of the proprietor’s land for subsequent allocation in whole or in part to social housing.

(2) In respect of an agreement under subsection (1), the Montserrat Land Development Authority may agree to provide assistance whether financial or otherwise to the proprietor for the purpose of the agreement and the assistance shall be specified in the agreement.

(3) The Montserrat Land Development Authority shall only enter into an agreement under this section—

- (a) with the prior approval of Cabinet;
- (b) on the condition that an agreed portion of the transferred, regenerated or serviced property is allocated to social housing; and
- (c) on any term or condition as Cabinet may approve.

Award of social housing under partnership agreement

20. (1) Property allocated for social housing under section 19 shall be awarded under Part 4.

(2) The parties to an agreement under section 19 may develop protocols for the sharing of information between themselves in respect of the properties allocated to social housing under the agreement.

Delegation of duties

21. A social landlord and the Montserrat Land Development Authority may in writing agree to delegate to the Montserrat Land Development Authority the following duties in respect of the parts of the social landlord's property that have been allocated to social housing under section 49—

- (a) collection of rents including arrears of rent;
- (b) maintenance and management of the property; and
- (c) entering into agreements on the social landlord's behalf, in respect of the occupation of the property.

PART 3

NATIONAL FRAMEWORK FOR HOUSING

Division 1

General matters

National Housing Fund

22. (1) The National Housing Fund is established and is under the management and control of the Montserrat Land Development Authority.

(2) Subject to this Act, the National Housing Fund consists of sums—

- (a) invested in the National Housing Fund by an individual or private sector entity on terms and conditions as established by the administrators of the National Housing Fund and as approved by Cabinet;
- (b) raised by a philanthropic organisation or group or by a person for the purposes of the National Housing Fund and deposited into the National Housing Fund;
- (c) invested in the National Housing Fund by a Government entity; or
- (d) granted to the Government by a donor agency for the purposes of the National Housing Fund.

(3) Subject to the approval of Cabinet, the National Housing Fund shall be used to—

- (a) facilitate housing development and home ownership in Montserrat; and
- (b) support the social housing incentive programme of the Government.

Decent home standards

23.² (1) A house which is used for social housing or private rental housing shall satisfy the decent home standards set out in Schedule 2.

(2) A house which does not satisfy all of the decent home standards set out in Schedule 2 shall—

- (a)* in the case of social housing, not be added to the list of social housing or if added, shall be immediately removed from the list of social housing; and
- (b)* in the case of private rental housing, not be added to the list of private rental housing or if added, shall be immediately removed from the list of private rental housing in accordance with Part 5.

Division 2

Policies, strategies, plans, guidelines and procedures

Policies, strategies, plans, guidelines and procedures

24. (1) Despite this Act, the Unit may formulate policies and develop strategies, plans, guidelines and procedures as it thinks necessary for the effective discharge of its functions and exercise of its powers.

(2) The Unit may adopt a policy or strategy prepared or revised under this section only if Cabinet approves the policy or strategy.

(3) In preparing or revising a policy, strategy, plan, guideline or procedure, the Unit shall consult with a relevant public or private sector entity as it thinks necessary to—

- (a)* inform the preparation of the policy, strategy, plan, guideline or procedure; and
- (b)* ensure that all interests are represented as far as practicable in the policy, strategy, plan, guideline or procedure.

(4) A public or private sector entity shall, subject to the laws and rules governing information sharing by the entity, provide the Unit with the information requested by the Unit to inform the preparation or revision of its policies, strategies, plans, guidelines and procedures.

National Housing Policy and National Housing Strategy

25. (1) The Unit shall prepare for the approval of Cabinet, a National Housing Policy and a National Housing Strategy to guide the sustainable development of the housing sector in Montserrat.

(2) A public or private sector entity shall, subject to the laws and protocols governing information sharing by the entity, provide the Unit

² Section 23 is not in force (S.R.O. 28/2017).

with the information requested by the Unit to inform the preparation or revision of the National Housing Policy or the National Housing Strategy.

(3) The Unit shall revise the National Housing Policy at least once in every five years and may revise the National Housing Strategy as required to ensure its currency.

(4) The Ministry shall submit each revision of the National Housing Policy or the National Housing Strategy to Cabinet for approval before it is implemented.

(5) The Unit shall—

- (a) coordinate the implementation of the National Housing Policy and the National Housing Strategy by all stakeholders including a public or private sector entity; and
- (b) monitor and evaluate the implementation of the National Housing Policy and the National Housing Strategy.

PART 4

SOCIAL HOUSING

Division 1

Homelessness

Homelessness Strategy

26. (1) The Unit shall prepare a Homelessness Strategy to guide national interventions aimed at minimising and better managing homelessness in Montserrat and the Ministry shall submit the Homelessness Strategy to Cabinet for approval before it is implemented.

(2) The Unit shall, in preparing or revising the Homelessness Strategy, consult with the relevant public or private sector entities and undertake reviews and assessments as necessary to inform the preparation or revision of the Homelessness Strategy.

(3) A public or private sector entity shall, subject to the laws and rules governing information sharing by the entity, provide the Unit with information as the Unit may request to inform the preparation or revision of the Homelessness Strategy.

(4) The Unit shall revise the Homelessness Strategy to ensure its currency and the Ministry shall submit a revision of the Homelessness Strategy to Cabinet for approval before it is implemented.

Homeless person

27. (1) A person is unintentionally homeless if he—

- (a) has no housing available for his occupation in Montserrat, which he—

- (i) is entitled to occupy by virtue of an interest in it;
 - (ii) is entitled to occupy by virtue of an order of a court;
 - (iii) has a licence to occupy; or
 - (iv) occupies as a residence under an enactment that gives him the right to remain in occupation or restricts the right of another person to recover possession;
- (b) has housing but—
- (i) is unable to occupy it due to a public emergency that has rendered it uninhabitable;
 - (ii) he cannot secure access to or entry into it; or
 - (iii) it consists of a moveable structure and there is no place where he is entitled or permitted to place it and reside in it;
- (c) has vacated housing which he could have otherwise occupied, a result of—
- (i) a risk of domestic violence or other violence against—
 - (A) him;
 - (B) a person who resides with him as a member of his family; or
 - (C) any other person who may reasonably be expected to reside with him, if he continues to occupy the house that he presently occupies; or
 - (ii) a public emergency; or
- (d) engaged in actions in good faith or omitted to act in good faith and his actions or omission to act have rendered him homeless.
- (2)** A person is considered to have adequate housing only if it is housing that he can reasonable occupy.
- (3)** A person is intentionally homeless if he—
- (a) is rendered homeless as a result of deliberately failing to pay rent or for breaching any other agreement or condition of his lease;
 - (b) is evicted due to misconduct or antisocial behaviour;
 - (c) chos es to vacate housing which he could otherwise have occupied;
 - (d) refuses housing awarded to him under this Act; or
 - (e) refuses to occupy housing that is reasonable for him to occupy.

Vulnerable household

28. (1) The Governor acting on the advice of Cabinet may, by Notice in the *Gazette*, specify the minimum total income earned by a household, below which the household is deemed to be vulnerable.

(2) A household is vulnerable if—

- (a) the total household income is below the minimum total income specified under subsection (1); and
- (b) the household—
 - (i) comprises at least two dependent persons;
 - (ii) includes a pregnant female and the addition of the newborn will lead to overcrowding in the house;
 - (iii) comprises at least one child and the parents of the child, who are older persons;
 - (iv) comprises at least one person who needs settled housing on medical grounds;
 - (v) comprises only older persons;
 - (vi) comprises persons who are recipients of social welfare assistance;
 - (vii) is unable to secure settled housing due to the economic status of its members;
 - (viii) members are unable to access mortgage financing without financial support;
 - (ix) members are unintentionally homeless; or
 - (x) comprises at least one person who is at risk of violence if that person continues to reside in that household.

Household in priority need

29.(1) A household is in priority need if—

- (a) the total household income is below the minimum income specified under section 28; and
- (b) the Committee is satisfied that the household meets at least two of the following criteria—
 - (i) it comprises a person who is both a pensioner and a person over sixty years of age;
 - (ii) it comprises three or more dependent persons;
 - (iii) it comprises a mentally or physically challenged person;
 - (iv) it comprises persons living in a shelter or temporary housing;

- (v) it comprises a single parent with at least one child living in the house;
- (vi) it comprises persons living in a house that does not satisfy each of the decent home standards;
- (vii) it comprises persons who are rendered homeless as a result of a public emergency; or
- (viii) it comprises persons who are made homeless due to a fire.

(2) For the avoidance of doubt, if one member of a household is deemed to be in priority need, the entire household is deemed to be in priority need.

Duty to persons in case of a public emergency

30. (1) A person who requires evacuation or is made homeless as a result of a public emergency, other than a person with alternative housing, shall be housed in a shelter under the Disaster Preparedness and Response Act.

(2) Despite subsection (1), a person under section 39(3) shall be given priority in the allocation of housing in a shelter, if he—

- (a) is the head of a single parent household which includes at least one child;
- (b) is an older person with no family support in Montserrat;
- (c) is a disabled person; or
- (d) is a member of a vulnerable household.

(3) The Emergency Powers (Shelters) Order (*S.R.O. No. 42/1996*) applies in respect of a person occupying a shelter.

(4) A shelter manager shall prepare and maintain a shelteree tracking record in respect of each shelteree as set out in Schedule 3 and shall submit the completed shelter tracking record to the Unit at least one week before the cessation of operations of the shelter.

(5) Despite any other enactment, a person shall not be housed in a shelter for more than one month.

(6) Before the expiration of one month following the beginning of operations of a shelter and in the absence of alternative housing, the Committee may assign temporary housing to a shelteree.

(7) For the avoidance of doubt, a shelteree may at any time, apply for housing incentive other than temporary housing.

Temporary housing for a shelteree

31. (1) Despite any other enactment, on the expiration of one month following the beginning of operations of a shelter—

- (a) the shelter ceases to operate as a shelter under the Disaster Preparedness and Response Act; and
- (b) the operations and management responsibilities for a shelter which still houses persons at the date it ceases to operate as a shelter shall, subject to subsection (3), be transferred by the Director with responsibility for Disaster Preparedness and Response to the Ministry.

(2) If the operations and management responsibilities in respect of a shelter are transferred to the Ministry under subsection (1), for purposes of this Act, the shelter is deemed to be temporary housing.

(3) If the Crown is not the proprietor of a shelter which is the subject of a transfer under subsection (1), the Ministry shall, before the transfer is effected, enter into an agreement with the proprietor of the shelter to use of the shelter as temporary housing and the operations and management of the temporary housing created are subject to the agreement.

Duties of Committee in respect of shelters and temporary housing

32. (1) For the purposes of sections 30 and 31, the Committee is responsible for—

- (a) assigning temporary housing to a shelteree in accordance with section 30(6), having regard to the shelter tracking, medical and financial records of the shelteree and any other considerations as the Committee thinks necessary to guide its decision;
- (b) determining whether a person in temporary housing requires assistance to meet the costs associated with his occupation of temporary housing;
- (c) taking actions as are reasonably practicable, to enable the shelteree to access any assistance required as determined from paragraph (b); and
- (d) managing the transition process from a shelter to temporary housing.

(2) A person who is housed in a shelter at the time of the transferral of the shelter to the Ministry and conversion of the shelter to temporary housing under section 31(2) shall remain in temporary housing if the Committee determines that the person should be awarded temporary housing.

Power to provide temporary housing in case of apparent priority need

33. (1) The Sub-Committee may, subject to sections 41 and 48 and the availability of housing, award temporary housing to a person—

- (a) based on an Order of a court; or
- (b) who—

- (i) is unintentionally homeless;
 - (ii) resides in a household in priority need;
 - (iii) has submitted or is in the process of submitting an application under this Part for housing incentive other than temporary housing; and
 - (iv) requires housing during the intervening period between the submission of his application for housing incentive, other than an application for temporary housing, and being notified under this Part of the decision made in respect of his application.
- (2) If an award of temporary housing is granted, the award—
- (a) shall be granted on terms and conditions that Cabinet may determine; and
 - (b) is, if the grantee is a person under subsection (1)(b)(ii), only valid until the grantee is notified of the decision in respect of his application for housing incentive.

Duty to accommodate persons with priority need who are unintentionally homeless

34. (1) The Committee shall award housing to a person who is unintentionally homeless and who exhibits priority needs, subject to—

- (a) an application having been made by that person under this Part;
- (b) the availability of housing; and
- (c) any other relevant consideration.

(2) Despite subsection (1), no duty is owed to a person under this section if the person refuses or has refused to accept housing awarded under this Part.

Duty in relation to persons who are intentionally homeless

35. The Unit shall, on the request of a person who is intentionally homeless, provide the person with advice as the Unit thinks appropriate.

Duty in relation to persons who are not in priority need and are not intentionally homeless

36. The Committee shall place a person who is not in priority need and is unintentionally homeless on the waiting list for housing under this Part.

Power to register charge

37. If the Government provides housing incentive to a proprietor of property, the Government may require the person to charge his property in favour of the Government under the Registered Land Act.

Division 2

Housing incentive and temporary housing

Person in ownership of housing not eligible for housing incentive

38. A person is not eligible for housing incentive if he is the proprietor of a house in Montserrat or has any other interest in a house that could by his decision be made available for his occupation.

Housing incentive and rental assistance

39. (1) Subject to subsection (2), a person is eligible to receive housing incentive only once.

(2) If a household that is a recipient of housing incentive, requires further assistance for the purpose of obtaining more suitable housing which has become necessary on grounds as the Committee is satisfied are reasonable, the additional housing incentive is deemed to be a continuation of the original housing incentive granted and shall not be construed as a separate grant of housing incentive.

(3) A person is eligible for housing incentive only if the person—

- (a) is a Montserratian;
- (b) is a permanent resident of Montserrat; or
- (c) has resided on Montserrat for a period exceeding eight years and is a voter.

(4) The Committee may award housing incentive on terms and conditions as prescribed and subject to this Act, on any other terms and conditions as Cabinet may determine.

(5) An application for the award of rental assistance shall be made under the Social Welfare Act.

(6) For the purposes of this section, “**voter**” means a person who votes or is entitled to vote in an election of members to the Legislative Assembly.

Application for housing incentive

40. (1) Subject to this Part, a head of a household who is at least eighteen years of age may submit an application for housing incentive to the Director.

(2) An application under this section shall be—

- (a) made in a form; and
- (b) accompanied by information,

as prescribed.

(3) The Director shall submit an application received under subsection (1) to the Committee for consideration.

(4) A person who makes an application under this section shall submit to the Director any additional information requested by the Committee to assist it in making a determination on the application.

Application for temporary housing in case of priority need

41. (1) A person who is at least eighteen years of age and —

- (a) resides in a household in priority need of housing;
- (b) is homeless; or
- (c) is acting on behalf of a person under paragraph (a) or (b),

may make an application to the Director for temporary housing. (*Amended in the 2019 Revision*)

(2) An application under this section shall be—

- (a) made in a form; and
- (b) accompanied by information,

as prescribed.

(3) The Director shall submit an application received under subsection (1) to the Sub-Committee for consideration.

(4) A person who makes an application under this section shall submit to the Director any additional information requested by the Sub-Committee to assist it in making a determination on the application.

(5) This section does not apply to a person to whom temporary housing is to be provided under an order of a court.

Application for housing incentive in respect of a disabled person

42. (1) An application for housing incentive in respect of a disabled person shall be made to the Director by—

- (a) the disabled person; or
- (b) any of the following persons on behalf of the disabled person—
 - (i) his next of kin;
 - (ii) his caretaker;
 - (iii) a person duly authorised by an order of a court to act on behalf of the disabled person; or

(iv) a social worker.

(2) An application for housing incentive under this section shall be—

(a) made in a form; and

(b) accompanied by information

as prescribed.

(3) The Director shall submit an application received under subsection (1) to the Committee for consideration.

(4) A person who makes an application under this section shall submit to the Director any additional information requested by the Committee to assist it in making a determination on the application.

(5) A disabled person is eligible for housing in an assisted care facility if it is shown that he is capable of caring for himself with minimal or no assistance from another person.

Assessment of housing needs of a disabled person

43. The Committee may co-opt the assistance of a psychiatrist or psychiatric nurse to—

(a) assess the housing needs of a disabled person in respect of whom an application has been made for housing incentive under section 42, having regard to the criteria as prescribed;

(b) submit a housing needs assessment report to the Committee in respect of each disabled person for whom an application has been made for housing incentive, together with recommendations for addressing any special housing needs of that person; and

(c) provide any other advice as requested by the Committee to assist it in making a determination on an application in respect of a disabled person.

Application for housing in an assisted care facility in respect of an older person

44. (1) An application for housing in an assisted care facility in respect of an older person shall be made to the Director by—

(a) the older person; or

(b) any of the following persons on behalf of the disabled person—

(i) his next of kin;

(ii) his caretaker;

(iii) a person duly authorised to act on behalf of the older person; or

(iv) a social worker.

(2) An application for housing incentive under this section shall be—

(a) made in a form; and

(b) accompanied by information,

as prescribed.

(3) The Director shall submit an application received under subsection (1) to the Committee for consideration.

(4) A person who makes an application under this section shall submit to the Director any additional information requested by the Sub-Committee to assist it in making a determination on the application.

(5) An older person is eligible for housing in an assisted care facility if it is proven that he is capable of caring for himself with minimal or no assistance from another person.

Power to verify information on an application

45. The Director may carry out or cause to be carried out inquiries or assessments as he thinks necessary to verify the information provided in an application for housing incentive or an application for temporary housing.

Power to inquire into cases of homelessness

46. (1) If the Unit has reason to believe that a person applying for housing incentive is homeless, the Unit may make inquiries as are necessary to determine if the person is eligible for housing incentive.

(2) If the person under subsection (1) is eligible for housing incentive, the Unit shall determine—

(a) if a duty is owed to the person under this Part; and

(b) the duty owed to the person.

False or misleading information or failure to disclose change of circumstances

47. (1) Subject to subsection (3), if a person knowingly provides false or misleading information in respect of an application for housing incentive or an application for temporary housing under this Part, the person, from the date on which evidence that the information is false or misleading comes to the attention of the Committee or Sub-Committee—

(a) is ineligible to receive housing incentive or temporary housing for a period determined by the Committee or Sub-Committee, having regard to—

- (i) the significance of the false or misleading information provided; and
 - (ii) any other matter as that the Committee or Sub-Committee thinks relevant; and
 - (b) forfeits any award of housing incentive or temporary housing that may have been granted to him.
- (2) For the avoidance of doubt, if a duty is owed to a person and that person knowingly provides false or misleading information to the Unit in respect of his application for housing incentive or temporary housing, the duty ceases when proof of the information being false or misleading comes to the attention of the Director.
- (3) Subsections (1) and (2) do not apply if—
- (a) the person who knowingly provided false or misleading information in respect of an application for housing incentive or temporary housing is not the intended recipient of the housing incentive or temporary housing; and
 - (b) the intended recipient of the housing incentive or temporary housing satisfies the Committee or Sub-Committee that he was unaware that the information in respect of the application for housing incentive or temporary housing was false or misleading.
- (4) If before an applicant receives notification from the Committee or Sub-Committee of its decision on his application, there is change of facts material to his application, the applicant shall notify the Director as soon as is practicable of the change and if he fails to do so, any housing incentive or temporary housing awarded to him is forfeited when the information comes to the attention of the Committee or Sub-Committee.
- (5) If the Director is notified under subsection (3) of a change of facts material to an application, he shall as soon as is practicable, inform the Committee or Sub-Committee of the notification.
- (6) Prior to the ceasing of a duty under subsection (2) or the forfeiture of housing incentive or temporary housing under subsection (3), the Minister shall issue to a person a notice of the intention to cease any duty owed to the person or forfeit the housing incentive or temporary housing provided to the person.
- (7) The notice under subsection (1) shall—
- (a) set out the grounds for the ceasing of the duty or the forfeiture of housing incentive or temporary housing;
 - (b) invite the person to submit in writing a response to the notice; and
 - (c) specify the period within which a response to the notice shall be submitted, but the period for submission of a response shall not be less than fourteen days.

(8) In determining whether to cease any duty owed to the person or forfeit the housing incentive or temporary housing provided to the person, the Minister shall consider the response submitted by the person.

(9) If a person—

- (a) knowingly provided false or misleading information in respect of his application for housing incentive or temporary housing; or
- (b) failed to disclose a change of facts material to his application for housing incentive or temporary housing,

the Committee or Sub-Committee shall, in writing, inform that person of any action that may be taken against him under this section.

(10) A person aggrieved by a decision of the Committee or Sub-Committee under this section may appeal that decision under Part 6.

Determination of application for housing incentive and temporary housing

48. (1) The Committee or the Sub-Committee may, in respect of an application for housing incentive or temporary housing, award housing incentive or temporary housing, defer or refuse the application.

(2) The Committee shall make a determination on an application for housing incentive no later than forty-five days after receipt of the application by the Committee.

(3) The Sub-Committee shall make a determination on an application for temporary housing no later than ten days after receipt of the application by the Sub-Committee.

(4) A determination under subsections (2) and (3) shall be made in accordance with allocation schemes, reports, assessments and procedures as prescribed.

(5) In making a determination on an application for temporary housing in the case of priority need, the Sub-Committee shall take into account the financial status of the applicant and any other matter that it considers necessary.

(6) If the Committee approves an award of housing incentive in the form of—

- (a) serviced land for sale;
- (b) social housing in the form of residential serviced lots; or
- (c) a financial grant or a home improvement grant,

it shall submit its decision to Cabinet for the approval of Cabinet.

Duty to notify applicant

49. (1) The Permanent Secretary in the Ministry with responsibility for housing shall inform an applicant in writing of—

- (a) the decision of the Committee or Sub-Committee in respect of his application for housing incentive or temporary housing; and
- (b) his right to appeal under Part 6 against the decision of the Committee or Sub-Committee;

(2) If the decision of the Committee or Sub-Committee is to defer or refuse the application, the Committee or Sub-Committee shall, on request by the applicant, provide the applicant with reasons for that decision.

(3) If the Committee awards to an applicant a financial grant, the Permanent Secretary in the Ministry with responsibility for housing shall—

- (a) notify the applicant of the decision; and
- (b) submit a copy of the notification to the financial institution with which the applicant has secured the mortgage financing.

Right of appeal

50. A person aggrieved by a decision of the Committee or the Sub-Committee in respect of his application for housing incentive may appeal that decision under Part 6.

Waiting list

51. (1) Subject to subsection (2), the Ministry shall establish and maintain a waiting list in respect of applications for housing incentive and the list shall be kept in a form as the Ministry thinks fit.

(2) The Ministry shall manage the waiting list in a manner that—

- (a) an applicant will be ranked in order of his level of priority housing need as determined by the Committee in accordance with prescribed criteria and procedures; and
- (b) the applicant with the highest average score overall is ranked number one on the waiting list, followed by the applicant with the next highest score and following in that manner.

Register of applications for housing incentive and temporary housing

52. (1) The Ministry shall establish and maintain a register of applications and a register of applications for temporary assistance and the registers shall be kept in a form as the Unit thinks fit.

(2) A register under subsection (1) shall contain the following information—

- (a) the name of the applicant or applicants;
- (b) the reference number of the application;
- (c) the date of submission of the application;
- (d) the type of assistance applied for;
- (e) details of any previous housing incentive or temporary housing received;
- (f) the decision taken in respect of the application;
- (g) the value of a subsidy, grant or discount awarded; and
- (h) any other information that the Unit may decide.

(3) A person whose name appears on the register is entitled to—

- (a) view an entry in the register relating to himself only; and
- (b) receive a copy of the entry free of charge.

(4) The register is not open for inspection by the general public and no information contained in the register shall be divulged by a person, to a member of the public, other than as provided for under subsection (3).

Division 3

Leases, licences and other agreements

Leases, licences and other agreements for the occupation of social housing

53. (1) Subject to this section, a person awarded social housing, other than a person who intends to purchase the social housing before occupying it shall enter into a lease with the social landlord.

(2) A lease under subsection (1) may provide for a secured, short hold tenancy or periodic tenancy, a tenancy for life or any other tenancy as the Committee may determine, having regard to—

- (a) the housing being awarded;
- (b) the medical, financial and other circumstances of the applicant; and
- (c) any other matter that it thinks necessary to take into consideration.

(3) A lease shall be registered in accordance with section 46 of the Registered Land Act if the lease—

- (a) is for a specified period exceeding two years;
- (b) is for the life of the social landlord or the lessee; or

- (c) contains an option for the lessee to be granted a further term by the social landlord which, together with the original term, exceeds two years.
- (4) The Governor acting on the advice of Cabinet may direct that a lease which does not meet the requirements of subsection (3) be registered under section 63 of the Registered Land Act.
- (5) Despite subsection (1), if a person who is awarded social housing is not required under the terms and conditions of the award to pay rent in exchange for occupation of the social housing, he shall enter into a legally binding agreement other than a lease, with the social landlord and if applicable, the agreement may be for a licence to occupy the social housing.
- (6) Subject to this Act, a lessee shall not assign, sublease or part with possession of the leased property or any part of the leased property.
- (7) The Landholding Control Act applies in respect of the grant of a lease to a non-Montserratian.

Periodic tenancy

- 54. (1)** If the term of a lease is not specified in the lease and no provision is made for the giving of notice to terminate the tenancy, the lease is deemed to have created a periodic tenancy.
- (2) If the proprietor of property permits the exclusive occupation of the property or any part of the property by a person at a rent but without an agreement in writing, that occupation is deemed to constitute a periodic tenancy.
- (3) A period of a periodic tenancy created under this section is the period by reference to which the rent is payable and the tenancy—
- (a) may be determined by either party giving to the other notice, the length of which shall, subject to any other enactment, be not less than the period of the tenancy; and
- (b) expires on one of the days on which rent is payable.

Shared ownership lease

- 55. (1)** Subject to this Part, a person may, in accordance with section 53, enter into a lease which provides for a shared ownership arrangement.
- (2) If a lease provides for a shared ownership agreement, the lessee may purchase the percentage share of the leased property as specified, following which a tenancy in common shall be created in respect of the leased property and the lessee becomes a co-owner, until he purchases the social landlord's remaining share of the property.
- (3) The lease shall specify the terms and conditions applying to the purchase, including whether the social landlord's remaining share of the

property shall be purchased by the co-owner as an outright purchase or by way of rental payments.

(4) If the co-owner purchases the social landlord's remaining share of the property by way of an outright purchase—

- (a)* the payment due shall be a percentage of the current market value of the property at the time of purchase;
- (b)* the percentage used to calculate the payment due shall represent the percentage share of the property which is the subject of the purchase; and
- (c)* on payment, absolute title to the property shall be transferred to the co-owner in accordance with this Act and the Registered Land Act.

(5) If the co-owner purchases the social landlord's remaining share of the property by way of rental payment, the social landlord may apply a rate of interest not exceeding 5% per annum on the value of its share of the property and the absolute title to the property shall be transferred to the co-owner in accordance with the Registered Land Act, following the full payment of—

- (a)* the value of the social landlord's remaining share of the property; and
- (b)* the interest accruing based on the interest rate applied.

(6) For the purposes of subsection (5), the value of the social landlord's remaining share equity in the property shall be determined at the time of the initial purchase of share equity in the leased property by the lessee.

(7) Until the co-owner purchases the social landlord's remaining share in the property, the social landlord's interest shall be secured—

- (a)* in the case where the co-owner uses his personal funds to initially acquire share equity in the property, by a first charge on the property in accordance with the Registered Land Act; or
- (b)* in the case where the co-owner uses mortgage financing to initially acquire share equity in the property, by a second charge in accordance with the Registered Land Act.

(8) The co-owner may transfer his interest in the property to another party only if he has first purchased the social landlord's share of the property.

(9) The co-owner may make alterations including improvements to the property only if he obtains the prior written consent of the social landlord.

(10) If the co-owner fails to honour his obligations in respect of the mortgage financing for the purchase of his initial share in the property and

the financial institution providing that financing intends to exercise its right to sell the property, the financial institution shall offer the social landlord the first right of refusal.

(11) If the social landlord accepts the offer to purchase the property under subsection (10), the social landlord shall pay the amount outstanding on the mortgage and absolute title to the property shall be transferred to the social landlord in accordance with the Registered Land Act.

(12) For purposes of this section, the social landlord may—

- (a) cause a competent appraiser to determine the current market value of a property which is the subject of a shared ownership arrangement; and
- (b) if the current market value as determined by the appraiser under paragraph (a) appears unreasonable, cause a second valuation of the property to be undertaken by another competent appraiser.

(13) A co-owner under this section has sole responsibility for maintaining the entire property and for paying all costs relating to utilities and property insurance in respect of the property.

Lease with an option to purchase other than a shared ownership lease

56. (1) Subject to this Part, a person may—

- (a) in accordance with section 53 enter into a lease, other than a shared ownership lease which provides an option for the purchase by the lessee of the leased property; and
- (b) exercise the right to purchase at any time during the term of the lease.

(2) If a lessee intends to exercise his right to purchase under subsection (1), he shall, under section 76, inform the social landlord of his intention.

(3) The social landlord shall, on confirming that a right to buy option exists—

- (a) shall cause a competent appraiser to determine the current market value of the leased property; and
- (b) may, if the current market value as determined by the appraiser under paragraph (a) appears unreasonable, cause a second valuation of the property to be undertaken by another competent appraiser.

(4) All costs incurred by the social landlord in respect of the leased property including—

- (a) administrative costs relating to the preparation of the lease;
- (b) property management costs; and

(c) property insurance premiums,

shall be deducted from the total rental payments made by the lessee in respect of the leased property, and the residual amount shall be credited as payment towards the purchase of the leased property.

(5) The purchase price of the leased property shall be the current market value of the leased property as determined under subsection (3) less any—

(a) discounts that may be provided under this Part; and

(b) residual amount under subsection (4).

(6) On payment of the purchase price, absolute title to the leased property shall be transferred to the lessee under this Act and the Registered Land Act.

Agreements implied in a lease on the part of the lessor and lessee

57. (1) Sections 52 and 53 of the Registered Land Act apply in respect of a lease for social housing.

(2) For the purposes of this section, a reference in sections 52 and 53 of the Registered Land Act to—

(a) land is a reference to property; and

(b) a lessor is a reference to a social landlord.

Meaning of “in repair”

58. Section 54 of the Registered Land Act applies in respect of a lease for social housing.

Variation of a lease, licence or other agreement

59. (1) A social landlord and lessee may by instrument executed and registered before the expiration of the term of a registered lease—

(a) vary, negative or add to the agreements and conditions contained or implied in the lease; or

(b) extend the period of the lease.

(2) An unregistered lease, licence or other agreement may be varied in accordance with the unregistered lease, licence or other agreement.

Determination of a lease or revocation of a licence or other agreement

60. (1) In the case of a registered lease, if—

(a) the period of a lease has expired;

(b) an event upon which a lease is expressed to terminate has occurred;

- (c) a social landlord has lawfully re-entered the leased property;
or
- (d) a notice duly given to terminate the lease has expired and the social landlord has recovered possession of the leased property,

the lease and every other interest appearing on the land register kept in accordance with the Registered Land Act relating to the lease terminates, and the social landlord may apply in writing to the Registrar of Lands to cancel the registration.

(2) An application under this section shall be supported by evidence of the matters giving rise to the termination and the recovery of possession by the social landlord as the Registrar of Lands may require.

(3) The Registrar of Lands shall, on being satisfied of the matters set out in the application, cancel the registration of the lease.

(4) In the case of an unregistered lease, the lease determines if—

- (a) the term of the lease has expired;
- (b) an event upon which the lease is expressed to terminate has occurred;
- (c) the social landlord has lawfully re-entered the leased property; or
- (d) a notice duly given to terminate the lease has expired and the social landlord has recovered possession of the leased property.

(5) A licence or other agreement for the occupation of social housing shall be revoked in accordance with—

- (a) the provisions of the licence or other agreement; or
- (b) section 79(3).

Forfeiture of lease

61. (1) Subject to this Part and without prejudice to any other enactment, sections 55, 56 and 57 of the Registered Land Act apply in respect of the forfeiture of a lease, whether registered or unregistered.

(2) For the purposes of this section, a reference in sections 55, 56 and 57 of the Registered Land Act to—

- (a) land is a reference to property; and
- (b) a lessor is a reference to a social landlord.

(3) A lease may be forfeited if the lessee is convicted of anti-social behaviour in accordance with section 79.

(4) A notice of forfeiture that is required to be served under this section shall be served on the lessee by the social landlord in accordance with subsection (5).

(5) A notice required to be served under this section, may be served either by—

- (a) delivering it to the person on whom it is to be served;
- (b) leaving it at the usual or last known place of abode of the person on whom it is to be served; or
- (c) sending it in a prepaid letter addressed to the person on whom it is to be served at his usual or last known place of abode.

(6) A lease made under this Part shall provide for forfeiture of the lease.

(7) Despite subsection (1) and subject to this Act, a notice of forfeiture under this section shall—

- (a) specify the date by which the lessee is required to make compensation in money for the breach of an agreement or condition of the lease, if applicable; or
- (b) in respect of recovery of rent, specify a period of not less than fourteen days but not exceeding ninety days from the date of the notice for the lessee to settle the outstanding amounts.

Surrender of lease

62. (1) A lease registered under the Registered Land Act shall be surrendered in accordance with section 61 of the Registered Land Act.

(2) An unregistered lease may be surrendered in accordance with the provisions of the unregistered lease.

(3) For purposes of this section, a reference under section 61 of the Registered Land Act to a lessor is a reference to a social landlord.

Holding over of lease

63. (1) If a person, having lawfully entered into occupation of property as lessee, continues to occupy that property with the consent of the social landlord after the termination of the lease he shall, in the absence of evidence to the contrary, be deemed to be a tenant holding the property on a periodic tenancy on the same conditions as those of the lease so far as those conditions are appropriate to a periodic tenancy.

(2) For the purposes of this section, the acceptance of rent in respect of a period after the termination of the lease shall—

- (a) if the former tenant is still in occupation; and

(b) subject to any agreement to the contrary,
be taken as evidence of consent to the continued occupation of the property.

(3) This section applies to a lease, whether registered or unregistered.

Succession on death of lessee

64. (1) Subject to subsection (4), on the death of a lessee, a person may succeed the lessee under the lease, if he—

(a) has been occupying the property which is the subject of the lease as his principal home for a period of at least twelve months immediately preceding the death of the lessee;

(b) is—

(i) the spouse of the lessee; or

(ii) a member of the lessee's family who is at least eighteen years of age; and

(c) is in priority need of housing.

(2) The social landlord may, on the recommendation of the Committee, assign a lease to the successor of the lessee.

(3) The Committee may, through the Unit, make inquiries and request the successor to submit documentation that it thinks necessary to enable it to make an informed recommendation to the social landlord in respect of an assignment under this section.

(4) A lease shall not be assigned or succeeded to more than once.

(5) If more than one person is qualified under this section to succeed the lessee, priority shall be given to the spouse of the lessee.

Mutual exchange

65. (1) A lessee occupying social housing shall not assign his interests in a leased property under this section, without the prior written consent of the social landlord.

(2) A social landlord may determine the lease of a lessee who contravenes subsection (1) and the determination shall be in accordance with this Act.

(3) If two lessees occupying social housing wish to assign their interests in each of their respective leased properties to each other, each lessee shall in writing, request the consent of the social landlord in respect of the assignment.

(4) If the social landlord grants consent to each lessee under subsection (3), the lessees may carry out a mutual exchange of their leased properties through the assignment of their interests in the leased property to each other.

(5) A social landlord shall not grant consent to a lessee in respect of a request made under subsection (3), if—

- (a) the lessee does not have a secured tenancy;
- (b) the lessee is in arrears with respect to rent payments under his lease or is in breach of, or has failed to perform an agreement or condition expressed or implied in his lease;
- (c) the exchange may result in overcrowding in at least one of the leased properties;
- (d) the lessee is obliged to give up possession of the leased property under an order of a court;
- (e) proceedings have begun for possession of the leased property under this Part;
- (f) a notice has been served on the lessee under section 53;
- (g) the lessee has been convicted of antisocial behaviour during the term of the lease;
- (h) the leased property is substantially more extensive than is reasonably required by the other lessee who will occupy the property if an assignment is permitted;
- (i) the extent of the leased property is not reasonably suitable to the needs of the other lessee;
- (j) the leased property—
 - (i) has features which are substantially different from the general social housing stock; and
 - (ii) is designed to make it suitable for occupation by a disabled person or an older person who requires housing of the kind provided by the leased property and if the assignment was made, there would no longer be a disabled person or an older person residing in the leased property;
- (k) the leased property is one of a group of houses or forms part of a single property which is leased for occupation by a disabled person or an older person and a social service or special facility is provided in close proximity to the leased property in order to assist or provide service to those persons and if the assignment was made, there would no longer be a disabled person or an older person residing in the leased property; or
- (l) the leased property is in need of major repairs or improvements.

(6) A lessee shall not give or receive any money or other inducement to exchange his leased property.

(7) The social landlord may institute proceedings for the forfeiture of a lease held by a lessee who contravenes subsection (6).

Recovery of rent

66. (1) Before a notice of forfeiture is served under section 61 in respect of arrears of rent, the social landlord shall, if a lessee is in arrears of rent of one months' rent and the lessee has not been in prior breach of the payment of rent obligation under his lease, inform the lessee in writing of the rent outstanding and direct him to make payment of the sum due within a specified period.

(2) If a lessee fails to act in accordance with the notification sent to him under subsection (1) and he further defaults on his rental payment so that his arrears of rent is equal to two months' rent, the social landlord shall in writing—

- (a) inform the lessee of the amount of rent outstanding and that failure to act in accordance with the instructions in the notification to him under this subsection may result in the social landlord instituting proceedings against him for rent recovery as provided for in this Act;
- (b) direct him to make payment of the arrears within a specified period;
- (c) in the case of a lessee who has indicated or demonstrated his ability to make regular payments, and is—
 - (i) self-employed, direct him to authorise his bank to transfer to the specified account of the social landlord monthly, by way of standing order, the sum required to cover rent and a portion of the arrears as agreed with the social landlord; or
 - (ii) employed by another person, direct him to authorise his employer to make regular deductions from his income to cover the monthly rent and a portion of the arrears as agreed with the social landlord, and to transfer the sum monthly into the specified account of the social landlord; or
- (d) in the case where a person is unemployed or cannot afford to make the monthly rent solely on his income, direct him to apply for rental assistance under the Social Welfare Act.

(3) If a lessee has been given notification under subsection (2), he shall submit to the social landlord within a such period specified by the social landlord, proof that he has acted in accordance with subsection (2)(c) or (d).

(4) If a lessee who fails to make arrangements to the satisfaction of the social landlord for payment of his rent and arrears of rent as provided for in this section or otherwise, and his arrears of rent is equal to three months' rent, the social landlord shall serve a notice of forfeiture on the lessee.

(5) If the lessee fails to make an arrangement satisfactory to the social landlord for payment of his rent and the arrears of rent within fourteen days of a notice of forfeiture having been served on him under subsection (4), the social landlord may proceed with legal action against the lessee for the recovery of rent.

(6) The social landlord shall institute proceedings for forfeiture of a lease under section 53 if the lessee—

- (a) is in arrears of at least three months' rent;
- (b) has been served with a notice of forfeiture;
- (c) does not qualify for rental assistance; and
- (d) has not made an arrangement that is satisfactory to the social landlord for payment of rent and arrears of rent or has not adhered to an arrangement made for payment of rent and arrears of rent.

(7) Without prejudice to this section, the social landlord may at any time institute proceedings against a lessee for the recovery of rent, on condition that the social landlord before instituting proceedings, carries out an assessment as he thinks necessary to determine the lessee's ability to pay both the rental arrears and the monthly rent for the social housing that he occupies.

(8) Proceedings shall be instituted against the lessee only if the assessment under subsection (7) indicates that the lessee has the financial means to pay both the rental arrears and the monthly payment.

Power of entry

67. A person authorised by a social landlord in writing, may at any reasonable time, on giving twenty-four hours notice to the occupier, enter the property of the social landlord which forms part of the social housing stock, if the social landlord considers it necessary to—

- (a) carry out a survey or examine any social housing in order to determine whether damage has occurred to, or is likely to occur to the social housing;
- (b) abate any damage that has occurred to that or any other social housing or to prevent any further damage; or
- (c) carry out any routine maintenance of the social housing.

(2) A person authorised to enter social housing under this section—

- (a) shall, if requested by the occupier, produce proof of authorisation for inspection by the occupier; and
- (b) may be accompanied by another person as he thinks necessary for any of the purposes mentioned in subsection (1)(a) to (c).

(3) If the occupier of social housing is temporarily absent, a person authorised to enter under this section shall not enter the property except in the case of an emergency.

- (4) A person who, without reasonable excuse—
- (a) refuses or delays the admission of; or
 - (b) obstructs,

a person authorised by a social landlord in exercising his right of entry under this section, commits a summary offence and is liable to a fine of \$500.

Register of leases, licences and other agreements for the occupation of social housing

68. (1) The Ministry shall establish and maintain a register of leases, licences and other agreements for the occupation of social housing and the register shall be kept in a form as the Ministry thinks fit.

(2) The register under this section shall contain the following information in respect of each lease, licence or other agreement for social housing—

- (a) the name of the social landlord, lessee, licensee or other party to an agreement for the occupation of social housing;
- (b) the date of commencement and expiration of the lease, licence or other agreement for social housing;
- (c) the particulars of the social housing which is the subject of the lease, licence or other agreement;
- (d) the amount and terms of rent, if any;
- (e) any action taken under this Act by either party to the lease, licence or other agreement; and
- (f) any other information that the Ministry may require.

(3) A person whose name appears on the register is entitled to view an entry relating to himself only and to receive a copy of the entry free of charge.

(4) The register is not open for inspection by the general public and no information contained in the register shall be divulged by a person, to a member of the public, other than as provided for in subsection (3).

Management of voids

69. If a person notifies the Unit or the Montserrat Land Development Authority of a vacancy or impending vacancy in the occupation of social housing, the Unit shall include that housing in its list of available social housing stock for allocation.

Division 4

Rent Setting Committee

Establishment of Rent Setting Committee

70. (1) There is established a Rent Setting Committee.

(2) For the purposes of sections 71, 72, 73 and 74, “Committee” means the Rent Setting Committee.

Tenure and procedure of Rent Setting Committee

71. The tenure and procedure of the Committee are set out in Part 3 of Schedule 1.

Membership of Rent Setting Committee

72. (1) The Committee consists of the following members appointed by the Governor acting on the advice of Cabinet—

(a) as *ex-officio* members—

(i) the Manager of the Montserrat Land Development Authority or his designate;

(ii) the senior Accountant of the Montserrat Land Development Authority or his designate; and

(iii) the Permanent Secretary in the Ministry with responsibility for Housing or his designate;

(b) a representative of the private sector with expertise in the field of—

(i) real estate management;

(ii) property management; or

(iii) social housing or a related area; and

(c) a representative of a social housing tenants’ association or a representative of a recognised community group.

(2) The Manager of the Montserrat Land Development Authority or his designate is the Chairperson of the Committee.

(3) The Director is the Secretary of the Committee and has no voting rights.

Functions of Rent Setting Committee

73. The Committee is responsible for—

- (a) determining the rate of rent for social housing;
- (b) reviewing the rate of rent for social housing; and
- (c) making changes to the rate of rent for social housing as it determines necessary.

Determination of rent

74. (1) In determining the rate of rent for social housing, the Committee shall take into account—

- (a) the costs associated with property management, maintenance, insurance and any other costs it considers relevant;
- (b) the rent of comparable housing in the private rental housing market;
- (c) research conducted on the rate of rent; and
- (d) any other matter that it considers relevant.

(2) Rent set by the Committee is subject to the approval of the Governor acting on the advice of Cabinet.

Division 5

Disposal

Disposal of Crown property

75. (1) Despite this Act, the Governor may dispose of Crown property in accordance with section 27 of the Constitution.

(2) The Registered Land Act applies in respect of the disposal of Crown property.

(3) The Landholding Control Act applies in respect of the disposal of Crown property to a non-Montserratian.

(4) The Minister may appoint a committee to consider a recommendation for a grant of Crown property to a person who—

- (a) is a Montserratian;
- (b) is a permanent resident of Montserrat; or
- (c) has resided on Montserrat for a period exceeding eight years and is a voter; and
- (d) meets any of the criteria set out in Schedule 4.

(5) The Minister shall submit the decision of the committee appointed under subsection (4) to Cabinet for its consideration.

(6) The Governor acting on the advice of Cabinet may, by Order, approve the grant of Crown property to a person.

Right to buy

76. (1) Without prejudice to any other law, a right to buy social housing may only be exercised in respect of—

- (a) a lease with an option to purchase;
- (b) a shared ownership lease; or
- (c) an offer to purchase, issued in writing by the social landlord.

(2) An offer to purchase may be in respect of—

- (a) a previously unoccupied house;
- (b) serviced residential land;
- (c) property which is being occupied by the person to whom the offer is made; or
- (d) property, other than property in paragraphs (a) to (c).

(3) The terms and conditions governing a right to buy under an offer to purchase shall be approved by the Governor acting on the advice of Cabinet before the offer to purchase is made under this section.

(4) A person shall exercise his right to buy in accordance with the terms and conditions of his lease or an offer made under this section.

(5) Despite this Act, a person who intends to exercise his right to buy under a lease shall inform the social landlord in writing of his intention and the social landlord shall within a reasonable period in writing—

- (a) confirm the person's right to buy; or
- (b) deny the right to buy exists and give the reasons for that decision.

(6) If a person's right to buy in respect of a shared ownership lease or a lease with an option to purchase is confirmed under subsection (5), sections 55 and 56 apply respectively.

(7) If a person who occupies property is offered by the social landlord the option to purchase the property and the person accepts the offer in writing—

- (a) the social landlord shall—
 - (i) cause the current market value of the property to be determined by a competent appraiser;
 - (ii) deduct from the rental payments made by that person in respect of the property, all the costs incurred by the social landlord in respect of that property during the

occupation of the person to whom the offer is made, including—

- (A) administrative costs relating to the preparation of the lease;
- (B) property management costs including maintenance costs; and
- (C) property insurance premiums,

and the residual amount shall be credited as payment towards the purchase of the property;

- (iii) inform the person to whom the offer is made of the purchase price of the property; and
 - (iv) subject to this Act, proceed with disposal of the property on receipt of the written acceptance of the purchaser of the purchase price of the property; and
- (b) the purchase price of the property is the current market value of the leased property as determined under paragraph (a)(i), less any—
- (i) discounts that may be provided under this Part; and
 - (ii) residual amount under paragraph (a)(ii).

(8) If the current market value of the property as determined under paragraph 7(a)(i) appears unreasonable on any ground, the social landlord may request a second valuation of the property by another competent appraiser.

(9) In respect of an offer to purchase property, other than property being occupied by the person to whom the offer is made, the social landlord shall first cause the current market value of the property to be determined by a competent appraiser and shall include the valuation in the letter of offer.

(10) If a person accepts in writing the offer made under subsection (9), the social landlord shall, subject to this Act, proceed with the disposal of the property.

(11) Despite this section, a right to buy is not exercisable in respect of—

- (a) temporary housing;
- (b) assisted care housing
- (c) housing for a disabled person;
- (d) property where the occupier has contravened or is contravening an agreement or condition of his lease or a term or condition of his agreement to occupy; or
- (e) a person, if he or his spouse if residing with him—

- (i) is the proprietor of a house in Montserrat; or
- (ii) has some other interest in a house that could by his or his spouse's decision be made available for his occupation.

Discounts

77. (1) The Committee may grant to a person exercising a right to buy property under this Part a discount on the purchase price of the property by the Committee in accordance with the approved policy of Cabinet.

(2) If the Committee grants a discount to a person under this section, the grant of the discount shall give rise to an interest in the property by the Government.

(3) The Government's interest in a property under this section shall be secured by the registration of a charge on the property under the Registered Land Act, having regard to Cabinet's policy on repayment of discounts in respect of early disposals.

(4) For purposes of this section, "early disposal" means disposal of property for which a discount is granted under this section, before the expiration of the date on which the person and the Government agreed that the property may be disposed of, without attracting a requirement for the repayment of the discount.

Party wall

78. (1) A person shall not dispose of property containing a party wall without a restrictive agreement specifying the rights of each tenant in common in respect of the party wall.

(2) A restrictive agreement under subsection (1) shall be registered under the Registered Land Act.

(3) For purposes of this section, "party wall" means a shared wall separating two adjoining housing units of a residential building, with each adjoining unit being held by each proprietor as a tenancy in common.

Division 6

Antisocial behaviour

Prohibition from engaging in antisocial behaviour

79. (1) A person, whether or not in legal occupation of social housing, shall not engage in antisocial behaviour on property being used for social housing.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine of \$500.

(3) Despite subsection (2), if a person is convicted of antisocial behaviour under this section and is at the time of his conviction in legal occupation of social housing, the social landlord may forfeit or revoke the

lease, licence or other agreement governing the person's occupation of the social housing.

Antisocial Behaviour Policy, Strategy and Procedures

80. (1) The Ministry shall prepare a policy and a strategy for dealing with antisocial behaviour on property being used for social housing and shall ensure that the policy and strategy are approved by Cabinet before they are implemented.

(2) The Ministry shall prepare procedures for dealing with occurrences of antisocial behaviour on property being used for social housing, including the identification of modalities and mechanisms for making and addressing complaints.

(3) The Ministry shall, in preparing or revising the policy, strategy or procedures under this section, consult with representatives of—

- (a)* the Ministry with responsibility for Social Services;
- (b)* the Ministry with responsibility for Health;
- (c)* the Royal Montserrat Police Service;
- (d)* the Agency with responsibility for Disaster preparedness and response; and
- (e)* any other relevant public or private sector entity as the Ministry deems necessary.

(4) The Ministry shall, revise the policy and strategy to ensure their currency and any revision shall be approved by Cabinet before it is implemented.

(5) The Ministry shall—

- (a)* keep the procedures under review; and
- (b)* publish a statement of the procedures in a manner that best informs a person occupying social housing of the procedures.

PART 5

PRIVATE RENTAL HOUSING

Division 1

Registration of private landlord

Interpretation

81. For purposes of this Part, “**private landlord**” means a person, other than a social landlord, who by way of lease or otherwise makes property available for private rental housing purposes.

Prohibition on renting property without being registered

82. (1) A person, other than a social landlord, shall not rent out property for housing purposes unless—

- (a) he is registered as a private landlord under this Part and holds a valid certificate for that purpose, issued under section 89; and
- (b) the property is registered as property for private rental housing.

(2) A person who contravenes subsection (1) commits a summary offence and is liable to a fine of \$1,000.

Register

83. (1) The Director shall establish and maintain a register of private landlords and property for private rental housing for the purpose of this Part and the register shall be kept in a form as the Unit thinks fit.

(2) A register under this section shall contain the following information—

- (a) the name of the private landlord;
- (b) the registration number of the private landlord;
- (c) the date of commencement and expiration of registration;
- (d) the date of renewal of registration;
- (e) the geographic location and description of each property to be made available for rental; and
- (f) any other information that the Unit may require.

(3) The Director shall make the register available for public inspection.

Application for registration

84. (1) A person may apply to the Director for registration—

- (a) as a private landlord; and
- (b) of property for private rental housing.

(2) An application shall be—

- (a) made in a form; and
- (b) accompanied by—
 - (i) an application fee; and
 - (ii) information,

as prescribed.

(3) A property shall not be entered in the register unless it satisfies the decent home standards under section 23.

Power to verify information on an application

85. The Director may conduct or cause to be conducted inquiries or assessments as he thinks necessary to verify information provided in an application for registration under section 84.

False or misleading information

86. (1) A person shall not knowingly provide false or misleading information in an application made under section 84.

(2) A person who contravenes subsection (1) commits a summary offence and—

- (a) is liable to a fine of \$1,000; and
- (b) is restricted from holding a valid certificate of registration as a private landlord for a period of one year from the date of his conviction; or
- (c) the property to which the false or misleading information relates may be removed from the register for a period not exceeding one year, from the date of conviction of the private landlord.

(3) Subject to subsection (2)(c), if a person is restricted from holding a certificate of registration as a private landlord, the property in respect of which he was granted a certificate of registration for private rental housing remains registered.

Determination of application under this Part

87. (1) The Director, before making a determination on an application submitted under section 84—

- (a) shall consult the Minister; and
- (b) may consult private or public sector entities as he thinks necessary to assist him in making a determination.

(2) The Director may, in respect of an application made under this Part, register or refuse to register the applicant as a private landlord or register property for private rental housing.

(3) The Director shall not grant registration if the applicant has provided false or misleading information on his application.

Duty to notify applicant of decision

88. (1) The Director shall notify an applicant in writing, of the decision in respect of his application and if the decision is a refusal of registration, the reasons for that decision.

(2) If a person is notified of a refusal of his application for registration under this Part, the notification shall advise the person his right to appeal the decision under section 96 and Part 6.

Registration

89. (1) If the Director approves the registration of a person as a private landlord or the registration of a property for private rental housing, he shall—

- (a) cause an entry to be made in the register in respect of the person and the property; and
- (b) issue a certificate of registration as a private landlord or a certificate of registration for private rental housing to the person on payment of the prescribed registration fee.

(2) A certificate of registration under subsection (1) shall be in the prescribed form.

(3) A certificate of registration under subsection (1) is valid for two years from the date of the grant of the certificate of registration.

Duty of registered person to provide information

90. A private landlord who is registered or who registers property under section 89 shall inform the Director of any change in the information provided in his application as soon as is practicable after the change in the information arises.

Removal from register

91. (1) The Director may remove a private landlord from the register—

- (a) if the private landlord fails to comply with a notice issued under section 95(5);
- (b) if the private landlord contravenes any term or condition of his registration;
- (c) on expiration of the private landlord's registration unless he has been granted renewal under this Part;
- (d) if the private landlord provides false or misleading information in respect of his application for registration; or
- (e) if the private landlord fails to comply with section 90.

(2) The Director may remove a property for private rental housing from the register if the private landlord—

- (a) fails to comply with a notice issued under section 95(5);
- (b) contravenes a term or condition of the registration of the property for private rental housing;

- (c) on expiration of the period of registration, fails to secure a renewal of registration under this Part;
- (d) provides false or misleading information in respect of his application for registration; or
- (e) fails to comply with section 90.

Opportunity to be heard prior to removal

92. (1) Before the removal of a private landlord or a property from the register, the Director shall give notice to the private landlord of the intention to remove him or the property from the register.

(2) The notice under subsection (1) shall—

- (a) set out the grounds for removal;
- (b) invite the private landlord to submit in writing a response to the notice; and
- (c) specify the period within which a response to the notice shall be submitted, but the period for submission of a response shall not be less than fourteen days from the date of service of the notice.

(3) In determining whether to remove from or retain a private landlord or property on the register, the Director shall consider the response submitted by the private landlord under subsection (2).

Duty to notify of removal from register

93. If a private landlord or property is removed from the register, the Director shall, as soon as is practicable after removal of a private landlord or property from the register, notify the private landlord in writing of—

- (a) his removal or the removal of the property from the register;
- (b) the date of removal;
- (c) the reasons for removal; and
- (d) his right to appeal under section 96 and Part 6.

Renewal of registration

94. (1) A private landlord registered under this Part may apply to the Director for renewal of his registration as a private landlord or registration of a property for private rental housing within thirty days of the expiration of registration.

(2) An application made under subsection (1) shall be—

- (a) made in a form; and
- (b) accompanied by—
 - (i) the application fee; and

(ii) documentation,

as prescribed.

(3) 84 to 89 apply, to an application for the renewal of registration as a private landlord or registration of a property for private rental housing.

Inspections

95. (1) The Governor acting on the advice of Cabinet may appoint a person to carry out inspections of private rented housing to ensure compliance with the decent home standards.

(2) A person appointed under subsection (1) shall carry out an annual inspection of each property which is listed in the register under this Part and shall submit a copy of his inspection report to the Permanent Secretary in the Ministry with responsibility for housing.

(3) The Permanent Secretary in the Ministry with responsibility for housing shall forward a copy of the inspection report received under subsection (2) to the private landlord in respect of whose property the report is written.

(4) An inspection report shall—

- (a) be in a form approved by the Director; and
- (b) clearly state whether a property is compliant or non-compliant with the decent home standards.

(5) If a property is non-compliant with the decent home standards, the Permanent Secretary in the Ministry with responsibility for housing shall, by notice in writing—

- (a) notify the private landlord responsible for the property of the non-compliance;
- (b) set out in detail the areas of non-compliance;
- (c) direct that the private landlord make the property compliant with the decent home standards by a date specified in the notice; and
- (d) inform the private landlord that failure to make the property compliant with the decent home standards by the specified date may result in the private landlord or the property being removed from the register.

(6) If a private landlord is required to make his property compliant with the decent home standards by a specified date, a person appointed under this subsection (1) to carry out inspections shall, on the expiration of the specified date—

- (a) carry out an inspection of the property; and
- (b) prepare and submit an inspection report to the Permanent Secretary in the Ministry with responsibility for housing.

(7) Subject to section 93, if a private landlord fails to comply with a notice served under subsection (5)—

- (a) he shall be removed from the register; or
- (b) the property in respect of which the notice is served shall be removed from the register.

(8) A person appointed under subsection (1) to carry out inspections shall not enter any property for the purpose of carrying out an inspection under this Part, unless the private landlord and the occupier of the private rented housing has been given at least forty-eight hours notice in writing by the Permanent Secretary in the Ministry with responsibility for housing of the intended inspection.

(9) An inspection under this section shall as far as is reasonably possible, be conducted during normal working hours.

(10) A person who obstructs a person appointed under subsection (1) in the conduct of an inspection commits a summary offence and is liable to a fine of \$1,000.

Appeal against refusal of registration or removal from register

96. A person aggrieved by a decision of the Director to—

- (a) refuse him registration as a private landlord or refuse the registration of a property for private rental housing;
 - (b) refuse him renewal of registration as a private landlord or the renewal of registration of a property for private rental housing; or
 - (c) remove him or a property from the register under this Part,
- may appeal that decision under Part 6.

Division 2

Rent capping

Power to cap rents in a public emergency

97. (1) The Governor may, by Order, during a period of public emergency, cap at a specified amount the rent payable for private rental housing.

(2) A person who contravenes an Order under subsection (1) commits a summary offence and is liable to a fine of \$1,000 or six months imprisonment.

PART 6

APPEALS

Establishment of Housing Appeals Tribunal

98. There is established a Housing Appeals Tribunal.

Tenure and procedure of Tribunal

99. The tenure and procedure of the Tribunal are set out in Part 4 of Schedule 1.

Constitution of Tribunal

100. (1) The Tribunal consists of the following five members appointed by the Governor acting on the advice of Cabinet—

- (a) an attorney-at-law with at least ten years standing at the bar who shall serve as the Chairperson;
- (b) the Chairperson of the Social Welfare Board as an *ex-officio* member;
- (c) a Justice of the Peace or a representative of the Montserrat Christian Council;
- (d) a member of the Montserrat Association of Architects; and
- (e) a representative of a social housing tenants' association or a representative of a recognised community group.

(2) The Governor acting on the advice of Cabinet shall appoint a Secretary of the Tribunal.

Appeal to the Tribunal

101. (1) A person who has a right of appeal under this Act may submit an appeal in writing to the Secretary and the appeal shall—

- (a) be submitted within thirty days from the date or receipt of the decision against which the appeal is made; and
- (b) set out the grounds on which the appeal is made.

(2) The Secretary shall transmit an appeal received under subsection (1) to the Tribunal.

Determination of appeals

102. (1) Before making a determination on an appeal received under section 101, the Tribunal shall, if either party to the appeal so desire, give the party an opportunity to appear before the Tribunal and be heard.

(2) If an appeal is made to the Tribunal, the Tribunal shall give its decision within thirty days from the date of receipt of the appeal.

(3) The decisions of the Tribunal shall be by a majority of votes of the members present and in addition to an original vote, the Chairperson has a casting vote if the voting is equal.

(4) The Secretary shall notify in writing—

(a) the appellant and the Committee or Sub-Committee of the decision of the Tribunal in respect of an appeal under Part 4; and

(b) the appellant and the Minister of the decision of the Tribunal in respect of an appeal under Part 5.

(5) Subject to section 105, a decision of the Tribunal is final.

(6) The decision of the Tribunal shall be authenticated by the signature of the Chairperson.

(7) The validity of any proceedings of the Tribunal are not affected by a vacancy in its membership or by a defect in the appointment of any its members.

(8) The appellant shall bear all costs associated with his appeal.

(9) Subject to this section, the Tribunal has the power to regulate its own proceedings.

Disclosure of interest

103. A member of the Tribunal shall, as soon as is practicable, inform—

(a) the Chairperson; or

(b) if the member is the Chairperson, the Governor,

of any matter in which he has, personally or by his relative, partner, business associate or company, any pecuniary or business interest and that member shall not take part in any hearing, deliberation or decision by the Tribunal on that matter.

Remuneration

104. The Governor acting on the advice of Cabinet may determine the remuneration or allowance payable to a member of the Tribunal.

Appeal from Tribunal

105. A person may appeal to the High Court against a decision of the Tribunal.

PART 7

MISCELLANEOUS

Protection against action

106. (1) No personal liability attaches to—

- (a) an officer appointed under this Act; or
- (b) a member of a Committee, Sub-Committee, the Rent Setting Committee or Tribunal appointed under this Act,

in respect of an act or thing done in good faith in the exercise of a power or function conferred under this Act.

(2) A sum of money, damages or costs which may be recovered against a person in subsection (1) in respect of an act or thing done in good faith and for the purpose of carrying this Act into effect shall be paid out of the Consolidated Fund.

Service of notice

107. Subject to this Act, any notice or other document required or authorised to be served on or given to a person under this Act including a private landlord, lessee, occupier, appellant or respondent, is taken to have been duly served or given to that person, by—

- (a) delivering it to the person on whom it is to be served;
- (b) leaving it at the usual or last known address of that person;
- (c) sending it in a prepaid letter addressed to that person at his usual or last known address; or
- (d) in the case of an incorporated or registered body, delivering it to the Secretary or Clerk of the body at its registered or principal office of the body or sending it in a prepaid letter addressed to the Secretary of the body at its registered or principal office.

Transitional provisions

108. (1) A person whose property is being rented privately prior to the commencement of this Act shall no later than six months after the commencement of this Act, submit an application under Part 5 for registration as a private landlord or registration of the property for private rental housing.

(2) A person who contravenes subsection (1) commits a summary offence and is liable to a fine of \$1,000.

Amendment of Schedules

109. The Governor acting on the advice of Cabinet may, by Order, amend the Schedules.

Regulations

110. (1) The Governor acting on the advice of Cabinet may make regulations generally for the purpose of giving effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Governor acting on the advice of Cabinet may make regulations in respect of the—

- (a)* form of application and payment of fees with regards to an application for housing incentive;
 - (b)* procedures to be followed, assessments to be conducted and allocation schemes to be employed in making a determination on an application for housing incentive;
 - (c)* eligibility and qualification criteria to be satisfied in deciding on an application for housing incentive;
 - (d)* terms and conditions on which an award of housing incentive is made;
 - (e)* form of application and payment of fees with regards to an application for registration and renewal of registration as a private landlord;
 - (f)* fees for registration as a private landlord; and
 - (g)* form of a certificate of registration.
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SCHEDULE 1

(Sections 10, 14, 71 and 99)

TENURE AND PROCEDURE OF THE COMMITTEES AND TRIBUNAL**Part 1****Tenure and Procedure of the Committee**

- (1) Subject to paragraphs (3) and (4), a member of the Committee other than an *ex-officio* member holds office for a period of two years.
- (2) A member other than an *ex-officio* member is eligible for re-appointment for no more than three consecutive terms on the expiration of his appointment.
- (3) A member of the Committee, other than an *ex-officio* member, may at any time resign his membership by instrument in writing addressed to the Governor and transmitted through the Chairperson and the member ceases to be a member of the Committee from the date of receipt by the Governor of the instrument.
- (4) The Governor acting on the advice of Cabinet may, at any time revoke the appointment of any member of the Committee, other than an *ex-officio* member if he thinks it expedient to do so, having regard to the public interest.
- (5) The Committee shall meet at a time necessary or expedient for the discharge of its functions under this Act.
- (6) A quorum for a meeting of the Committee is—
 - (a) the Chairperson;
 - (b) the Director of Social Services or his designate; and
 - (c) two members who are not *ex-officio* members.
- (7) The Committee may co-opt the Director of the Disaster Management Coordination Agency or the Community Nursing Manager within the Ministry of Health to attend a meeting for the purpose of assisting of advising, but the person has no right to vote.
- (8) If the housing incentive which is the subject of the deliberations of a meeting of the Committee is provided by a donor agency, that agency shall have one representative sit on the Committee for that particular meeting.
- (9) The decisions of the Committee shall be by a majority of votes and each decision taken and the reason for that decision shall be recorded in the minutes by the Secretary.
- (10) If the votes of members present at a meeting are equally divided, the Chairperson has a casting vote.

- (11) The minutes of the meetings of the Committee shall be kept by the Secretary of the Committee in a manner as the Committee may determine.
- (12) The members of the Committee shall adopt the minutes of a previous meeting at the next following meeting of Committee and following adoption of the minutes, the Chairperson shall confirm the minutes.
- (13) The Secretary of the Committee shall forward the minutes of the meeting to the Minister at the earliest opportunity after the minutes have been confirmed by the Chairperson.
- (14) Subject to this Part, the Committee has the power to regulate its own proceedings.

Part 2

Tenure and Procedure of the Sub-Committee

- (1) A member of the Sub-Committee, other than an *ex-officio* member, may at any time resign his membership by instrument in writing addressed to the Governor and transmitted through the Chairperson of the Sub-Committee and the member ceases to be a member of the Sub-Committee from the date of receipt by the Governor of the instrument.
- (2) The Governor acting on the advice of Cabinet may, at any time revoke the appointment of a member other than an *ex-officio* member if he thinks it expedient to do so, having regard to the public interest.
- (3) The Sub-Committee shall meet at a time as is necessary or expedient for the discharge of its functions but shall not meet unless so instructed in writing by the Chairperson of the Committee.
- (4) A quorum for a meeting of the Sub-Committee is all the members of the Sub-Committee.
- (5) The Sub-Committee may request the Community Nursing Manager within the Ministry with responsibility for Health or his designate or any other person to attend a meeting of the Sub-Committee for the purpose of assisting or advising the Sub-Committee, but the person invited does not have the right to vote.
- (6) The decisions of the Sub-Committee shall be by a majority of votes and each decision taken and the reason for that decision shall be recorded in the minutes by the Secretary.
- (7) The minutes of the meeting of the Sub-Committee shall be kept by the Secretary in a manner that the Committee may determine.
- (8) The members of the Sub-Committee shall adopt the minutes of a previous meeting at the next following meeting of Sub-Committee and following adoption of the minutes, the Chairperson shall confirm the minutes.
- (9) The Committee shall ratify a decision or action taken by the Sub-Committee as soon as practicable after the decision or action is taken.

- (10) Subject to this Part, the Sub-Committee has the power to regulate its own proceedings.

Part 3

Tenure and procedure of the Rent Setting Committee

- (1) Subject to paragraphs (3) and (4), a member of the Rent Setting Committee, other than an *ex-officio* member holds office for a period of two years.
- (2) A member of the Rent Setting Committee, other than an *ex-officio* member is eligible for re-appointment for no more than three consecutive terms on the expiration of his appointment.
- (3) A member of the Rent Setting Committee, other than an *ex-officio* member, may at any time resign his membership by instrument in writing addressed to the Governor and transmitted through the Chairperson and the member ceases to be a member of the Rent Setting Committee from the date of receipt by the Governor of the instrument.
- (4) The Governor acting on the advice of Cabinet may at any time revoke the appointment of any member of the Rent Setting Committee, other than an *ex-officio* member, if he thinks it expedient to do so, having regard to the public interest.
- (5) The Rent Setting Committee shall meet at a time as may be necessary or expedient for the discharge of its functions.
- (6) A quorum for a meeting of the Rent Setting Committee is—
 - (a) the Chairperson; and
 - (b) two other members of the Rent Setting Committee.
- (7) The Secretary shall keep minutes of the proceedings of the Rent Setting Committee in a proper manner.
- (8) The decisions of the Rent Setting Committee shall be by a majority of votes and each decision taken and the reason for that decision shall be recorded in the minutes by the Secretary.
- (9) If the votes of members present at a meeting are equally divided, the Chairperson has a casting vote.
- (10) Subject to this Part, the Rent Setting Committee has the power to regulate its own proceedings.

Part 4

Tenure and procedure of the Tribunal

- (1) The Governor acting on the advice of Cabinet shall cause to be published in the *Gazette*, the appointment of a member of the Tribunal and the termination of office of a member of the Tribunal.
 - (2) Subject to paragraphs (5) and (6), a member of the Tribunal, other than an *ex-officio* member, holds office for a period not exceeding three years.
 - (3) A member of the Tribunal, other than an *ex-officio* member, is eligible for re-appointment for no more than three consecutive terms on the expiration of his appointment.
 - (4) A member of the Tribunal, other than an *ex-officio* member, may at any time resign from office by instrument in writing addressed to the Governor and transmitted through the Chairperson and the resignation takes effect from the date of receipt of the instrument by the Governor.
 - (5) The Governor acting on the advice of Cabinet may, at any time revoke the appointment of a member of the Tribunal other than an *ex-officio* member if he thinks it is expedient to do so, having regard to the public interest.
 - (6) The Tribunal shall convene at a time, a place and on a day as is necessary or expedient for the discharge of its functions.
 - (7) The Chairperson shall preside at all sittings of the Tribunal.
 - (8) The Chairperson and two other members constitute a quorum at a sitting of the Tribunal.
 - (9) If a member is unable to take part in the proceedings of the Tribunal in respect of a matter, that member shall be disregarded for the purpose of hearing, deliberating on and deciding on the matter.
 - (10) If the Chairperson is unable to take part in the proceedings of the Tribunal, the members present shall choose from among themselves, a member to act as the Chairperson for those proceedings.
 - (11) The recording Secretary shall keep a written record of all proceedings of the Tribunal.
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SCHEDULE 2*(Section 23)³***DECENT HOME STANDARDS**

A house used for social housing or private rental housing satisfies the decent home standards if it is—

- (a) in a reasonable state of repair;
 - (b) not overcrowded;
 - (c) compliant with the building standards under the Physical Planning Act and the Montserrat Building Code;
 - (d) compliant with environmental, general health and safety standards and includes the following—
 - (i) its own clean water supply;
 - (ii) adequate drainage and sanitary facilities;
 - (iii) its own facilities for food preparation;
 - (iv) adequate facilities for waste disposal; and
 - (v) adequate ventilation and lighting;
 - (e) weatherproof; and
 - (f) free of dampness.
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³ Section 23 is not in force (S.R.O. 28/2017).

SCHEDULE 4*(Section 75(4))***CRITERIA FOR GRANT OF CROWN PROPERTY**

A person may be recommended for a grant of Crown property if he satisfies at least one of the following criteria—

- (a) service or any related area. by exceptional and extraordinary service, has changed the course of the country and significantly transformed the lives of Montserratians;
 - (b) by extraordinary and unwavering commitment and devoted and distinguished service, has contributed significantly to the development of Montserrat and positively projected its image;
 - (c) exceptional achievements in any field or discipline at the national, regional or international level;
 - (d) has given distinguished and outstanding service in any field;
 - (e) has attained remarkable achievement at the national level or made remarkable contribution on a national level;
 - (f) has made meritorious contribution to national development in the field of arts, science, commerce, sports, education, governance, philanthropy, community.
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