



MONTSERRAT

CHAPTER 1.05

LEGISLATORS' CONDITIONS OF SERVICE 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 laws¹—

LEGISLATORS' CONDITIONS OF SERVICE ACT

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Act 2 of 1984 .. in force 1 June 1984

Amended by Acts: 12 of 1992 .. in force 1 October 1991

17 of 1997 .. in force 11 January 1998

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

12 of 2017 .. in force 21 August 2017

¹ The Legislators' Conditions of Service (Validation) Act (No. 7 of 2015), which is not included in this edition, validates emoluments paid to the Premier between 15 October 2009 and 27 April 2015 that are in excess of amounts provided for in the Legislators' Conditions of Service Act.



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CHAPTER 1.05

LEGISLATORS' CONDITIONS OF SERVICE ACT

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CHAPTER 1.05

LEGISLATORS' CONDITIONS OF SERVICE ACT

(Acts 2 of 1984, 12 of 1992, 17 of 1997, 9 of 2011 and 12 of 2017)

AN ACT TO REGULATE THE TERMS OF SERVICE OF AND PROVIDE PENSIONS FOR LEGISLATORS.

Commencement

[1 June 1984]

PART 1

PRELIMINARY²

Short title

1. This Act may be cited as the Legislators' Conditions of Service Act.

Interpretation

2. In this Act—

“basic allowance” means the taxable emoluments provided in the Appropriation Act and paid to a Legislator by virtue of his being a member of the Legislative Assembly, but exclusive of any other allowance whatsoever;

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

“Legislator” means—

- (a) a person who is or was an elected or nominated member of the Legislative Assembly; or
- (b) the Speaker of the Legislative Assembly;

“Minister” means the Premier and a person appointed as Minister under section 33 of the Constitution;

“Premier” means the person appointed under section 33(1) of the Constitution;

“Speaker” means the person elected as Speaker of the Legislative Assembly in accordance with section 59(3) of the Constitution.

(Amended by Acts 17 of 1997, 9 of 2011 and 12 of 2017)

² *Heading inserted by Act 12 of 2017*

PART 2

REMUNERATION OF ELECTED LEGISLATORS

(Inserted by Act 12 of 2017)

Remuneration of Speaker

3. The Speaker shall be paid the remuneration provided for under Schedule 1. (Inserted by Act 12 of 2017)

Remuneration of Minister

4. Subject to section 7, a Minister shall be paid the remuneration provided for under Schedule 2. (Inserted by Act 12 of 2017)

Remuneration of Legislator who is not a Minister

5. Subject to sections 6 and 7, a Legislator who is not a Minister shall be paid the remuneration provided for under Schedule 3. (Inserted by Act 12 of 2017)

Additional allowance of Legislator who performs functions of Speaker

6. (1) A Legislator who performs the functions of the Speaker for a period of 28 days or more is entitled to an additional allowance calculated in accordance with subsection (2).

(2) The allowance under subsection (1) is the difference between the Speaker's total emoluments under section 3 and the Legislator's total emoluments under section 5.

(Inserted by Act 12 of 2017)

Additional allowance of Legislator who performs function of Minister who holds higher position

7. (1) A Legislator who, by authorisation of the Governor under section 36 or 37 of the Constitution, performs the functions of a Minister who holds a position higher than the position he holds, for a period of 14 days or more, is entitled to an additional allowance calculated in accordance with subsection (2).

(2) The allowance under subsection (1) is the difference between the total emoluments of the Legislator under section 4 or 5 and the total emoluments of the Minister whose functions he performs.

(Inserted by Act 12 of 2017)

PART 3

PENSIONS³**Right of Premier to pension**

8.⁴ (1) Every person who, having held the office of Premier and having served as a Legislator for the periods amounting in aggregate to not less than six years, ceases at any time thereafter to be Premier, shall be paid a pension under this Act and shall continue to be paid during the life-time of that person.

(2) The Premier's pension shall, if the person to whom it is payable becomes entitled to a basic allowance as a Legislator or as Premier, cease to be payable during any period in respect of which that person is in receipt of a basic allowance as a Legislator or as Premier:

Provided that, if the amount of such basic allowance be less than the amount of pension, the higher amount shall be payable.

(3) The Premier's pension shall be payable only under the circumstances set out in section 10. *(Amended by Act 9 of 2011)*

Rate of Premier's pension

9. (1) The Premier's pension shall be a monthly allowance equal to two-thirds of the highest rate of basic allowance paid to such person at any time as Premier:

Provided that, such pension shall not be less than \$600 monthly and provided further that where a commuted gratuity has been paid in accordance with the provisions of section 14 the rate of pension payable shall be 75% of the rate specified in this section.

(2) The pension payable to the Premier under this Act shall be paid in arrears in equal monthly instalments with effect from the date on which that person becomes entitled thereto and, subject to the provisions of this Act, shall continue to be paid during the lifetime of the Premier.

(3) No computation of the Premier's pension under this Act shall be made after a general election until thirty days (or such longer period not exceeding three months as may be prescribed) have elapsed after the general election.

(Amended by Acts 17 of 1997 and 9 of 2011)

Circumstances in which other Legislators will receive pension

10. (1) Subject to the provisions of this Act, a pension shall be paid to any person who—

³ Heading inserted by Act 12 of 2017

⁴ Sections 3 to 14 renumbered as sections 8 to 19 as a consequence of the insertion of Part 2 by Act 12 of 2017.

- (a) has served as a Legislator for periods amounting in the aggregate to not less than six years; and
- (b) has ceased to be a Legislator; and
- (c) either—
 - (i) has attained the age of fifty years; or
 - (ii) not having attained the age of fifty years, has produced medical evidence to the satisfaction of the Medical Board appointed by His Excellency, The Governor that he is incapable by reason of infirmity of mind or body of discharging the duties of a Legislator or of undertaking any other gainful employment and that such infirmity is likely to be permanent.

(2) In determining the length of service of any person as a Legislator, no account shall be taken of any legislative service prior to the 1 January 1960.

(3) Where a person ceases to be a Legislator but is not eligible for a pension because of the provision of subsection (1)(c)(i), the pension for which he would have been eligible at the date when he ceased to be a Legislator shall be paid to him with effect from the date on which he attains the age of fifty years, notwithstanding the provisions in subsection (1), if at that date he is not otherwise disqualified for the payment of a pension under this Act.

Rate of pension

6. (1) The pension payable to any person other than the Premier under this Act shall be a monthly allowance equal to—

- (a) 50% of the highest rate of basic allowance paid to a person having six years' service but less than twenty years' service in aggregate as a Legislator; or
- (b) 60% of the highest basic allowance paid to a person having twenty or more years' service in aggregate as a Legislator:

Provided that, no pension shall be less than \$360 monthly and provided further that, where a commuted gratuity has been paid in accordance with the provisions of section 14 the rate of pension payable shall be 75% of the rate specified in this section. (*Amended by Act 9 of 2011*)

(2) The pension payable to any person under this Act shall be paid in arrears in equal monthly instalments with effect from the date on which that person becomes entitled thereto and, subject to the provisions of this Act shall continue to be paid during the lifetime of that person.

(3) No computation of a pension under this Act shall be made after a general election until thirty days (or such longer period not exceeding three months as may be prescribed) have elapsed after the general election. (*Amended by Act 17 of 1997*)

Cessation of pension if person in receipt thereof again becomes a Legislator

12. (1) A pension payable under this Act shall, if the person in receipt thereof again becomes a Legislator, cease to be payable during the period in respect of which that person is in receipt of emoluments as a Legislator:

Provided that, if the amount of such basic allowance be less than the amount of pension, the higher amount shall be payable.

(2) At the expiration of the period referred to in subsection (1) during which a person has further service as a Legislator, the rate of pension shall be recalculated in accordance with the provisions of section 11.

(3) A pension recalculated in accordance with subsection (2) shall be paid at the recalculated rate with effect from the date of cessation of the further period of service as a Legislator which gave rise to the recalculation.

Gratuity of Legislators not eligible for pension

13. (1) Notwithstanding anything contained in this Act any person who has served as a Legislator for less than six years in aggregate and has ceased to be a Legislator shall be entitled to a gratuity equal in amount to 25% of the total basic allowance received during the period so served.
(Amended by Act 17 of 1997)

(2) A gratuity granted in accordance with subsection (1) shall be repaid to the Government of Montserrat in a manner to be prescribed should any person become eligible for a pension under this Act.

(Amended by Act 12 of 1992)

Commuted gratuity

14. (1) This section applies to a person who is a Legislator at the time this section comes into operation or who thereafter becomes a Legislator.

(2) A person who has served as a Legislator for periods amounting in the aggregate to not less than six years and ceases to be a Legislator is entitled to receive a commuted gratuity, notwithstanding that he may by reason of his age not be eligible to receive pension at the time he ceases to be a Legislator.

(3) The rate of commuted gratuity shall be a sum equivalent to 25% of the amount payable to the Legislator by way of pension over a period of ten years following the day he ceases to be a Legislator.

(4) No computation of commuted gratuity shall be made until three months have elapsed from the time the person entitled to commuted gratuity ceases to be a Legislator.

(5) Where a Legislator has received commuted gratuity in respect of a period of service and thereafter again becomes a Legislator the commuted

gratuity payable shall be re-calculated based on the total aggregate service as a Legislator and the Legislator shall be entitled to the difference between the commuted gratuity so calculated and the amount earlier received by way of commuted gratuity.

(Inserted by Act 17 of 1997)

Gratuity payable on death

15. Where a Legislator dies in office there shall be paid to his estate a gratuity in amount equal to either—

- (a) the gratuity payable under section 13 or 14 as the case may be; or
- (b) one year's basic allowance assessed at the highest level of basic allowance paid during the period of his service;

whichever is higher.

(Substituted by Act 17 of 1997)

Pension not assignable

16. A pension payable under this Act shall not be assignable except for the purpose of satisfying—

- (a) a debt to the Crown or to the Government of Montserrat; or
- (b) an order of any court for the payment of periodical sums of money towards the maintenance of the wife, former wife or any minor child, legitimate or illegitimate, of the person to whom the pension is payable,

and shall not be liable to be attached, sequestered or levied upon, for or in respect of any debt or claim, except a debt due to the Crown or to the Government of Montserrat or any sum recoverable pursuant to any such order of a court as aforesaid.

Awards to be paid out of revenue

17. (1) All awards payable under this Act shall be charged on and paid out of the Revenue of Montserrat.

(2) Where a Legislator is entitled to a pension under section 5 and thereafter is elected or nominated to be a Legislator he shall be entitled to receive that pension or the remuneration payable to him as a Legislator, whichever is higher.

(Substituted by Act 17 of 1997)

Disqualification from receiving gratuity or pension

18. Notwithstanding any of the other provisions of this Act a Legislator or a member of Legislative Assembly shall be disqualified from continuing to receive or receiving any pension or gratuity under this Act where such person has—

- (a) ceased to be qualified to be elected as a member of the Legislative Assembly under the provisions of section 52(1) of the Constitution; or
- (b) been, at any time, convicted by a Court of competent jurisdiction in Montserrat of any offence in connection with his public duties committed at such time as he served as a Legislator or a member of Legislative Assembly.
(Amended by Acts 17 of 1997 and 9 of 2011)

PART 4

MISCELLANEOUS⁵

Power to make regulations

19. The Governor acting on the advice of Cabinet may make Regulations—

- (a) prescribing in the case of payments of pensions the days on which such payments shall be made;
- (b) prescribing, where a recipient of any award under this Act is incapable of managing his affairs, that the award may be paid to some other person on his behalf;
- (c) prescribing anything which may be required by this Act to be prescribed, including any forms he may consider necessary for the administration of this Act;
- (d) prescribing the manner in which, and the persons by whom, accounts and awards under this Act shall be kept and recorded;
- (e) prescribing any increases in the rate of pension payable; and
- (f) for any other purposes deemed necessary to give effect to this Act.

(Amended by Acts 17 of 1997 and 12 of 2017)

⁵ Heading inserted by Act 12 of 2017

SCHEDULE 1
(Section 3)

Speaker	Emoluments
	Salary \$65,232 pa
	Entertainment allowance \$7,200 pa
	Duty allowance \$24,000 pa
	Travelling allowance \$9,600 pa
	Telephone allowance \$1,800 pa

SCHEDULE 2
(Section 4)

Premier	Emoluments
	Salary \$101,112 pa
	Housing allowance \$64,800 pa
	Entertainment allowance \$12,000 pa
	Duty allowance \$60,000 pa
	Travelling allowance \$18,000 pa
	Telephone allowance \$3,600 pa

Deputy Premier	Emoluments
	Salary \$98,100 pa
	Housing allowance \$36,000 pa
	Entertainment allowance \$10,800 pa
	Duty allowance \$42,000 pa
	Travelling allowance \$16,800 pa
	Telephone allowance \$1,800 pa

Other Ministers	Emoluments	
	Salary	\$96,516 pa
	Housing allowance	\$36,000 pa
	Entertainment allowance	\$10,800 pa
	Duty allowance	\$42,000 pa
	Travelling allowance	\$16,800 pa
	Telephone allowance	\$1,800 pa

(Inserted by Act 12 of 2017)

SCHEDULE 3

(Section 5)

Deputy Speaker	Emoluments	
	Salary	\$62,064 pa
	Duty allowance	\$12,000 pa
	Travelling allowance	\$9,600 pa
	Telephone allowance	\$1,800 pa

Leader of the Opposition	Emoluments	
	Salary	\$65,232 pa
	Entertainment allowance	\$7,200 pa
	Duty allowance	\$24,000 pa
	Travelling allowance	\$9,600 pa
	Telephone allowance	\$1,800 pa

Parliamentary Secretary	Emoluments	
	Salary	\$62,064 pa
	Entertainment allowance	\$3,600 pa
	Duty allowance	\$24,000 pa
	Travelling allowance	\$9,600 pa
	Telephone allowance	\$1,800 pa

Other Legislators who are not Ministers	Emoluments	
	Salary	\$60,480 pa
	Duty allowance	\$12,000 pa
	Travelling allowance	\$9,600 pa
	Telephone allowance	\$1,800 pa

(Inserted by Act 12 of 2017)