



MONTSERRAT

## CHAPTER 15.02

### Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

#### **TRADE LICENCES ACT**

Act 9 of 1972 .. in force 15 August 1972 (S.R.O. 20/1972)

Amended by Acts: 4 of 1984

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

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**CHAPTER 15.02**

**TRADE LICENCES ACT**

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## CHAPTER 15.02

### TRADE LICENCES ACT

*(Acts 9 of 1972, 4 of 1984 and 9 of 2011)*

AN ACT TO REPEAL AND REPLACE THE TRADE LICENCES ACT.

#### Commencement

*[15 August 1972]*

#### Short title

1. This Act may be cited as the Trade Licences Act.

#### Interpretation

2. In this Act—

“**Accountant General**” means the Accountant General of Montserrat and includes any person for the time being acting as Accountant General, any Treasury Officer, and any Revenue Officer, Police Officer or other person deputed in writing by the Accountant General for any purpose under this Act;

“**huckster**” or “**pedlar**” means every person who carries or exposes any goods for sale (not being the growth, produce or manufacture of Montserrat) otherwise than in a shop;

“**merchant**” means every person, body corporate or company who sells or offers or exposes for sale any goods, wares, merchandise or provisions of any sort, not being the growth, produce or manufacture of Montserrat, in any building whatsoever;

“**travelling agent**” means a person resident outside Montserrat who, within Montserrat, takes, solicits or receives orders for anything capable of being sold, bartered, traded in or exchanged for and on his own behalf or on behalf of any individual, firm or company, and includes such a person when canvassing for or soliciting insurance business.

#### Licences necessary for carrying on certain trades

3. (1) No person shall follow or carry on the trade or business of a merchant or of a huckster or pedlar or of a travelling agent without having first obtained from the Accountant General a licence for that purpose in the form set forth in the First Schedule.

- (2) Any person, who acts in contravention of this section shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of \$500.

(3) No licence shall be granted under this section, or transferred under section 8, to a non-Montserratian without the prior approval of the Governor acting on the advice of Cabinet.

*(Amended by Acts 4 of 1984 and 9 of 2011)*

### **Licence Fees**

4. The fees payable for each type of licence under this Act shall be as set out in the Second Schedule.

### **Merchants' Licences**

5. (1) The licence to follow the trade or business of a merchant (in this Act referred to as a "**Merchant's Licence**") shall be of the five classes specified in the Second Schedule.

(2) Any person requiring a Merchant's Licence shall make application therefor in writing to the Accountant General who with four assessors appointed as is hereinafter provided shall decide the class of licence that shall be issued to the applicant, and the Accountant General shall notify the applicant accordingly.

(3) The Governor acting on the advice of Cabinet shall appoint four fit and proper persons to be assessors, one of whom shall be an economist from the Ministry of Economic Development and Trade and one representative from the Ministry of Trade, for the purposes of this section and may remove such assessors and appoint others in their places. *(Amended by Act 9 of 2011)*

(4) Notwithstanding the provisions of section 3, the Accountant General may, for the purpose of more easily and fairly assessing such trade or business, permit an applicant to carry on his trade or business as a merchant for a period not exceeding three months without being a holder of a Merchant's Licence:

Provided that, in any case upon the issue of a licence the period of such licence shall be deemed to have commenced upon the date when the applicant commenced that particular trade or business upon those premises in respect of which the licence is granted.

(5) The Accountant General may, before renewing a Merchant's Licence, cause the trade or business of the merchant to be re-assessed for the purposes of the Second Schedule, and a merchant may in like manner and at like periods, request that his trade or business be re-assessed for the purposes of the said Schedule.

(6) Any person dissatisfied with the decision of the Accountant General and assessors may within fourteen days of the communication of such decision to him give notice to the Accountant General and assessors of his intention to produce evidence to them, and the Accountant General and assessors shall thereupon hear the applicant and receive such evidence and give such decision thereon as to them shall seem just.

(7) If after the production of such evidence such person is aggrieved by the decision of the Accountant General and assessors, he may appeal against such decision to a Magistrate within fourteen days after the date thereof.

(8) The appeal shall be by summons and shall be heard in a summary way, and three day's notice of the date fixed for the hearing of the appeal shall be given to the Accountant General and to the appellant. The form of summons shall be as set out in the Third Schedule.

(9) The decision of the Magistrate shall be final but without prejudice to a re-assessment in respect of any subsequent licensing period.

(10) For the purposes of this section, the expression "**decision of the Accountant General and assessors**" means the decision of the majority of the Accountant General and assessors.

*(Amended by Act 4 of 1984)*

### **Duration of licences and payment of proportionate part of licence fees**

6. (1) Subject to the following provisions of this section, all licences granted by the Accountant General by virtue of this Act shall commence as from 1 January in each year and shall, subject to payment in full of the licence fee, expire on 31 December of the year in which such licence is granted.

(2) Notwithstanding the provisions of subsection (1)—

- (a) the several duties or fees payable in respect of Merchants' Licences may be paid half yearly in respect of the periods January to June, and July to December, in any year, and shall be payable within one month of the commencement of such half yearly period. Should the half yearly payment due in January or July (as the case may be) be not paid on or before 31 January, or as the case may be on or before 31 July, the licence shall be deemed to have expired on 31 December of the previous year or as the case may be, on 30 June of the then current year;
- (b) where a merchant has not before the thirty-first day of January in any year traded or carried on or exercised his trade or business and shall desire to do so and duly apply for and take out the licence applicable thereto, such merchant shall only be chargeable in respect of such year with a proportionate part of the licence fee imposed by this Act, that is to say, for the period from the date of his first so trading, carrying on or exercising such trade or business as aforesaid to 31 December in that year, so however that in calculating such period as aforesaid, a part of a month shall be counted as if it were a full month;

- (c) a travelling agent's licence may be granted for a half year ending on 30 June or 31 December as the case may be of the year in which such licence is granted:

Provided however, that, in the case of a half-yearly licence the licence fee shall be 60% of the appropriate annual licence fee prescribed in the Second Schedule.

### **Notice of discontinuances of business**

7. Every holder of a Merchant's Licence who discontinues his business, whether by its sale or transfer or otherwise, shall give notice in writing to the Accountant General of such discontinuance and, in the event of its sale or transfer, shall furnish the Accountant General with the name of the purchaser or transferee.

### **Transfer of licences**

8. It shall be lawful for the Accountant General from time to time subject to the laws of Montserrat to transfer any licence to follow the trade or business of a merchant granted under this Act to the appointee of the holder thereof and in case of the death of any person holding such licence or transferred licence as aforesaid it shall be lawful for the Accountant General subject to the laws of Montserrat to transfer such licence to the executors or administrators of the holder or their appointee and every such transfer shall be made by an endorsement on the original licence in the form or to the effect set out in the Fourth Schedule.

### **Display and production of licence**

9. Every holder of a Merchant's Licence shall—
- (a) keep his licence on the premises where he carries on his trade or business;
  - (b) produce such licence on demand for inspection by the Accountant General or any person duly authorised by him;
  - (c) have his name legibly displayed in a conspicuous place on the premises in respect of which the licence is granted.

### **Licensing in respect of several business places**

10. Every holder of a Merchant's Licence who desires to carry on his trade or business on more than one premises shall first obtain from the Accountant General a licence for that purpose in respect of each such premises.

### **Travelling agents' licences**

11. (1) A travelling agent's licence may be applied for and granted in the name of either the travelling agent or the individual, firm or company for and on behalf of whom the travelling agent is acting.

(2) The Accountant General, any Immigration Officer, any Customs Officer, and any Police Officer may demand the production of a travelling agent's licence for inspection and any person carrying on the business of a travelling agent who fails or neglects within a reasonable time of such demand on that day to produce such licence for inspection when called upon so to do shall be guilty of an offence against this Act.

### **Duplicate of lost licence**

12. It shall be lawful for the Accountant General from time to time, subject to the laws of Montserrat and to the payment of \$1, to grant a duplicate of any licence granted under this Act upon satisfactory proof of loss or destruction of the original licence.

### **Licence not to authorise sale of certain articles**

13. No licence granted under this Act shall of itself authorise the sale of any wine, malt liquors, spirits or other matter for the sale of which a licence is or may be required to be taken out under any other Act now or hereafter to be in force in Montserrat.

### **Offence to obstruct, etc. Accountant General, etc.**

14. Any person who shall resist, oppose, molest, hinder or obstruct the Accountant General, any Immigration Officer, any Customs Officer, or any other person duly authorised by the Accountant General in the performance of any duty authorised under this Act shall be guilty of an offence against this Act.

### **Penalty**

15. Any person who is guilty of an offence against this Act or who acts in contravention of any of the provisions of this Act shall be liable on summary conviction to a penalty of \$500.

### **Regulations**

16. (1) The Governor acting on the advice of Cabinet may from time to time make regulations generally for giving effect to the provisions of this Act. (*Amended by Act 9 of 2011*)

(2) Regulations made under this section shall be published in the *Gazette* and may provide for any infringement thereof or failure to comply therewith a penalty not exceeding \$200 on summary conviction.

### **Recovery of licence fees and preferring of charges**

17. (1) Any licence fee imposed under this Act shall and may be recovered by the Accountant General summarily before a Magistrate.

(2) A complaint under this Act may be heard and adjudicated at any time within three years after the commission of the offence which is the

subject matter of the charge, and any arrears of licence fees may similarly be collected within the said period.

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**FIRST SCHEDULE**

*(Section 3(1))*

**LICENCE**

No. .... of 20.....

Licence is hereby granted to .....  
of .....  
to follow the trade or business .....  
of ..... of the..... Class (in  
the case of a Huckster’s or Pedlar’s or a Travelling Agent’s Licence, delete the  
words “**of the Class**”).

This Licence will, subject to the requisite payment, be in force until  
the ..... day of ....., 20..... .

.....  
*Accountant General.*

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**SECOND SCHEDULE**

*(Sections 4 and 5)*

**TRADE LICENCES**

**(A) MERCHANTS**

First Class .....	\$ 300
Second Class .....	150
Third Class .....	100
Fourth Class .....	50
Fifth Class .....	25

**(B) HUCKSTERS and PEDLARS**

Hucksters and Pedlars .....	\$ 5
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**(C) TRAVELLING AGENTS**

(1) Licence in the name of an individual, firm or company for and on behalf of whom the travelling agent is acting	\$ 200
(2) Licence in the name of a travelling agent personally	50

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**THIRD SCHEDULE**

*(Section 5(8))*

**FORM OF SUMMONS**

MONTSEERRAT

IN THE MAGISTRATE’S COURT

In the Matter of the Trade Licences Act.

To ..... of .....Appellant

and

To.....The Accountant General.....Respondent

TAKE NOTICE that the above-named (Appellant) has appealed against a decision of the Accountant General and Assessors given on the ..... day of ....., in respect of an assessment for the purposes of the Second Schedule to the Trade Licences Act.

AND FURTHER TAKE NOTICE that you are required to attend before me the undersigned Magistrate sitting at Montserrat on ..... the ..... day of ....., 20..... at the hour of ..... o’clock in the ..... noon for the hearing of the said appeal against the said decision of the Accountant General and Assessors.

Dated the ..... day of ....., 20..... .

.....  
*Magistrate.*

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**FOURTH SCHEDULE**

*(Section 8)*

**FORM OF TRANSFER**

I do hereby upon the application of ..... transfer  
this licence to .....for the residue of the  
term for which the same has to run.

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

.....  
*Accountant General.*

\_\_\_\_\_



