

Montserrat
Miscellaneous Amendments (Constitution of Montserrat) Act, 2011
No. 9 of 2011

M O N T S E R R A T

**MISCELLANEOUS AMENDMENTS (CONSTITUTION OF
MONTSERRAT) ACT**

No. 9 of 2011

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I ASSENT

Adrian Davis
Governor

DATE: 17.8.2011

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AN ACT TO MAKE CONSEQUENTIAL AMENDMENTS AS A RESULT OF
THE MONTSERRAT CONSTITUTION ORDER.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and
with the advice and consent of the Legislative Council of
Montserrat and by the Authority of the same as follows—

PART 1—MISCELLANEOUS

1 Short title and commencement

- (1) This Act may be cited as the Miscellaneous Amendments
(Constitution of Montserrat) Act, 2011.
- (2) This Act shall come into force on the appointed day.

- (3) In this section “**appointed day**” has the same meaning as in the Constitution.

PART 2—GENERAL

2 Changes to titles

In an enactment or other document enacted before the appointed day a title or description appearing in the first column of the table in the Schedule repealed and replaced by the corresponding title in the second column.

PART 3—AUDIT ACT, CAP. 17.08

3 Repeal

The Audit Act, Cap.17.08 is hereby repealed.

PART 4—CO-OPERATIVE SOCIETIES ACT, 2011

4 Amendment of section 5 (Registrar)

Section 5(1) is amended by deleting the following words “appointed by the Public Service Commission”.

PART 5—EDUCATION ACT, CAP. 16.01

5 Amendment of section 2 (Interpretation)

Section 2 is amended by inserting the following definition in alphabetical order:

“**public service law**” means any law relating to the matters referred to in

section 24(2)(a)–(c) of the
Montserrat Constitution Order,
2010;”.

6 Amendment of section 135 (Duties of Teachers)

Section 135(2) is amended by deleting the following words “by the Public Service Commission in accordance with the regulations made for that purpose by the Commission” and replacing them with “in accordance with the public service law.”

7 Amendment of section 136 (Duties of Deputy Principal)

Section 136(2) is amended by deleting the following words “by the Public Service Commission in accordance with the regulations made for that purpose by the Commission” and replacing them with “in accordance with the public service law.”

8 Amendment of section 137 (General responsibilities of Principal)

Section 137(2) is amended by deleting the following words “by the Public Service Commission in accordance with the regulations made for that purpose by the Commission” and replacing them with “in accordance with the public service law.”

PART 6—FIRE AND RESCUE ACT, CAP. 10.06

9 Section 4 replaced (Composition of Service)

Section 4 is repealed and replaced with the following:

“(1) The Service shall consist of—

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- (a) the Commander of the Service who shall be responsible for the administration and overall command of the Service;
 - (b) a Chief Fire Officer;
 - (c) a Deputy Chief Fire Officer;
 - (d) the number of fire officers and firemen that may be required for the purpose of this Act.
- (2) If a public officer is not appointed to the post of Commander of the Service, the Commissioner of Police is to be the Commander of the Service.”.

10 Amendment of section 14 (Punishments for gross indiscipline)

Section 14 (6) and (7) is amended by deleting “Governor” and substituting “Deputy Governor” wherever it appears in the section.

PART 7—FORESTRY, WILDLIFE, NATIONAL PARKS & PROTECTED AREAS ACT, CAP. 12.13

11 Amendment of section 5 (Appointment of Officers)

Section 5 is amended by—

- (a) inserting (1) at the beginning of the section;
- (b) deleting the following words “The Governor may, after consultation with the Public Service Commission, appoint an” at the beginning of the section and replacing it with “An”;
- (c) inserting at the end of the section before the full stop, “, may be appointed under the public service law.”
- (d) inserting the following new subsection (2):

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“(2) In subsection (1), “**public service law**” means any law relating to the matters referred to in section 24(2)(a)–(c) of the Montserrat Constitution Order, 2010;”.

PART 8—INCOME AND CORPORATION TAX, CAP. 17.01

12 Section 42 amended (Appointment of administrative authority)

Section 42 (1) is repealed and replaced by the following:

“(1) A Comptroller of Inland Revenue and such Officers and persons as may be necessary for the due administration of this Act may be appointed under the public service law.”

PART 9—JURY ACT, CAP. 2.07

13 Schedule amended (Persons Disqualified or Exempt from Jury Service)

Items 1 to 3 of the first Schedule is repealed and replaced with the following:

“Members of the Cabinet and the Cabinet Secretary;

Members of the Legislative Assembly and the Speaker and Clerk;

Members of the Public Service Commission, the Complaints Commission, the Electoral Commission and the Mercy Committee;”.

**PART 10—MONTSERRAT COMMUNITY COLLEGE ACT,
CAP. 16.06**

14 Section 7 amended (Establishment and Functions of the Board)

Section 7(4) is amended by deleting the words “Public Service Commission” and substituting the words “responsible authority under the public service law”.

15 Section 24 amended (Secondment of public officers to the College)

Section 24(1) is amended by deleting the words “Public Service Commission, subject to such conditions as it may impose” and substituting the words “responsible authority under the public service law, subject to such conditions as may be imposed”.

PART 11—PENAL CODE, CAP. 4.02

16 Insertion of new section

The following section is inserted after section 85 of the Penal Code—

“85A. Unauthorised sitting or voting in the Legislative Assembly

For the purpose of section 73 of the Constitution, the penalty is \$5,000.”

PART 12—PENSIONS ACT, 2011

17 Section 2 amended

Section 2 is amended—

- (a) by deleting the definitions of “public officer” and “public service” and substituting the following in alphabetical order:

“public officer” has the same meaning as in the Montserrat Constitution Order, 2010, but does not include a person who holds office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law;

“public service” has the same meaning as in the Montserrat Constitution Order, 2010;

- (b) by inserting the following definition in alphabetical order:

“public service law” means any law relating to the matters referred to in section 24(2)(a)–(c) of the Montserrat Constitution Order, 2010; and

- (c) in definitions of “existing officer” and “new officer” by deleting the words “31 December 2010” and substituting the words “31 May 2011”.

18 Sections 5 and 6 amended

Section 5(2) and 6(d) are amended by deleting the words “Public Administration Act, 2011” and substituting the words “public service law”.

19 Section 16 amended

Section 16(1)(b)(ii) is amended by deleting the words “regulation 25 of”.

20 Section 21 amended

Section 21 is amended by deleting the words “Part 3” and substituting the words “Part 2”.

21 Section 23 deleted

Section 23 is deleted.

PART 13—PRISONS RULES, CAP. 10.04

22 Rule 39 amended

Rule 39 is amended by deleting the words “Public Service Commission” and substituting the words “responsible authority under the public service law”.

23 Rule 110 amended

Rule 110 (2) is amended by deleting the words “Public Service Commission” and substituting the words “responsible authority under the public service law”.

**PART 14—PUBLIC FINANCE (MANAGEMENT AND
ACCOUNTABILITY) ACT 2008, (NO. 7 OF 2008)**

24 Section 49 amended

Section 49 (1) and (2) is amended by deleting the words “Public Service Commission” and substituting

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the words “responsible authority under the public service law”.

25 Section 52 amended

Section 52 (1) is amended by deleting the words “Public Service Commission” and substituting the words “responsible authority under the public service law”.

PART 15—PUBLIC FINANCE (MANAGEMENT AND ACCOUNTABILITY) REGULATIONS 2009, (NO. 35 OF 2009)

26 Regulation 24 amended

Regulations 24 (3) is amended by deleting the words “Public Service Commission” and substituting the words “responsible authority under the public service law”.

27 Regulation 135 amended

Regulations 135(a) is amended by deleting the words “Public Service Commission” and substituting the words “responsible authority under the public service law”.

PART 16— OFFICIAL OATHS ACT (CAP. 03.10)

28. Section 5 replaced (Oath of legislative councillor)

Section 5 is repealed and replaced with the following:

“5. Oath of Member of the Legislative Assembly

A member of the Legislative Assembly shall take the oath of allegiance only.”

29. Section 6 replaced (Oath of Executive councillor)

Section 6 is repealed and replaced with the following:

“6. Oath of Member of the Cabinet

A member of the Cabinet shall take the oath of allegiance and the oath of fidelity in the discharge of his or her duties.”

30. Schedule amended (Oath of Executive Councillor)

The Schedule is amended by—

- (a) deleting the heading “Oath of Executive Councillor” and substituting the words “Oath of member of Cabinet”;
- (b) deleting the words “Executive Council” and substituting the word “Cabinet”;
- (c) deleting the words “Member of the Council” and substituting the words “Member of the Cabinet”;

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(d) deleting the word “Councillor”
and substituting the words
“member of Cabinet”.

SCHEDULE

Title/Description in legislation	Title/Description to be substituted
Administrator	Governor
Administrator in Council	Governor acting on the advice of Cabinet
Attorney General	Director of Public Prosecution (<i>where the provision involves the exercise of powers conferred on the Director of Prosecution under section 46 of the Constitution</i>) and Attorney General (<i>in any other case</i>)
belonger	Montserratian
British Dependent Territory	British Overseas Territory
British Empire	British Commonwealth
Chief Minister	Premier
Clerk of Executive Council	Secretary to the Cabinet
Clerk (<i>when referring to Executive Council</i>)	Secretary to the Cabinet

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Title/Description in legislation	Title/Description to be substituted
colony (<i>when referring to Montserrat</i>)	British Overseas Territory/Montserrat
Council (<i>when referring to Executive Council</i>)	Cabinet
Director of Audit	Auditor General
Executive Council	Cabinet
government officer	public officer
Governor in Council	Governor acting on the advice of Cabinet
police force (<i>when referring to the Royal Montserrat Police Force</i>)	police service
Legislative Council	Legislative Assembly
Royal Montserrat Police Force	Royal Montserrat Police Service
Treasurer	Accountant General (except in the Acts specified in the Second and Third Schedules of Act 7 of 1966)

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T. Bodkin
SPEAKER

Passed the Legislative Council this 5th day of August, 2011.

Lynette Farrell
CLERK OF COUNCIL (Ag.)