



MONTSERRAT

## CHAPTER 11.15

# EXCHANGE CONTROL ACT and Subsidiary Legislation

### 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—

### EXCHANGE CONTROL ACT

Act 28 of 1958 .. in force 10 December 1958

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

10 of 1972 .. in force 14 July 1972

12 of 1995 .. in force 8 February 1996

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

### AUTHORISED DEALERS ORDER – Section 2

S.R.O. 45/1958 .. in force 10 December 1958

Amended by S.R.O.s 2/1972, 10/1982 and 7/1988

### PRESCRIBED COURTS ORDER – Section 2

S.R.O. 58/1958 .. in force 10 December 1958

### DECLARATIONS AND EVIDENCE ORDER – Sections 2, 11 and 15

S.R.O. 48/1958 .. in force 10 December 1958

### EVIDENCE ORDER – Sections 2 and 10

S.R.O. 49/1958 .. in force 10 December 1958

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**CHAPTER 11.15**

**EXCHANGE CONTROL ACT**

*(Acts 28 of 1958, 7 of 1966, 10 of 1972, 12 of 1995 and 9 of 2011)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Act may be cited as the Exchange Control Act.

**Interpretation**

2. (1) In this Act—

“**authorised dealer**” means, in relation to gold or any foreign currency, a person for the time being authorised by an order of the Governor to act for the purposes of this Act as an authorised dealer in relation to gold, or, as the case may be, that foreign currency;

“**authorised depositary**” means a person for the time being authorised by an order of the Governor to act as an authorised depositary for the purposes of Part 3;

“**bearer certificate**” means a certificate of title to securities by the delivery of which (with or without endorsement) the title to the securities is transferable;

“**certificate of title to securities**” means any document of title whereby a person recognizes the title of another to securities issued or to be issued by the first-mentioned person, and in the case of any such document with coupons (whether attached or on separate coupon sheets) includes any coupons which have not been detached;

“**coupon**” means a coupon representing dividends or interest on a security;

“**Exchange Controller**” means the person for the time being performing the functions of Financial Secretary;

“**foreign currency**” has the meaning ascribed to it by section 3;

“**gold**” means gold coin or gold bullion;

“**policy of assurance**” means any policy securing the payment of a capital sum or annuity on the occurrence of a specified event which is certain to happen and includes—

- (a) any policy by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life; and
- (b) any policy securing the payment of an immediate annuity;

and the reference in this definition to the occurrence of a specified event which is certain to happen shall include the occurrence, which is certain to happen, of one of specified events none of which by itself is certain to happen;

**“prescribed”** means prescribed, for the purposes of the provision in question, by order of the competent authority;

**“scheduled territories”** has the meaning ascribed to it by section 3;

**“secondary securities”** has the meaning ascribed to it by section 21;

**“securities”** means shares, stock, bonds, notes (other than promissory notes), debentures, debenture stock, units under a unit trust scheme and shares in an oil royalty;

**“specified currency”** has the meaning ascribed to it by section 4 as extended by section 6;

**“unit”** means, in relation to a unit trust scheme, a right or interest (whether described as a unit, as a sub-unit or otherwise) which may be acquired under the scheme;

**“unit trust scheme”** means any arrangements made for the purpose, or having the effect, of providing for persons having funds available for investment, facilities for the participation by them, as beneficiaries under a trust, in profits or income arising from the acquisition, holding management or disposal of any property whatsoever.

(2) Any provision of this Act (however worded) the effect of which is to prohibit the doing of any act where a person to or by whom the act is to be done or who stands in a specified relation to any property possesses any specified attribute as to residence or otherwise shall, where the act is done to or by two or more persons or, as the case may be, where two or more persons stand jointly in that relation to the property, operate to prohibit the doing of that act if any of those persons possess that attribute; and any provision of this Act imposing an obligation on any person to do an act if he possesses any specified attribute as to residence or otherwise shall, in relation to any act which can only be done by two or more persons jointly—

(a) where all those persons possess that attribute operate to impose a joint obligation on all of them to do the act; and

(b) where some only of them possess that attribute, operate to impose a separate obligation on each one of them who possesses that attribute to do all he can to secure the doing of the act.

(3) Any power conferred by this Act to prescribe the declarations which are to be furnished on any occasion shall include a power to require that the declarations shall be made by specified persons and shall be verified in a specified manner.



(4) Nothing in this Act shall be construed as requiring the Accountant General to pay any sum otherwise than in Eastern Caribbean dollars or otherwise than in Montserrat, and any provision of this Act requiring the Accountant General to pay any person shall, where that sum is in a specified currency, be construed as a provision that the Accountant General shall pay to that person the amount in Eastern Caribbean dollars which he would have received for the specified currency if he had sold it to an authorised dealer in pursuance of an offer made under section 4 at the time when the said sum is paid.

(5) The obligations and prohibitions imposed by this Act shall, subject to the express limitations contained therein, apply to all persons, notwithstanding that they are not British subjects.

*(Amended by Act 10 of 1972)*

## PART 1

### GOLD AND FOREIGN CURRENCY

#### **Dealings in gold and foreign currency**

3. (1) Except with the permission of the Governor, no person, other than an authorised dealer, shall, in Montserrat, buy or borrow any gold or foreign currency from, or sell or lend any gold or foreign currency to, any person other than an authorised dealer.

(2) Except with the permission of the Governor, no person resident in the scheduled territories, other than an authorised dealer, shall, in Montserrat, do any act which involves, is in association with or is preparatory to buying or borrowing any gold or foreign currency from, or selling or lending any gold or foreign currency to, any person outside Montserrat.

(3) Where a person buys or borrows any gold or foreign currency in Montserrat or, being a person resident in the scheduled territories does any act which involves, is in association with, or is preparatory to the buying or borrowing of gold or foreign currency outside Montserrat, he shall comply with such conditions as to the use to which it may be put or the period for which it may be retained as may from time to time be notified to him by the Exchange Controller.

(4) In this Act—

(a) the expression “**foreign currency**” does not include any currency or notes issued by the Government or under the law of any part of the scheduled territories, but, save as aforesaid, includes any currency other than sterling or Eastern Caribbean dollars and any notes of a class which are or have at any time been legal tender in any territory outside Montserrat, and any reference to foreign currency, except so far as the context otherwise requires, includes a reference to

any right to receive foreign currency in respect of any credit or balance at a bank; and

- (b) the expression “**the scheduled territories**” means the territories specified in the First Schedule, so, however, that the Governor may at any time by order amend the said Schedule, either by the addition or exclusion of territories or otherwise, and the said expression shall be construed accordingly.

*(Amended by Act 10 of 1972)*

### **Surrender of gold and foreign currency**

4. (1) Every person in Montserrat who is entitled to sell, or to procure the sale of, any gold, or any foreign currency to which this section applies, and is not an authorised dealer, shall offer it, or cause it to be offered, for sale to an authorised dealer, unless the Exchange Controller consents to his retention and use thereof or he disposes thereof to any other person with the permission of the Exchange Controller.

The foreign currency to which this section applies is such foreign currency (hereafter in this Act referred to as “**specified currency**”) as may from time to time be specified by order of the Governor.

(2) If a person who has obtained the consent of the Exchange Controller to his retention and use of any gold or specified currency, and has stated in an application for the consent that he requires it for a particular purpose, no longer requires the gold or currency for that purpose, the preceding subsection shall thereupon apply to him in relation to that gold or currency as if the Exchange Controller had revoked his consent to his retention and use thereof.

(3) A person who requires any gold or specified currency from an authorised dealer shall be treated for the purposes of this section as if the Exchange Controller had consented to the retention and use by him of that gold or currency (subject, however, to any conditions notified to him in accordance with subsection (3) of the preceding section), and as if any statement made by him in an application for that gold or currency as to the purpose for which he requires it had been made by him in an application for the Exchange Controller consent to his retention and use thereof.

(4) Where a person has become bound under this section to offer or cause to be offered any gold or specified currency for sale to an authorised dealer, he shall not be deemed to comply with that obligation by any offer made or caused to be made by him, if the offer is an offer to sell at a price exceeding that authorised by the Exchange Controller or without payment of any usual and proper charges of the authorised dealer, or otherwise on any unusual terms.

(5) Where a person has become bound under this section to offer or cause to be offered any gold or specified currency for sale to an authorised dealer and has not complied with that obligation, the Governor acting in his

discretion may direct that that gold or currency shall vest in the Crown, and it shall vest in the Crown accordingly free from any mortgage, pledge or charge and the Exchange Controller may deal with it as he thinks fit, but the Accountant General shall pay to the person who would but for the direction be entitled to the gold or currency such sum as he would have received therefor if he had sold it to an authorised dealer in pursuance of an offer made under this section at the time when the vesting occurred.

(6) In any proceedings in respect of a failure to comply with the provisions of this section, it shall be presumed, until the contrary is shown, that the gold or currency in question has not been offered for sale to an authorised dealer.

*(Amended by Act 10 of 1972)*

### **Bailees of gold and foreign currency**

5. (1) Every person in Montserrat by whom or to whose order (whether directly or indirectly) any gold or any specified currency in the form of notes is held in Montserrat but who is not entitled to sell it or procure its sale shall notify the Exchange Controller in writing that he so holds that gold or currency.

(2) The Exchange Controller may direct any person in Montserrat by whom or to whose order (whether directly or indirectly) any gold or any specified currency in the form of notes is held in Montserrat whether or not he is entitled to sell it or procure its sale to cause that gold or currency to be kept at all times in the custody of such banker as may be specified in the direction.

### **Travellers' cheques, etc.**

6. (1) This section applies to any document of a kind intended to enable the person to whom the document is issued to obtain foreign currency from some other person on the credit of the person issuing it, and in particular to any traveller's cheque or other draft or letter of credit so intended.

(2) For the purposes of this Act, the person issuing a document to which this section applies, and the person to whom it is issued, shall be deemed respectively to sell and buy foreign currency and where foreign currency is obtained by means of the document to sell and buy that foreign currency.

(3) Any such document not expressed in terms of sterling or Eastern Caribbean dollars shall, if it is of a kind intended to enable the person to whom it is issued to obtain any specified currency, be treated also for the purposes of this Act as itself being specified currency.

(4) Every person in Montserrat who holds or to whose order there is held any document to which this section applies, being a document expressed in terms of sterling or Eastern Caribbean dollars shall encash it or cause it to be encashed in the scheduled territories with the person issuing it or with a banker, unless the Exchange Controller consents to his

retention and use thereof and, where in his application for that consent he has stated that he requires it for a particular purpose, unless also he still requires it for that purpose.

(5) A person who acquires any document to which the last preceding subsection applies from an authorised dealer shall be treated for the purposes of that subsection as if the Exchange Controller had consented to the retention and use by him of that document (subject, however, to any conditions notified to him in accordance with section 3(3)) and as if any statement made by him in an application for that document as to the purpose for which he requires it had been made by him in an application for the Exchange Controller's consent to his retention and use thereof.

*(Amended by Act 10 of 1972)*

## PART 2

### PAYMENTS

#### Payments in Montserrat

7. Except with the permission of the Exchange Controller, no person shall do any of the following things in Montserrat, that is to say—

- (a) make any payment to or for the credit of a person resident outside the scheduled territories; or
- (b) make any payment to or for the credit of a person resident in the scheduled territories by order or on behalf of a person resident outside the scheduled territories; or
- (c) place any sum to the credit of any person resident outside the scheduled territories:

Provided that, where a person resident outside the scheduled territories has paid a sum in or towards the satisfaction of a debt due from him, paragraph (c) shall not prohibit the acknowledgment or recording of the payment.

#### Payments outside Montserrat

8. (1) Except with the permission of the Exchange Controller no person resident in the scheduled territories shall, subject to the provisions of this section, in Montserrat do any act which involves, is in association with, or is preparatory to, the making of any payment outside Montserrat to or for the credit of a person resident outside the scheduled territories.

(2) Nothing in this section shall prohibit the doing of anything otherwise lawful by any person with any foreign currency obtained by him in accordance with the provisions of Part 1, or retained by him in pursuance of a consent of the Exchange Controller.

### **Compensation deals**

**9. (1)** Except with the permission of the Exchange Controller, no person shall in Montserrat make any payment to or for the credit of a person resident in the scheduled territories, and no person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, the making of any such payment outside Montserrat, as consideration for or in association with—

- (a) the receipt by any person of a payment made outside the scheduled territories, or the acquisition by any person of property which is outside the scheduled territories; or
- (b) the transfer to any person, or the creation in favour of any person, of a right (whether present or future, and whether vested or contingent) to receive a payment outside the scheduled territories or to acquire property which is outside the scheduled territories.

**(2)** Nothing in this section shall prohibit the making of any payment in accordance with the terms of a permission or consent granted under this Act.

## PART 3

### SECURITIES

#### **Issue of securities**

**10. (1)** Except with the permission of the Governor, no person shall in Montserrat issue any security or do any act which involves, is in association with, or is preparatory to, the issuing outside Montserrat, of any security which is registered or to be registered in Montserrat, unless the following requirements are fulfilled, that is to say—

- (a) neither the person to whom the security is to be issued nor the person, if any, for whom he is to be a nominee is resident outside the scheduled territories; and
- (b) the prescribed evidence is produced to the person issuing the security as to the residence of the person to whom it is to be issued and that of the person, if any, for whom he is to be a nominee.

**(2)** The subscription of the memorandum of association of a company to be formed under the Companies Act, by a person resident outside the scheduled territories, or by a nominee for another person so resident, shall, unless he subscribes the memorandum with the permission of the Governor, be invalid in so far as it would on registration of the memorandum have the effect of making him a member of or shareholder in the company, so, however, that this provision shall not render invalid the incorporation of the company; and if by virtue of this subsection the number of the subscribers of the memorandum who on its registration

become members of the company is less than the minimum number required to subscribe the memorandum, the provisions of the said Act relating to the carrying on of business of a company the number of whose members is reduced below the legal minimum shall apply to the company as if the number of its members had been so reduced.

### Transfer of securities and coupons

**11. (1)** Except with the permission of the Exchange Controller, a security registered in Montserrat shall not be transferred, and a security not so registered shall not be transferred in Montserrat, unless, in either case, the following requirements are fulfilled, that is to say—

- (a) neither the transferor nor the person, if any, for whom he is a nominee is resident outside the scheduled territories; and
- (b) the transferor delivers to the transferee at or before the time of the transfer the prescribed declarations as to his residence and that of the person, if any, for whom he is a nominee; and
- (c) neither the transferee nor the person, if any, for whom he is to be a nominee is resident outside the scheduled territories; and
- (d) except where the security is registered in Montserrat otherwise than in a subsidiary register, the Exchange Controller is satisfied that the requirements of paragraph (c) are fulfilled:

Provided that—

- (i) neither the transferee nor his agent shall be deemed to have committed an offence by reason only that the requirements of paragraph (a) were not fulfilled unless the transferee or, as the case may be, his agent, knew or had reason to believe that those requirements were not fulfilled; and
- (ii) neither the transferor nor his agent shall be deemed to have committed an offence by reason only that any of the requirements of paragraphs (c) and (d) have not been fulfilled unless, in the case of a non-fulfilment of the requirements of the said paragraph (c), the transferor or, as the case may be, his agent, knew or had reason to believe that those requirements were not fulfilled.

**(2)** Except with the permission of the Exchange Controller, a security not registered in Montserrat shall not be transferred outside Montserrat if either the transferor or the transferee, or the person, if any, for whom the transferor or the transferee is or is to be nominee, is resident in Montserrat.

**(3)** Except with the permission of the Exchange Controller—

- (a) no coupon shall be transferred in Montserrat if either the transferee or the person, if any, for whom he is to be a nominee is resident outside the scheduled territories;
- (b) no person shall in Montserrat do any act which involves, is in association with, or is preparatory to, the transfer of any coupon outside Montserrat if either the transferor or transferee, or the person, if any, for whom the transferor or transferee is or is to be a nominee, is resident in Montserrat.

### **Issue of bearer certificates and coupons**

12. Except with the permission of the Governor, no person shall, in Montserrat, issue any bearer certificate or coupon or so alter any document that it becomes a bearer certificate or coupon, and no person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, such issue or alteration outside Montserrat.

### **Substitution of securities and certificates outside Montserrat**

13. Except with the permission of the Exchange Controller—

(1) No person in Montserrat shall do any act with intent to secure—

(a) that a security which is—

(i) registered in Montserrat; or

(ii) transferable by means of a bearer certificate in Montserrat, becomes, or is replaced by, a security registered outside Montserrat or a security transferable by means of a bearer certificate outside Montserrat; or

(b) that a certificate of title to any other security, is issued outside Montserrat in substitution for or in addition to a certificate of title thereto which is in, or is or has been lost or destroyed in, Montserrat.

(2) No person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat as is referred to in sub-paragraphs (a) or (b) above.

### **Payment or capital moneys outside Montserrat**

14. Except with the permission of the Exchange Controller—

(1) No person in Montserrat shall do any act with intent to secure that capital moneys payable on a security registered in Montserrat are paid outside Montserrat, or that, where the certificate of title to a security is in Montserrat, capital moneys payable on the security are paid outside Montserrat without production of the certificate to the person making the payment.

(2) No person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat as is referred to in subsection (1).

### **Duties of persons keeping registers**

15. Except with the permission of the Exchange Controller, no person concerned with the keeping of any register in Montserrat shall—

- (a) enter in the register the name of any person in relation to any security unless there has been produced to him the prescribed evidence that the entry does not form part of a transaction which involves the doing of anything prohibited by this Act; or
- (b) enter in the register, in respect of any security, an address outside the scheduled territories, except for the purpose of any transaction for which the permission of the Exchange Controller has been granted with the knowledge that it involved the entry of that address; or
- (c) do any act in relation to the register which recognizes or gives effect to any act appearing to him to have been done with such intent as mentioned in the two last preceding sections, whether done by a person in or resident in Montserrat or not.

### **Additional provisions as to nominee holdings**

16. (1) Where—

- (a) the holder of the security is a nominee and the person for whom he is a nominee is resident outside the scheduled territories; or
- (b) the holder of a security is not a nominee and is resident outside the scheduled territories,

then, except with the permission of the Exchange Controller, no person resident in Montserrat shall do any act whereby the holder becomes his nominee in respect of the security.

(2) Except with the permission of the Exchange Controller, a person resident in Montserrat for whom the holder of a security is a nominee shall not do any act whereby—

- (a) the holder, being a person resident outside the scheduled territories, holds the security otherwise than as his nominee; or
- (b) the holder, not being a person resident outside the scheduled territories, holds the security as nominee for a person resident outside the scheduled territories.



(3) Where the holder of a security is a nominee, then except with the permission of the Exchange Controller, neither he, if he is resident in Montserrat, nor any person resident in Montserrat through whose agency the exercise of all or any of the holder's rights in respect of the security are controlled, shall—

- (a) do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives his instructions unless both the person previously instructing him and the person substituted for that person were, immediately before the substitution, resident in the scheduled territories and not elsewhere; or
- (b) do any act whereby he ceases to be a person bound to give effect to the instructions of another person in relation to the security, unless the person who theretofore instructed him is resident in the scheduled territories and not elsewhere.

(4) Where the holder of a security is not a nominee and is resident in Montserrat, then, except with the permission of the Exchange Controller, he shall not do any act whereby he becomes the nominee of another person in respect of the security, unless that other person is resident in the scheduled territories and not elsewhere.

(5) No person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat as is referred to in this section.

### **Deposit of certificates of title**

**17. (1)** This and the next following section apply to any security except—

- (a) a security which is registered in Montserrat otherwise than in a subsidiary register, and on which none of the dividends or interest is payable on presentment of a coupon; and
- (b) any such other securities as may be prescribed, and in the following provisions of this section and in the next following section the expressions, "**security**", "**certificate of title**" and "**coupon**" mean respectively a security to which the said sections apply, a certificate of title to such a security, and a coupon representing dividends or interest on such a security.

(2) It shall be the duty of every person by whom or to whose order (whether directly or indirectly) a certificate of title is held in Montserrat, and of every person resident in Montserrat by whom or to whose order (whether directly or indirectly) a certificate of title is held outside Montserrat, to cause the certificate of title is held at all times, except with the permission of the Exchange Controller, in the custody of an authorised depository, and nothing in this Part shall prohibit the doing of anything for the purpose of complying with the requirements of this subsection.

(3) Except with the permission of the Exchange Controller, an authorised depositary shall not part with any certificate of title or coupon required under this section to be in the custody of an authorised depositary:

Provided that, this subsection shall not prohibit an authorised depositary—

- (a) from parting with a certificate of title or coupon to or to the order of another authorised depositary, where the person from whom the other authorised depositary is to receive instructions in relation thereto is to be the same as the person from whom he receives instructions;
- (b) from parting with a certificate of title, for the purpose of obtaining payment of capital moneys payable on the security, to the person entrusted with payment thereof;
- (c) from parting with a coupon in the ordinary course for collection.

(4) Except with the permission of the Exchange Controller no capital moneys, interest or dividends shall be paid in Montserrat on any security except to or to the order of an authorised depositary having the custody of the certificate of title to that security, so, however, that this subsection shall not be taken as restricting the manner in which any sums lawfully paid on account of the capital moneys, interest or dividends may be dealt with by the person receiving them.

(5) Except with the permission of the Exchange Controller, an authorised depositary shall not do any act whereby he recognizes or gives effect to the substitution of one person for another as the person from whom he receives instructions in relation to a certificate of title or coupon, unless there is produced to him the prescribed evidence that he is not by so doing giving effect to any transaction which is prohibited by this Act.

(6) Where a certificate of title which under this section should for the time being be in the custody of an authorised depositary is not in the custody of an authorised depositary, then, except with the permission of the Exchange Controller, no person shall in Montserrat, buy, sell, transfer, or do anything which affects his rights or powers in relation to, the security, or do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat.

(7) Except with the permission of the Exchange Controller, no person in or resident in Montserrat shall, in the case of a certificate of title with coupons (whether attached or on separate coupon sheets), detach any of the coupons otherwise than in the ordinary course for collection.

#### **Additional provisions as to deposited certificates**

**18. (1)** Where a certificate of title to a security is by the last preceding section required to be and is in the custody of an authorised depositary, the

provisions of this section shall, except so far as the Exchange Controller otherwise directs, have effect in relation thereto until—

- (a) there are delivered to him the prescribed declarations as to the ownership of the security and the residence of the owners thereof; and
- (b) in the case of a certificate of title which—
  - (i) would ordinarily be accompanied by coupons (whether attached or on separate coupon sheets); but
  - (ii) when it comes into the custody of the authorised depository wants, in order to render it complete, any coupons which would not in the ordinary course have been detached for collection,

there have also been deposited with him the coupons so wanting at the time when the certificate of title comes into his custody:

Provided that, where the said declarations have been delivered to an authorised depository and he has parted with the certificate of title, paragraph (a) shall not again apply on the certificate coming into custody of another authorised depository or again coming into his own custody.

(2) Except with the permission of the Exchange Controller, the authorised depository shall not part with or destroy the certificate of title or any coupons belonging thereto, otherwise than as mentioned in paragraphs (b) and (c) of the proviso to subsection (3) of the last preceding section, or do any act whereby he recognizes or gives effect to the substitution of one person for another as the person from whom he receives instructions in relation thereto:

Provided that, where the person from whom an authorised depository receives instructions in relation to any certificate of title becomes bankrupt in Montserrat or dies, this subsection shall not prohibit the authorised depository from recognizing the trustee in bankruptcy or personal representative as the person entitled to give instructions in relation to the certificate of title.

(3) The authorised depository shall place any capital moneys, dividends or interest on the security received by him to the credit of the person by virtue of whose authority he received them, but shall not permit any part of the sums received, to be dealt with except with the permission of the Exchange Controller.

### **Special provisions as to dealings in certain securities**

19. (1) The Governor may, if in his opinion there are circumstances rendering it necessary or expedient so to do, by order direct that this section shall apply to such securities as may be prescribed, being securities on which capital moneys, dividends or interest are payable in a specified currency or as respects which the holder has an option to require payment

of any capital moneys, dividends or interests thereon in a specified currency.

(2) Except with the permission of the Exchange Controller, no person shall, in Montserrat, transfer, or do anything which affects his rights or powers in relation to, any security to which this section applies, and no person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat.

### **Validation of certain transfers**

20. (1) The title of any person to a security for which he has given value on a transfer thereof, and the title of all persons claiming through or under him, shall, notwithstanding that the transfer, or any previous transfer, or the issue of the security, was by reason of the residence of any person concerned other than the first-mentioned person prohibited by the provisions of this Act relating to the transfer or issue of securities, be valid unless the first-mentioned person had notice of the facts by reason of which it was prohibited.

(2) Without prejudice to the provisions of subsection (1), the Exchange Controller may issue a certificate declaring, in relation to a security, that any acts done before the issue of the certificate purporting to effect the issue or transfer of the security, being acts which were prohibited by this Act, are to be, and are always to have been, as valid as if they had been done with the permission of the competent authority, and the said acts shall have effect accordingly.

(3) Nothing in this section shall affect the liability of any person to prosecution for any offence against this Act.

### **Application of Part 3 to secondary securities**

21. (1) This Part shall apply, with such modifications (if any) as may be prescribed, in relation to any such document as is mentioned in the following subsection, as if the document created, and were the certificate of title to, a security (hereafter in this Act referred to as a “**secondary security**”).

(2) The documents referred to in the preceding subsection are any letter of allotment which may be renounced, any letter of rights, any warrant conferring an option to acquire a security, any deposit certificate in respect of securities (but not including a receipt by an authorised depositary for any certificate of title deposited in pursuance of this Part), and such other documents conferring, or containing evidence of, rights as may be prescribed.

### **Interpretation of Part 3**

22. (1) In this Part—

(a) the expression “**registered**” includes inscribed;

- (b) the expressions “**registered in Montserrat**” and “**registered outside Montserrat**” mean respectively, registered in a register in, and registered in a register outside, Montserrat;
- (c) the expression “**security which is registered in Montserrat otherwise than in a subsidiary register**” means a security which either—
  - (i) is registered in Montserrat and is not and cannot without the necessity for an entry in the register in Montserrat become, registered outside; or
  - (ii) is registered both in Montserrat and outside but on a transfer cannot, without the necessity for an entry in the register in Montserrat, become registered outside in the name of the transferee; and
- (d) the expression “**a register**” includes any book, file or index in which securities are registered.

(2) For the purposes of any provision of this Part prohibiting the transfer of securities, a person shall be deemed to transfer a security if he executes any instrument of transfer thereof, whether effective or not, and shall be deemed to transfer it at the place where he executes the instrument.

(3) References in this Part to the person holding a certificate of title or coupon shall be construed as references to the person having physical custody of the certificate of title or coupon:

Provided that, where the certificate of title or coupon is deposited with any person in a locked or sealed receptacle from which he is not entitled to remove it without the authority of some other person, that other person shall be deemed for the purposes of this provision to have the physical custody thereof.

(4) In this Part, the expression “**holder**”—

- (a) in relation to a security transferable by means of a bearer certificate or to a coupon, includes the person holding the certificate or coupon; and
- (b) in relation to a security which is registered in the name of a deceased person or of any person who, by reason of bankruptcy, unsoundness of mind or any other disability is incapable of transferring the security, means the personal representative, trustee in bankruptcy or other person entitled to transfer the security.

(5) The holder of a security or coupon shall be deemed for the purposes of this Part to be a nominee in respect thereof if, as respects the exercise of any rights in respect thereof, he is not entitled to exercise those rights except in accordance with instructions given by some other person, and references in this Part to the person for whom the holder of a security or coupon is a nominee shall be construed as references to the person who is entitled to give instructions, either directly or through the agency of one

or more persons, as to the exercise of any rights in respect of the security or coupon and is not in so doing himself under a duty to comply with instructions given by some other person:

Provided that—

- (a) a person shall not by reason only that he has a controlling interest in a body corporate be deemed for the purposes of this subsection to be entitled to give instructions to that body corporate as to the exercise of rights in respect of any security or coupon of which it is the holder; and
- (b) a person shall not be deemed to hold a security or coupon as a nominee by reason only that he holds it as trustee if he is entitled to transfer the security or coupon without permission from any other person.

(6) A certificate of title shall not for the purposes of this Part be treated as in the custody of an authorised depositary if either—

- (a) the depositary has no notice of the nature of the certificate; or
- (b) the certificate is deposited with him in a locked or sealed receptacle from which he is not entitled to remove it without the authority of some other person.

(7) Where a certificate of title outside Montserrat is by this Part required to be kept in the custody of an authorised depositary, it shall be deemed to be in the custody of an authorised depositary if—

- (a) by his direction or with his assent it is in the custody of some other person who holds it on behalf of and to the order of the authorised depositary; and
- (b) the certificate is not deposited with that other person in a locked or sealed receptacle from which he is not entitled to remove it without the authority of a person other than himself;

and where a certificate of title is by virtue of this subsection deemed to be in the custody of an authorised depositary, references in this Part to the depositary parting with the certificate or a coupon belonging thereto shall be construed as references to his permitting the person having the actual custody thereof to part with it otherwise than to the depositary, and references to his destroying the certificate or such a coupon shall be construed as references to his permitting it to be destroyed.

PART 4

IMPORT AND EXPORT

**Restrictions on import**

**23. (1)** The importation into Montserrat of—

- (a) any notes of a class which are or have at any time been legal tender in the United Kingdom or any part of the United Kingdom; and
- (b) any such other notes as may be specified by order of the Governor, being notes issued by a bank or notes of a class which are or have at any time been legal tender in any territory; and
- (c) any certificate of title to any security, including such certificate which has been cancelled, and any document certifying the destruction, loss or cancellation of any certificate of title to a security,

is hereby prohibited except with the permission of the Exchange Controller.

(2) In this section the expression “**note**” includes part of a note and the expression “**security**” includes a secondary security.

**General restrictions on export**

**24. (1)** The exportation from Montserrat of—

- (a) any notes of a class which are or have at any time been legal tender in the United Kingdom or any part of the United Kingdom or in any other territory; and
- (b) any postal orders; and
- (c) any gold; and
- (d) any of the following documents (including any such document which has been cancelled), that is to say—
  - (i) any certificate of title to a security and any coupon; and
  - (ii) any policy of assurance; and
  - (iii) any bill of exchange or promissory note expressed in terms of a currency other than that of a scheduled territory and payable otherwise than within the scheduled territories; and
  - (iv) any document to which section 6 applies not issued by an authorised dealer or in pursuance of a permission granted by the Exchange Controller,  
and any document certifying the destruction, loss or cancellation of any of the documents aforesaid; and

- (e) any such articles exported on the person of a traveller or in a traveller's baggage as may be prescribed, is hereby prohibited except with the permission of the Exchange Controller.

(2) In this section, the expression “**note**” includes part of a note, the expression “**security**” includes a secondary security and the expression “**coupon**” shall be construed in accordance with the meaning of “**security**”.

### Payment for exports

**25. (1)** The exportation of goods of any class or description from Montserrat to a destination in any such territory as may be prescribed is hereby prohibited except with the permission of the Exchange Controller, unless the Comptroller of Customs is satisfied—

- (a) that payment for the goods has been made to a person resident in Montserrat in such manner as may be prescribed in relation to goods of that class or description exported to a destination in that territory, or is to be so made not later than six months after the date of exportation; and
- (b) that the amount of the payment that has been made or is to be made is such as to represent a return for the goods which is in all the circumstances satisfactory in the national interest:

Provided that, the Exchange Controller may direct that, in cases to which the direction applies, paragraph (a) shall have effect as if for the reference to six months there were substituted a reference to such longer or shorter period as may be specified in the direction, or as if the words “**or is to be so made not later than six months after the date of exportation**” were omitted.

(2) For the purpose of satisfying himself in the case of any goods as to the matters specified in subsection (1), the Comptroller of Customs may require the person making entry of the goods for export to deliver to the Comptroller of Customs or other proper officer together with the entry such declarations signed by such persons as he may require, and where any such declaration has been so required the goods shall not be exported until it has been delivered as aforesaid.

(3) Where the Comptroller of Customs is not satisfied in the case of any goods as to the matters specified in subsection (1)(b), he shall give his reasons to the person making entry of the goods for export and shall take into consideration any representations made by him.

(4) Any reference in this section to the destination of any goods includes a reference to the ultimate destination thereof.

*(Amended by Act 10 of 1972)*



PART 5

MISCELLANEOUS

**Duty to collect certain debts**

**26. (1)** Except with the permission of the Exchange Controller, no person resident in Montserrat who has a right (whether present or future and whether vested or contingent) to receive any specified currency, or to receive from a person resident outside the scheduled territories a payment in sterling or Eastern Caribbean dollars, shall do, or refrain from doing, any act with intent to secure or shall do any act which involves, is in association with, or is preparatory to, any transaction securing—

- (a) that the receipt by him of the whole or part of that currency or, as the case may be, of that payment in sterling, or Eastern Caribbean dollars is delayed; or
- (b) that the currency or payment ceases, in whole or in part to be receivable by him:

Provided that, nothing in this subsection—

- (i) shall, unless the Exchange Controller otherwise directs, impose on any person any obligation, in relation to any debt arising in the carrying on of any trade or business, to procure the payment thereof at an earlier time than is customary in the course of that trade or business; or
- (ii) shall, unless the Exchange Controller otherwise directs, prohibit any transfer to a person resident in Montserrat and not elsewhere of any right to receive any specified currency or payment in sterling or Eastern Caribbean dollars.

**(2)** Where a person has contravened the provisions of subsection (1) in relation to any specified currency or payment in sterling, or Eastern Caribbean dollars the Exchange Controller may give to him or to any other person who appears to the Exchange Controller to be in a position to give effect thereto (being a person in or resident in Montserrat) such directions as appear to the Exchange Controller to be expedient for the purpose of obtaining or expediting the receipt of the currency or payment in question, and, without prejudice to the generality of the preceding provisions of this subsection, may direct that there shall be assigned to the Exchange Controller or to such person as may be specified in the directions, the right to receive the currency or payment or enforce any security for the receipt thereof.

**Duty not to delay sale or importation of goods**

**27. (1)** Where—

- (a) any permission or consent has been granted under this Act, or under any corresponding provision of the law in force in any

territory comprised in the scheduled territories, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be sold outside the scheduled territories; or

- (b) any statement or declaration has been made under any provision of this Act or any such corresponding provision as aforesaid that any goods are to be sold outside the scheduled territories; or
- (c) any currency has been obtained in, or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be sold outside the scheduled territories,

then, except with the permission of the Exchange Controller, no person resident in Montserrat who is entitled to sell or procure the sale of the said goods shall do, or refrain from doing, any act with intent to secure or shall do any act which involves, is in association with, or is preparatory to any transaction securing—

- (i) that the said sale is delayed to an extent which is unreasonable having regard to the ordinary course of trade; or
- (ii) that, on the said sale, any payment made for the goods is not made in the manner indicated by the condition, statement, or declaration, as the case may be.

**(2) Where—**

- (a) any permission or consent has been granted under this Act, or under any corresponding provisions of the law in force in any territory comprised in the scheduled territories, subject to a condition providing that, or on the faith of an application stating an intention that, any goods should be imported from outside the scheduled territories into any part of the scheduled territories; or
- (b) any currency has been obtained in or by any person resident in, the scheduled territories on the faith of an application stating an intention that any goods should be so imported,

then except with the permission of the Exchange Controller, no person resident in Montserrat who is entitled to procure the importation of the said goods shall do, or refrain from doing, any act with intent to secure that the importation thereof is delayed to an extent which is unreasonable having regard to the ordinary course of trade.

**(3) Where in any such case as is specified in subsection (1)(a), (b) or (c), or subsection (2)(a) or (b)—**

- (a) the goods have not been sold or imported as indicated by the condition, statement or declaration within the time thereby indicated or, if no time is thereby indicated, a reasonable

time, or (in either case) within such further time as may be allowed by the Exchange Controller; or

- (b) it appears to the Exchange Controller that the goods cannot be sold or imported as indicated by the condition, statement or declaration,

the Exchange Controller may give to any person resident in Montserrat who appears to the Exchange Controller to be in a position to give effect thereto such directions as appear to him to be expedient as to the manner in which the goods are to be dealt with.

(4) Without prejudice to the generality of the provisions of the last preceding subsection, the power conferred thereby on the Exchange Controller to give directions shall extend to the giving of directions that the goods shall be assigned to the Exchange Controller or to a person specified in the directions.

(5) The power conferred by subsections (3) and (4) in relation to any goods shall extend to the giving of directions with respect to any goods produced or manufactured therefrom, and, where goods to be sold outside the scheduled territories or to be imported were to be produced or manufactured from other goods, to the giving of directions with respect to those other goods and any goods produced or manufactured from those other goods.

### **Property obtained by infringement of Act**

**28. (1)** Where a person—

- (a) has made any payment which is prohibited by this Act; or  
(b) being bound under this Act to offer or cause to be offered any specified currency to an authorised dealer, has otherwise disposed of that currency,

the Exchange Controller may direct him to sell or procure the sale of any property which he is entitled to sell or of which he is entitled to procure the sale, being property which represents, whether directly or indirectly, that payment or that specified currency as the case may be, and may by the same or a subsequent direction specify the manner in which, the persons to whom and the terms on which the property is to be sold.

(2) Without prejudice to the generality of the provisions of subsection (1) the power conferred thereby on the Exchange Controller to give directions shall extend to the giving of directions that the property shall be assigned to the Exchange Controller or to a person specified in the directions.

### **Provisions supplemental to preceding provisions of Part 5**

**29. (1)** Where, under the preceding provisions of this Part, the Exchange Controller has power to give directions that any right to receive any currency or payment in sterling or Eastern Caribbean dollars or to enforce

any security for the receipt thereof, any goods or any other property shall be assigned to the Exchange Controller, the Exchange Controller shall also have power to direct that the right, goods or property shall vest in the Exchange Controller, and it or they shall vest in the Exchange Controller accordingly free from any mortgage, pledge or charge, and the Exchange Controller may deal with it or them as he thinks fit.

(2) Where, in pursuance of directions under the said provisions, any right, goods or property is or are assigned to the Exchange Controller or to a person specified in the directions, or any right, goods or property vests or vest in the Exchange Controller, in pursuance of directions given under subsection (1), the Exchange Controller shall pay the net sum recovered by him in respect of the right, goods or property to the person making the assignment or in the case of any right, goods or property vested in the Exchange Controller under subsection (1), to the person who, but for the directions, would be entitled to the right, goods or property.

### **Transfer of annuities, policies, etc.**

30. (1) Except with the permission of the Exchange Controller, no person resident in Montserrat shall transfer to a person resident outside the scheduled territories, or who is to be a nominee for a person resident outside the scheduled territories, any right to the sums assured by any policy of assurance, so, however, that where the person liable for the sums so assured makes any payment thereof to a person resident in the scheduled territories and not elsewhere or makes, with the permission of the Exchange Controller payment thereof to any other person—

- (a) he shall not be bound to enquire as to the residence of any person other than the person to whom, and (if it is not the same person) the person to whose order the payment is made; and
- (b) the payment shall, to the extent of the sums paid, discharge him from his liability under the policy, notwithstanding that the payment is made to or to the order of a person who was not entitled thereto otherwise than by virtue of a transfer prohibited by this subsection.

(2) Section 20(2) and (3) shall apply in relation to any transfer prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

(3) In this section, the expression “**nominee**” has, in relation to any policy, annuity or insurance, the same meaning as the said expression has in Part 3 in relation to a security.

### **Settlements**

31. (1) Except with the permission of the Exchange Controller, no person resident in Montserrat shall settle any property, otherwise than by will, so as to confer an interest in the property on a person who, at the time

of the settlement, is resident outside the scheduled territories, or shall exercise, otherwise than by will, any power of appointment, whether created by will or otherwise, in favour of a person who, at the time of the exercise of the power, is resident outside the scheduled territories.

(2) A settlement or exercise of a power of appointment shall not be invalid by reason that it is prohibited by this section, except so far as it purports to confer any interest on any person who, at the time of the settlement or the exercise of the power, is resident outside the scheduled territories.

(3) Section 20(2) and (3) shall apply in relation to a settlement or the exercise of a power of appointment prohibited by this section as they apply in relation to a transfer prohibited by this Act of a security.

(4) For the purposes of this section—

- (a) any reference to settling property includes a reference to the making of any disposition, covenant, agreement or arrangement whereby the property becomes subject to a trust, or (in the case of a resettlement) to a different trust; and
- (b) a person shall be deemed to have an interest in property if he has any beneficial interest therein, whether present or future, and whether vested or contingent, or falls within a limited class of persons in whose favour a discretion or power in respect of the property is exercisable; and
- (c) the expression “will” includes any testamentary disposition.

(5) No person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat as is referred to in this section.

## Companies

32. (1) Where there is served on any person resident in Montserrat a notice in writing that the Exchange Controller wishes any such requirements as are hereinafter mentioned to be complied with by any such body corporate as is specified in the Second Schedule (hereafter in this subsection referred to as a “foreign company”), and that person can, by doing or refraining from doing any act—

- (a) cause the foreign company to comply with any of the requirements; or
- (b) remove any obstacle to the foreign company complying with any of the requirements; or
- (c) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Exchange Controller, that person shall do, or, as the case may be, refrain from doing, that act.

The requirements with respect to which such a notice may be given are as follows, that is to say, that the foreign company shall—

- (i) furnish to the Exchange Controller, such particulars as to its assets and business as may be mentioned in the notice;
- (ii) sell or procure the sale to an authorised dealer of any gold or specified currency mentioned in the notice, being gold or specified currency which it is entitled to sell or of which it is entitled to procure the sale;
- (iii) declare and pay such dividend as may be mentioned in the notice;
- (iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned;
- (v) refrain from selling, transferring or doing anything which affects its rights or powers in relation to any such securities as may be mentioned in the notice.

(2) Except with the permission of the Exchange Controller, no person resident in Montserrat shall do any act whereby a body corporate which is by any means controlled (whether directly or indirectly) by persons resident in Montserrat ceases to be controlled by persons resident in Montserrat:

Provided that, this subsection shall not prohibit any person from selling any securities authorised to be dealt in on any recognized stock exchange in Montserrat if the sale takes place in pursuance of an agreement entered into in the ordinary course of business on that exchange.

No person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat as is referred to in this subsection.

(3) Except with the permission of the Exchange Controller, no person resident in Montserrat shall lend any money or securities to any body corporate resident in the scheduled territories which is by any means controlled (whether directly or indirectly) by persons resident outside the scheduled territories:

Provided that, this subsection shall not apply where the lender after making such inquiries as are reasonable in the circumstances of the case does not know and has no reason to suspect that the body corporate is controlled as aforesaid.

No person resident in the scheduled territories shall in Montserrat do any act which involves, is in association with, or is preparatory to, any such transaction outside Montserrat as is referred to in this subsection.

(4) For the purposes of this section and of the Second Schedule, persons resident in Montserrat or outside the scheduled territories shall be deemed to control a body corporate notwithstanding that other persons are

associated with them in the control thereof if they can together override those other persons.

(5) In this section the expression “security” includes a secondary security.

## PART 6

### SUPPLEMENTAL

#### **Exemptions**

33. Any provision of this Act imposing any obligation or prohibition shall have effect subject to such exemptions as may be granted by order of the Governor and any such exemption may be either absolute or conditional.

#### **Blocked accounts**

34. Where—

- (a) under any provision contained in Part 2, the permission of the Exchange Controller is required for the making of a payment or the placing of any sum to the credit of any person resident outside the scheduled territories; or
- (b) any payment falls to be made by an authorised dealer on the sale of any gold or specified currency by any foreign company within the meaning of subsection (1) of the concluding section of Part 5, being a sale made to comply with any requirement notified under that subsection,

the Exchange Controller may direct that the sum payable or to be credited shall be paid or credited to a blocked account only, and, where such a direction is given, the provisions of the Third Schedule shall have effect in relation to the payment or crediting of the sum.

#### **Contracts, legal proceedings, etc.**

35. (1) It shall be an implied condition in any contract that, where by virtue of this Act, the permission or consent of the Exchange Controller is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission or consent is given or is not required:

Provided that, this subsection shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of their having contemplated the performance of that term in despite of the provisions of this Act or for any other reason.

(2) Notwithstanding anything in the Bills of Exchange Act, neither the provisions of this Act, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be

made without the permission of the Exchange Controller under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

(3) The provisions of the Fourth Schedule shall have effect with respect to legal proceedings, arbitrations, bankruptcy proceedings, the administration of the estates of deceased persons, the winding-up of companies, and proceedings under deeds of arrangement or trust deeds on behalf of creditors.

### **Enforcement and administration**

**36. (1)** The provisions of the Fifth Schedule shall have effect for the purpose of the enforcement of this Act.

(2) Persons belonging to the following classes, that is to say—

- (a) bankers, authorised dealers, authorised depositaries;
- (b) persons to whom any powers of the competent authority under this Act are delegated;
- (c) persons who with the permission of the competent authority are in possession of documents which would, but for the permission, have to be in the custody of an authorised depositary;
- (d) persons concerned with the keeping of any register in Montserrat; and
- (e) persons entrusted with the payment of capital moneys, dividends or interest in Montserrat,

shall comply with such directions as may be given to them respectively by the Exchange Controller—

- (i) in the case of any such persons directions as respects the exercise of any functions exercisable by them by virtue of, or by virtue of anything done under, any provision of this Act; or
- (ii) in the case of authorised dealers, such directions as aforesaid or directions as to the terms on which they are to accept gold or foreign currency or directions requiring them to offer their gold or specified currency for sale to the Bank of England on such terms as may be specified in any such directions.

### **Application to Crown**

**37.** This Act shall bind the Crown and shall apply to transactions by a Government department or other person acting on behalf of the Crown, and the competent authority shall not, by virtue of any contract made by them or on their behalf in relation to any securities, be under any obligation to



grant any permission under Part 3 or any exemption from the provision of the said Part 3.

### **Governor's orders**

**38. (1)** The Governor may by order make such transitional provisions as appear to him necessary or expedient in consequence of the exercise by him of any other power to make orders under this Act.

**(2)** The Governor may make such regulations to replace the Defence (Finance) Regulations specified in the Sixth Schedule or any one or more of them as are, in his opinion, necessary for purposes ancillary to the principal objects of this Act.

### **Power of Governor acting on the advice of Cabinet**

**39. (1)** Notwithstanding anything to the contrary in this Act the Governor acting on the advice of Cabinet may by order, if it appears to the Governor acting on the advice of Cabinet to be necessary or expedient, vary or suspend any of the provisions of this Act.

**(2)** Nothing in this section shall be construed as authorising the Governor acting on the advice of Cabinet to impose a fee or charge or to increase an existing fee or charge.

**(3)** An order made under this section shall be subject to a negative resolution of the Legislative Assembly.

*(Inserted by Act 12 of 1995 and amended by Act 9 of 2011)*

### **Other powers**

**40. (1)** Any permission, consent or authority, granted under this Act—

(a) may be either general or special; and

(b) may be revoked by the competent authority; and

(c) may be absolute or conditional; and

(d) may be limited so as to expire on a specified date, unless renewed; and

(e) shall be published in such a way as in the opinion of the competent authority, to give any person entitled to the benefit of it an adequate opportunity of getting to know of it, unless in his opinion publication is not necessary for that purpose.

**(2)** Any directions given under any provision of this Act—

(a) may be either general or special; and

(b) may be revoked or varied by subsequent directions; and

(c) shall be given to such persons and in such manner as the competent authority thinks appropriate and if so given shall be valid for all purposes.

(3) Notwithstanding paragraph (e) of the last preceding subsection, a person shall not by virtue of any direction given by the competent authority under this Act, be convicted of an offence against this Act, unless the direction was served on him or he knew, or avoided getting to know, of the giving thereof:

Provided that, where reasonable steps were taken for the purpose of bringing the purport of the direction to his notice, it shall be for him to show that he neither knew nor avoided getting to know of the giving thereof.

(4) The competent authority may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers (other than any power to make orders or to give authority to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Act shall be construed accordingly.

(5) Any document stating that any permission, consent, authority or direction is given under any of the provisions of this Act by the competent authority, and purporting to be signed on his behalf, shall be evidence of the facts stated in the document.

### **Financial provisions**

41. Any expenses incurred under or by virtue of this Act by any Government department shall be paid out of moneys provided by the Legislative Assembly, and any sums received under or by virtue of this Act by any Government department shall be paid to the Accountant General. *(Amended by Act 9 of 2011)*

### **Branches**

42. (1) The Exchange Controller may direct that for such purposes of this Act as may be specified in the direction—

- (a) any transaction with or by a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated; and
- (b) the making of any book entry or other statement recording a debit against a branch of any business in favour of any other branch of that business, shall be treated as a payment to that other branch; and
- (c) any property held by or on behalf of the person carrying on the business shall be deemed to be held by such of the

branches of the business as may be determined in accordance with the direction,

and any such direction which makes, for any of the purposes of Part 3, such provision as is mentioned in paragraph (c) may contain provisions declaring the circumstances in which a branch is to be treated as nominee for any other branch.

(2) Any reference in subsection (1) to a branch of a business shall be deemed to include a reference to the head office of that business.

(3) Subsections (1) and (2) shall apply in relation to any body of persons (whether corporate or unincorporate) carrying on any activity, whether for the purpose of profit or not, as they apply in relation to a business.

*(Amended by Act 10 of 1972)*

### **Persons leaving the scheduled territories**

43. Where a person resident in Montserrat leaves the scheduled territories, the Exchange Controller may, before, at or after the time he leaves the scheduled territories, direct that, for such period as may be specified in the direction, payments by him or on his behalf and to him or to his credit and transactions in or in relation to securities or secondary securities in which he is in any way concerned shall, whether or not he continues to be resident in Montserrat, be subject to such restrictions as may be specified in the direction.

### **Determination of residence**

44. (1) For the purposes of this Act, a personal representative of a deceased person shall, unless the Exchange Controller otherwise directs, be treated as resident in the territory where the deceased person was resident for the purposes in question at the time of his death and as not resident elsewhere, so far as relates to any matters in which the personal representative is concerned solely in his capacity as such.

(2) The Exchange Controller may give directions declaring that for all or any of the purposes of this Act a person is to be treated as resident or not resident in such territories as may be specified in the directions.

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**FIRST SCHEDULE***(Section 3)**(Amended by Act 10 of 1972)***SCHEDULED TERRITORIES**

1. The United Kingdom, the Channel Islands and the Isle of Man.
2. The Commonwealth of Australia.
3. The State of Bahrain.
4. Bangladesh.
5. Barbados.
6. Botswana
7. The British Solomon Islands.
8. Brunei.
9. Ceylon.
10. The Republic of Cyprus.
11. Fiji.
12. The Gambia.
13. Ghana.
14. Guyana.
15. Iceland.
16. India (including Sikkim).
17. The Republic of Ireland.
18. Jamaica.
19. The Hashemite Kingdom of Jordan.
20. Kenya.
21. The State of Kuwait.
22. Lesotho.
23. Malawi.
24. Malaysia.
25. Malta.
26. Mauritius.
27. New Zealand.
28. Nigeria.
29. Pakistan.
30. The State of Qatar.
31. Sierra Leone.
32. Singapore.
33. The Republic of South Africa and the territory of South West Africa.
34. The People's Democratic Republic of Yemen.
35. Swaziland.
36. The United Arab Emirates.
37. The United Republic of Tanzania.
38. Tonga.
39. Trinidad and Tobago
40. Uganda.
41. Western Samoa.
42. Zambia.

43. Any part of Her Majesty's dominions not mentioned in any of the foregoing paragraphs except Canada and Southern Rhodesia.

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**SECOND SCHEDULE**

*(Sections 32 and 34)*

**FOREIGN COMPANIES**

1. The bodies corporate in question are bodies corporate not incorporated under the law of Montserrat in the case of which any of the following conditions is fulfilled—

- (a) that the body corporate is by any means controlled (whether directly or indirectly) by persons resident in Montserrat;
- (b) that more than one-half of the sums which, on a liquidation thereof would be receivable by the holders of share or loan capital would be receivable directly or indirectly by or for the benefit of persons resident in Montserrat;
- (c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable directly or indirectly by or for the benefit of persons resident in Montserrat;

or

- (d) that more than one-half—
  - (i) of the interest payable on its loans and loan capital, if any; or
  - (ii) of the dividends payable on its preference share capital if any; or
  - (iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable, directly or indirectly, by or for the benefit of persons resident in Montserrat.

2. Where the identity of the persons by whom or for whose benefit any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by a person resident in Montserrat of a power of appointment or similar power, the sum, assets, interest or dividends shall, for the purposes of this Schedule, be deemed to be receivable directly or indirectly by or for the benefit of persons resident in Montserrat.

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### THIRD SCHEDULE

(Section 34)

#### BLOCKED ACCOUNTS

1. In this Schedule, the expression “**a blocked account**” means an account opened as a blocked account at an office or branch in Montserrat in favour of any person by a banker authorised by the Exchange Controller to open blocked accounts, and the expression “**the banker**” means, in relation to any person, a banker who opens a blocked account in favour of that person.

2. Where a direction is given that a payment is to be made to a blocked account only, then, subject to the next following paragraph—

- (a) the manner in which the payment may be made shall be either—
  - (i) to the banker, with a direction that it is to be credited to a blocked account of that person (which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words “**blocked account of**” (naming the person in question) or words to the same effect); or
  - (ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words “**payable only to blocked account of payee**” or words to the same effect; and
- (b) the sum collected shall be credited by the banker to a blocked account of that person.

3. Where a direction is given that a sum is to be paid or credited to a blocked account only, then, notwithstanding the direction, the sum may, with the consent of the person to whom it is to be paid or credited, and subject to the requirements of Part 3 of this Act, be invested instead in the purchase for that person of any such investments as may be prescribed for the purposes of paragraph (a) of the proviso to the next following paragraph.

4. Any sum standing to the credit of a blocked account shall not be dealt with except with the permission of the Exchange Controller:

Provided that, subject to compliance with the requirements of Part 3 of this Act—

- (a) the whole or any part of any such sum may, at the request of the person in whose name the account stands, be invested through the banker in such investments as may be prescribed; and
- (b) nothing in this Schedule shall be construed as restricting the manner in which the investments acquired may be dealt with.

5. Where a person in whose name a blocked account is standing becomes bankrupt in Montserrat or dies, the banker may, notwithstanding anything in paragraph 4, transfer the account to the name of the trustee in bankruptcy or personal representative, but save as aforesaid, no change shall, except with the permission of the Exchange Controller, be made in the name in which the account stands; and where any such change made (whether or not the permission of the Exchange Controller is

necessary therefor) the account shall remain a blocked account notwithstanding the change, and the provisions of this Schedule shall apply accordingly.

**6.** Where—

- (a) a sum is due from any person to any other person but the Exchange Controller directs that it shall be paid or credited to a blocked account only; and
- (b) the person to whom the sum is due nominates such an account to the person from whom the sum is due,

the last mentioned person is under a duty to the person to whom the sum is due to cause the sum to be paid or credited to that blocked account, and the crediting of any sum to a blocked account in pursuance of a direction of the Exchange Controller shall, to the extent of the sum credited, be a good discharge to the person from whom the sum is due:

Provided that, in the case of a sum due under a contract this paragraph shall not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply.

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**FOURTH SCHEDULE**

*(Section 35)*

**LEGAL PROCEEDINGS, ETC.**

**1.** The provisions of Part 2 of this Act shall apply to sums required to be paid by any judgment or order of any court or by any award as they apply in relation to other sums, and it shall be implied in any judgment or order of any court in Montserrat, and in any award given under the law of Montserrat, that any sum required to be paid by the judgment, order or award (whether as a debt, as damages or otherwise) to which the said provisions apply shall not be paid except with the permission of the Exchange Controller.

**2.** Nothing in this Act shall be construed as preventing the payment by any person of any sum into any court in Montserrat but the provisions of Part 2 of this Act shall apply to the payment of any sum out of court, whether under an order of the Court or otherwise, to or for the credit of any person resident outside the scheduled territories.

**3.** Without prejudice to the provisions of any enactments relating to the making of rules of court, rules of court—

- (a) enabling any person who is required by any judgment, order or award to pay any sum, if he apprehends that the payment of that sum is unlawful under this Act except with the permission of the Exchange Controller to pay that sum into court; and
- (b) declaring that payment of a sum into court by virtue of the preceding subparagraph, together with the delivery to the other party concerned of such evidence of the payment as may be prescribed by the rules,

shall, to the extent of the payment, be a good discharge to the person making the payment; and

- (c) so regulating the process of execution which may issue in respect of any sum required to be paid by any judgment, order or award as to secure that, unless it is shown, in such manner as may be prescribed by the rules, that the permission of the Exchange Controller for the payment of the sum is not required under this Act or has been given without conditions, the proceeds of the execution will be paid into court, and, so far as is necessary for that purpose, varying the form of any writ of execution or other similar document or the duties of the sheriff or other officer to whom any such writ or other similar document is directed,

may be made, as respects the Supreme Court, or any other court, by such authority as may be designated in that behalf by the Chief Justice:

Provided that—

- (i) the form of any bankruptcy notice shall be such as may be prescribed by the Exchange Controller; and
- (ii) nothing in this paragraph shall affect the provisions of any legislation which requires rules of court for inferior courts to have the concurrence of the rule-making authority for the Supreme Court.

**4. (1)** In any proceedings in a prescribed court and in any arbitration proceedings, a claim for the recovery of any debt shall not be defeated by reason only of the debt not being payable without the permission of the Exchange Controller and of that permission not having been given or having been revoked.

**(2)** No court shall be prescribed for the purpose of this paragraph unless the Exchange Controller is satisfied that adequate provision has been made therefor by rules of court for the purposes specified under the last preceding paragraph.

**5. (1)** In any bankruptcy, in the winding up of any company or in the administration of the estate of any deceased person (being a bankruptcy, winding up or administration carried under the law of Montserrat), a claim for a sum not payable without permission of the Exchange Controller shall, notwithstanding that the permission has not been given or has been revoked, be admitted to proof as if it had been given and had not been revoked:

Provided that, nothing in this subparagraph shall be construed as affecting the application of the provisions of Part 2 of this Act to payments by any trustee, liquidator, personal representative or other person in any such bankruptcy, winding up or administration.

**(2)** The provisions of this Act restricting the making of settlements shall not apply to any deed of arrangement made for the benefit of creditors generally, and the provisions of sub-paragraph (1) shall apply in relation to proceedings under any deed of arrangement as they apply in relation to proceedings in bankruptcy.

**6.** A debt for the payment of which the permission of the Exchange Controller is required under this Act shall, if in other respects it complies with the requirements of



section 4(1) of the Bankruptcy Act be allowed to be a good petitioning creditor's debt, notwithstanding the said requirement, if and to the extent that the debt can be satisfied either by a payment into court or by a payment to a blocked account.

## FIFTH SCHEDULE

(Section 36)

### ENFORCEMENT

#### PART 1

##### GENERAL PROVISIONS AS TO EVIDENCE AND INFORMATION

1. (1) Without prejudice to any other provisions of this Act, the Exchange Controller may give to any person in or resident in Montserrat directions requiring him, within such time and in such manner as may be specified in the directions, to furnish to him, or to any person designated in the directions as a person authorised to require it any information in his possession or control which the Exchange Controller or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of this Act.

(2) A person required by any such directions as aforesaid to furnish information shall also produce such books, accounts or other documents (hereafter in this Part referred to as "**documents**") in his possession or control as may be required for the said purpose by the Exchange Controller or by the person authorised to require the information, as the case may be.

(3) Nothing in the preceding provisions of this paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to disclose any privileged communication made to him in that capacity.

(4) Where a person is convicted on indictment for failing to give information or produce documents when required so to do under this paragraph, the court may make an order requiring the offender within such period as may be specified in the order, to comply with the requirement to give the information or produce the documents.

2. (1) If a justice of the peace is satisfied by information on oath given by a person authorised by the Exchange Controller to act for the purposes of this paragraph either—

- (a) that there is reasonable ground for suspecting that an offence against this Act has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information, or in any vehicle, vessel or aircraft so specified; or
- (b) that any documents which ought to have been produced under the preceding paragraph and have not been produced are to be found at any such premises or in any such vehicle, vessel or aircraft,

he may grant a search warrant authorising any police officer, together with any other persons named in the warrant and any other police officers, to enter the premises

specified in the information or, as the case may be, any premises upon which the vehicle, vessel or aircraft so specified may be, at any time within one month from the date of the warrant, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) A person authorised by any such warrant as aforesaid to search any premises or any vehicle, vessel or aircraft, may search every person who is found in, or whom he has reasonable ground to believe to have recently left or to be about to enter, those premises or that vehicle, vessel or aircraft, as the case may be, and seize any article found in the premises or on or in the vehicle, vessel, or aircraft, which he has reasonable ground for believing to be evidence of the commission of any offence against this Act or any documents which he has reasonable ground for believing ought to have been produced under the preceding paragraph:

Provided that, no female shall, in pursuance of any warrant issued under this paragraph, be searched except by a female.

(3) Where, by virtue of this paragraph, a person has any power to enter any premises, he may use such force as is reasonably necessary for the purpose of exercising that power.

3. (1) Any article coming into possession of an executive authority (whether in consequence of the seizure of the article under or by virtue of this Act or otherwise) which the authority has reasonable ground for believing to be evidence of the commission of an offence against this Act may be retained for a period of three months or, if within that period there are commenced proceedings in respect of such an offence in which the article is, or can properly be, adduced in evidence, until the final determination of those proceedings.

(2) For the purposes of this paragraph, any person to whom any powers of the competent authority under this Act are delegated or on whom any functions are conferred by or by virtue of this Act, including any police officer, shall be deemed to be an executive authority.

(3) For the purposes of this paragraph, any proceedings shall be deemed not to have been finally determined so long as there is pending any appeal in the matter of the proceedings, and an appeal in that matter shall be deemed to be pending during the ordinary time within which such an appeal may be lodged, and, if such an appeal is duly lodged, the appeal shall be deemed to be pending until it is decided or withdrawn.

(4) The powers conferred by this paragraph in relation to any article shall be in addition to, and not in derogation of, any powers otherwise exercisable in relation thereto.

4. No person in or resident in Montserrat shall—

- (a) with intent to evade the provisions of this Act, destroy, mutilate, deface, secrete or remove any documents;
- (b) in furnishing any information for any of the purposes of this Act make any statement which he knows to be false in a material particular, or recklessly make any statement which is false in a material particular;
- (c) obstruct any person in the exercise of any powers conferred on him by virtue of this Part.

PART 2

GENERAL PROVISIONS AS TO OFFENCES

1. (1) Any person in or resident in Montserrat who contravenes any restriction or requirement imposed by or under this Act, and any such person who conspires or attempts, or aids, abets, counsels or procures any other person, to contravene any such restriction or requirement as aforesaid, shall be guilty of an offence punishable under this Part:

Provided that, an offence punishable by virtue of Part 3 shall not be punishable under this Part.

(2) Where an offence punishable under this Part has been committed by a body corporate, any person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the contravention was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions, in that capacity and to all the circumstances.

(3) Any person who commits an offence punishable under this Part shall be liable—

(a) on summary conviction, to imprisonment for not more than three months or to a fine or to both;

(b) on conviction on indictment, to imprisonment for not more than two years or to a fine or to both,

and where the offence is concerned with any currency, any security, any gold, any goods or any other property, the court may, if they think fit so to do, order the currency, security, gold, goods or property to be forfeited.

(4) Except in the case of a body corporate convicted on indictment, the maximum fine which may be imposed for an offence punishable under this Part shall be—

(a) on summary conviction \$2,400; and

(b) on conviction on indictment \$4,800,

so, however, that (in either case) where the offence is concerned with any currency, any security, any payment, any gold, any goods or any other property, and does not consist only of a failure to give information or produce books, accounts or other documents with respect thereto when required so to do under Part 1, a larger fine may be imposed not exceeding three times the amount or value of the currency, security, payment, gold, goods or property.

2. (1) No proceedings for an offence punishable under this Part shall be instituted, except by or with the consent of the Director of Public Prosecutions or appropriate officer:

Provided that, this subparagraph shall not prevent the issue or execution of a warrant for the arrest of any person in respect of such an offence, or the remanding in custody or on bail of any person charged with such an offence.

*(Amended by Act 9 of 2011)*

(2) Proceedings against any person in respect of an offence punishable under this Part may be taken before court in Montserrat having jurisdiction in the place whereat the person is for the time being.

(3) Any proceeding under a law establishing summary jurisdiction which may be taken against any person in respect of any offence punishable under this Part may, notwithstanding anything to the contrary in that law, be taken at any time within twelve months from the date of the commission of the offence or within three months from the date on which evidence sufficient in the opinion of the Exchange Controller to justify the proceedings come to the knowledge of the Exchange Controller whichever period last expires, or, where the person in question was outside Montserrat at the date last-mentioned, within twelve months from the date on which he first arrives in Montserrat thereafter.

(4) For the purposes of this paragraph a certificate of the Exchange Controller as to the date on which such evidence as aforesaid came to the knowledge of the Exchange Controller shall be conclusive evidence thereof.

3. The maximum period of imprisonment that may be imposed by a court of summary jurisdiction in Montserrat—

- (a) in respect of the non-payment of a sum adjudged to be paid by a conviction for an offence punishable under this Part; or
- (b) in respect of the default of a sufficient distress to satisfy any such sum,

shall, in cases where the sum exceeds \$96, be increased in accordance with the following scale, that is to say—

<i>Where the amount of the sum adjudged to be paid by the conviction, as ascertained by the conviction—</i>	<i>The said period shall not exceed—</i>
Exceeds \$96 but does not exceed \$480.....	Four months.
Exceeds \$480 .....	Six months.

4. Where a corporation is charged, whether alone or jointly with some other person, with an indictable offence punishable under this Part, the Magistrate may, if he is of opinion that the evidence offered on the part of the prosecution is sufficient to put the accused corporation upon trial, commit the corporation for trial.

5. Where an indictment has been filed against a corporation in respect of an offence punishable as aforesaid, the corporation may, on arraignment before the High Court enter in writing by its representative a plea of guilty or not guilty, and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

6. Any indictment filed against a corporation or other document addressed to a corporation may be served upon the corporation by leaving it at, or sending it by post to, the registered office of the corporation or, if there be no such office in Montserrat, by leaving it at or sending it by post to, the corporation at any place in Montserrat at which it trades or conducts business.

7. (1) In this paragraph, the expression “**representative**”, in relation to a corporation, means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this Part authorised to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(2) A representative for the purposes of this Part need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this Part shall be admissible without further proof as *prima facie* evidence that that person has been so appointed.

### PART 3

#### IMPORT AND EXPORT

1. (1) The enactments relating to customs shall, subject to such modifications, if any, as may be prescribed to adapt them to this Act apply in relation to anything prohibited to be imported or exported by any of the provisions of Part 4 except with the permission of the Exchange Controller as they apply in relation to goods prohibited to be imported or exported by or under any of the said enactments, and any reference in the said enactments to goods shall be construed as including a reference to anything prohibited to be imported or exported by any of the provisions of the said Part 4 except with the permission of the Exchange Controller.

(2) References in this paragraph to the enactments relating to Customs shall be taken as including references to the Customs Duties and Consumption Tax Act.

2. Any declaration required to be given under Part 4 of this Act shall, for the purposes of the Customs Duties and Consumption Tax Act, be deemed to be a declaration in a matter relating to customs.

3. If anything prohibited to be exported by any provision of the said Part 4 is exported in contravention thereof, or is brought to a quay or other place, or water borne, for the purpose of being so exported, the exporter or his agent shall be liable to the same penalty as that to which a person is liable for an offence to which the Customs Duties and Consumption Tax Act, applies.

4. Without prejudice to any of the preceding provisions of this Part, any person who, on any occasion, is about to leave Montserrat or arrives in Montserrat (which person is hereafter in this paragraph referred to as “**the traveller**”) shall, if on that occasion he is required so to do by an officer of Customs or an immigration officer—

- (a) declare whether or not he has with him anything prohibited to be imported or exported by any of the provisions of the said Part 4 except with the permission of the Exchange Controller;
- (b) produce any such thing as aforesaid which he has with him,

and the officer may examine or search any article which the traveller has with him for the purpose of ascertaining whether he is conveying or has in his possession any such thing, and, if the officer has reasonable grounds for suspecting that the traveller has about his person any such thing, search him, and may seize anything produced as aforesaid or found upon such examination or search as aforesaid as to which the officer has reasonable ground for suspecting that it is prohibited to be imported or exported by any of the provisions of the said Part 4 except with the permission of the Exchange Controller:

Provided that, no female shall be searched in pursuance of this paragraph except by a female.

5. Paragraph 1(2) of Part 2 shall apply also to offences punishable by virtue of this Part.

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**SIXTH SCHEDULE**

*(Section 38)*

**RETENTION OF DEFENCE (FINANCE) REGULATIONS**

**Power to Governor to prohibit action on certain orders as to gold, etc.**

5. Where the Governor is satisfied that owing to the changes in the external or internal position of any State, action is being or is likely to be, taken to the detriment of the economic position of Montserrat the Governor may give general or special directions prohibiting, either absolutely or to such extent as may be specified in the directions, the carrying out, except with permission granted by or on behalf of the Governor, of any order given by or on behalf of—

- (a) the State or the Sovereign thereof or any person resident therein; or
- (b) any body corporate which is incorporated under the laws of that State or is under the control of that State or the Sovereign thereof or any person resident therein,

in so far as the order—

- (i) requires the person to whom the order is given to make any payment or to part with any gold or securities; or
- (ii) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities are to be held.

**Power to obtain information**

22. (1) The Governor may give to any person directions requiring him, within such time and in such manner as may be specified in the directions to furnish to him or to any person designated in the directions as a person authorised to require it, any information in his possession or control which the Governor or the person so authorised, as the case may be, may require for the purpose of securing compliance with or detecting evasion of these Regulations.

(2) A person required by any such directions as aforesaid to furnish information shall produce such books, accounts or other documents (hereinafter referred to as “**documents**”) in his possession or control as may be required by the Governor or by the person authorised to require the information, as the case may be, and for the purpose of inspecting any such documents any person so authorised as aforesaid, or any person authorised to act on behalf of the Governor under this paragraph, may enter any premises and may take possession of any of the documents or take in relation thereto any other steps which appear to him necessary for preserving them and preventing interference therewith.

(3) No person shall, with intent to evade the provisions of these Regulations, destroy, mutilate, deface, secrete or remove any documents.

(4) Any information given by a person in compliance with this Regulation may be given in evidence against him notwithstanding that it may tend to incriminate him.

(5) The provisions of this Regulation shall be without prejudice to any other provisions of these Regulations relating to the giving of information, provisions of the last foregoing paragraph shall be without prejudice to any question as to the admissibility as evidence of information obtained under statutory powers in the absence of any such express provision.

(6) The Governor may, to such extent and subject to such restrictions as he thinks proper, delegate his powers under this Regulation to any person or class or description of persons approved by him.

### **Application of certain provisions of the Defence Regulations**

23. The provisions of Part 8 of the Defence Regulations shall apply for the purpose of the enforcement of these Regulations, and otherwise in relation thereto, as if in the said Part 8 to those Regulations any reference to those Regulations included a reference to these Regulations.

### **Interpretation**

25. (1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“**bank notes**” means bank notes or notes which are legal tender in Montserrat or in the United Kingdom or in any part thereof and bank notes legally issued in Montserrat and includes any bank notes which have ceased or cease to be legal tender in the United Kingdom;

“**foreign currency**” means any currency other than sterling;

“**gold**” means gold coin or gold bullion;

“**legal tender**” means a tender of payment of money in the case of currency notes and silver coins for the payment of any amount, in the case of bronze coins for a payment of an amount not exceeding 24 cents;

“**owner**”, in relation to any security, includes any person who has power to sell or transfer a security, or who has the custody thereof, or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon or who has any other interest therein, and also includes, in a case where securities are held on any trust, or dividends or interest thereon are paid into a trust fund, any trustee or any person entitled to enforce the performance of the trust, or to revoke or vary, with or without the consent of any other person, the trust or any of the terms thereof, or to control the investment of the trust moneys;

“**security**” except in so far as is otherwise expressly provided, includes—

- (a) shares, stocks, bonds, notes, debentures, and debenture stock;
- (b) a deposit receipt in respect of the deposit of securities;
- (c) a unit or sub-unit of a unit trust;
- (d) a life assurance policy or other contract entered into with an assurance company for securing the payment in the future of any capital sum or sums or of an annuity;



(e) a warrant conferring an option to acquire a security;

(f) a share in an oil royalty,

but does not include a bill of exchange or a promissory note;

**“silver and bronze coins”** means coins issued by the Mint in accordance with the Coinage Act, 1870 (Imperial) (33 & 34 Vict. c. 10);

**“sterling area”** means the United Kingdom, the Isle of Man, and such other territories as may be declared by order of the Governor to be included in the sterling area.

(2) Any consent or permission granted by or on behalf of the Governor under any of these Regulations may be granted either absolutely or subject to conditions.

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**AUTHORISED DEALERS ORDER – SECTION 2**  
(*S.R.O.s 45/1958, 2/1972, 10/1982 and 7/1988*)

**Commencement**

[10 December 1958]

**Short title**

1. This Order may be cited as the Authorised Dealers Order.

**Authorised dealers specified**

2. The persons specified in the Schedule are authorised to act for the purposes of the Exchange Control Act, as authorised dealers in relation to gold and foreign currency.

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**SCHEDULE**

The Branches in Montserrat of—

- The Royal Bank of Canada.
  - Barclays Bank International Limited.
  - Chase Manhattan Bank National Association.
  - First American Bank Ltd.
  - The Bank of Montserrat Ltd.
-



**PRESCRIBED COURTS ORDER – SECTION 2**

*(S.R.O. 58/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Prescribed Courts Order.

**Prescribed Courts**

2. The courts prescribed for the purposes of paragraph 4 of the Fourth Schedule to the Exchange Control Act, are the courts set out in the Schedule to this Order.

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**SCHEDULE**

The Eastern Caribbean Supreme Court.

Magistrate's Court.

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**DECLARATIONS AND EVIDENCE ORDER – SECTIONS 2, 11 AND 15**

*(S.R.O. 48/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Declarations and Evidence Order.

**Prescribed declaration deliverable to transferee**

2. The prescribed declaration for the purposes of section 11(1)(b) of the Exchange Control Act, to be delivered to the transferee at or before the time of the transfer is a declaration in the form set out in the First Schedule or in a form to the like effect made by a person specified in the Second Schedule.

**Prescribed evidence to be produced to person keeping register**

3. The prescribed evidence for the purposes of section 15(a) of the Exchange Control Act, to be produced to a person concerned with the keeping of a register in Montserrat is—

- (a) in the case of the issue of securities, the evidence prescribed by the Evidence Order;
- (b) in the case of transfer of securities, the declaration prescribed by paragraph 2 and evidence given by a declaration in writing signed by a person specified in the Second Schedule that the transferee is not resident outside the scheduled territories and, from facts known to the person giving the evidence or from inquiries made by that person is not, to the best of his belief, acquiring the security as the nominee of any person resident outside the scheduled territories; and
- (c) in the case of registration of securities transferable by means of bearer certificates the evidence prescribed by the Evidence Order, given by the declaration in writing signed by a person specified in the Second Schedule.

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**FIRST SCHEDULE**

The holder of the abovementioned security is not resident outside the scheduled territories and from facts known to us or from inquiries we have made, is not to the best of our belief holding the security as the nominee of a person resident outside those territories.

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**SECOND SCHEDULE**

Managers of banks authorised in that behalf in writing by the Accountant General.

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**EVIDENCE ORDER – SECTIONS 2 AND 10**

*(S.R.O. 49/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Evidence Order.

**Evidence to be produced to person issuing Security prescribed**

2. (1) The prescribed evidence for the purpose of paragraph of section 10(1)(b) of the Exchange Control Act, to be produced to the person issuing the security, is evidence that the person to whom the security is to be issued is not resident outside the scheduled territories and from facts known to the person giving the evidence or from inquiries made by that person is not, to the best of his belief, acquiring the security as the nominee of any person resident outside the scheduled territories.

(2) The evidence shall be given by a declaration in writing signed by or on behalf of the person to whom the security is to be issued.

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**SPECIFIED CURRENCY ORDER – SECTION 4**

*(S.R.O. 53/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Exchange Control (Specified Currency) Order.

**Foreign currency specified**

2. The foreign currency set out in the Schedule is hereby specified as foreign currency to which section 4 of the Exchange Control Act applies.

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**SCHEDULE**

Argentine Pesos.  
Belgian Francs.  
Bolivian Bolivianos.  
Brazilian Cruzeiros.  
Canadian Dollars.  
Chilean Pesos.  
Colombian Pesos.  
Costa Rican Colons.  
French Francs.  
Ecuadorian Sucres.  
German Deutsche Marks.  
Guatemalan Quetzals.  
Haitian Gourdes.  
Honduranian Lempiras.  
Italian Lire.  
Luxembourg Francs.  
Mexican Pesos.  
Florins (Guilders) of the Netherlands, and the Netherlands Antilles.  
Nicaraguan Cordobas.  
Norwegian Kroners.  
Panamanian Balbaos.  
Paraguayan Guaranis.  
Peruvian Sols.  
Portuguese Escudos.  
Spanish Pesetas.  
Swedish Krona.  
Swiss Francs.  
Syrian Pounds.  
United States Dollars.  
Uruguayan Pesos.  
Venezuelan Bolivars.

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**PAYMENTS ORDER – SECTIONS 7 AND 25**

*(S.R.O. 57/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Payments Order.

**Interpretation**

2. In this Order—

- (a) **“account”** means an account in sterling or other scheduled territory currency with a banker in Montserrat;
- (b) **“Belgian Monetary Area”** means Belgium, Luxembourg, the Belgian Congo, the Trust Territory of Ruanda-Urundi;
- (c) **“Egyptian Account”** means an account of a person resident in the Egyptian Monetary Area which is for the time being recognized by the Accountant General as an Egyptian Account for the purposes of this Order;
- (d) **“Egyptian Monetary Area”** means the territory comprised in Egypt and that area of the former territory of Palestine at present administered by Egypt;
- (e) **“French Franc Area”** means Metropolitan France (including Corsica), the Principality of Monaco, the Saar Territory, the French Overseas Departments (Algeria, Guadeloupe, Martinique, French Guiana, Reunion), the Protectorates of Morocco and Tunisia, French West Africa, French Equatorial Africa, the French Trust Territories of Cameroon and Togo, Madagascar and its dependencies, Comoro Islands, St. Pierre and Miquelon, the Associated States of Cambodia, Laos and Vietnam, New Caledonia and its dependencies, French Establishments in Oceania, Condominium of the New Hebrides;
- (f) **“Italian Monetary Area”** means the Italian Republic, the Republic of San Marino, the territory of Somaliland under Italian Administration and that portion of the former Free Territory of Trieste now under Italian Administration;
- (g) **“Netherlands Monetary Area”** means the Netherlands, the Republic of Indonesia, the Netherlands New Guinea, Surinam, the Netherlands Antilles;
- (h) **“No. 2 Account of a bank in the Egyptian Monetary Area”** means an account which is for the time being recognized by the Treasurer as a No. 2 Account of a bank in the Egyptian Monetary Area for the purposes of this Order;

- (i) **“Portuguese Monetary Area”** means Portugal and the Portuguese Empire;
- (j) **“registered account”** means a sterling account maintained in the United Kingdom which is for the time being recognized by the Accountant General as a Registered Account for the purposes of this Order;
- (k) **“scheduled territories”** has the meaning ascribed to it by section 3 of the Exchange Control Act;
- (l) **“transferable account”** means any sterling account which is for the time being recognized by the Accountant General for the purposes of this Order as a transferable account of a person resident in a transferable account territory;
- (m) **“transferable account territory”** means any territory which is outside the scheduled territories and is not a territory specified in the First Schedule;
- (n) **“Western Zones of Germany”** means the Federal Republic of Germany and the French, British and United States Sectors of Berlin.

### **Exemptions in cases of payments in Montserrat by residents**

3. There shall be exempted from the provisions of section 7 of the Exchange Control Act, anything done for the purposes of the transfer of the whole or any part of an amount standing to the credit of—

- (a) an account of a person resident outside the scheduled territories, being a transfer to or to the account of a person resident in the scheduled territories;
- (b) a transferable account or other scheduled territory currency account of a person resident in a transferable account territory, being a transfer to another transferable account or other scheduled territory currency account of a person resident in a transferable account territory;
- (c) an account of a person resident in any territory specified in the First Schedule, being a transfer to another account of a person resident in any territory specified in the said Schedule or a transfer to a transferable account or other scheduled territory currency account of a person resident in a transferable account territory.

### **Exemptions in cases of payments in Montserrat by non-residents**

4. There shall be exempted from the provisions of section 7 of the Exchange Control Act, any payment made in cash in Montserrat to a person resident outside the scheduled territories—

- (a) by a person resident outside the scheduled territories if that payment is made out of—

- (i) any notes of a class which are or have at any time been legal tender in Montserrat or any part of Montserrat and which have been legally imported into Montserrat; or
  - (ii) any moneys withdrawn from an account in favour of that person with a banker in Montserrat; or
  - (iii) any moneys arising from the sale of gold or foreign currency by that person to an authorised dealer; or
  - (iv) any foreign currency which has been legally imported into Montserrat provided that, the payment is not made as consideration for or in association with the receipt by any person of the currency of a scheduled territory;
- (b) by a person resident in the scheduled territories if that payment—
- (i) does not exceed £10 sterling in value; and
  - (ii) does not form part of a transaction or series of transactions wherein the aggregate value of the payments exceeds £10 sterling in value;
- (c) by a banker in Montserrat acting in the course of his business if that payment—
- (i) is made from moneys standing to the credit of an account in favour of that person with that banker; or
  - (ii) is in respect of the encashment by that person of a traveller's cheque or letter of credit in favour of that person.

#### **Non-Application of above exemptions**

5. The exemptions from the provisions of section 7 of the Exchange Control Act, granted by this Order, shall not apply in relation to the transfer of the whole or any part of an amount, or a payment made in cash from moneys, standing to the credit of—

- (a) an Egyptian Account; or
- (b) a No. 2 Account of a bank in the Egyptian Monetary Area.

#### **Territories and payments under section 25 prescribed**

6. (1) Section 25 of the Exchange Control Act, shall apply to territories outside the scheduled territories.

(2) The prescribed manners of payment for the purpose of the said section 25 in relation to goods exported to a destination in any of the said territories are the manners specified in relation to those territories respectively in the second column of the Second Schedule.

**FIRST SCHEDULE**

*(Paragraph 2(e))*

1. Canada.

2. The United States of America, and any territory under the sovereignty of the United States of America, Pacific Islands formerly under Japanese administration but now under United States administration; the Philippine Islands, Bolivia, Colombia, Costa Rica, Cuba, the Dominican Republic, Ecuador, Guatemala, Haiti, Republic of Honduras, Liberia, Mexico, Nicaragua, Panama, El Salvador and Venezuela.

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**SECOND SCHEDULE**

*(Paragraph 6(2))*

***Description of Territories***

***Prescribed Manners of Payment***

- |   |  |
|---|--|
| 1. Austria                                  | <ul style="list-style-type: none"><li>(a) payment in sterling from a transferable account of a person resident in a transferable account territory;</li><li>(b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;</li><li>(c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;</li><li>(d) payment in sterling from a registered account;</li><li>(e) payment in Austrian schillings.</li></ul>                     |
| 2. Belgian Monetary Area                    | <ul style="list-style-type: none"><li>(a) payment in sterling from a transferable account of a person resident in a transferable account territory;</li><li>(b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;</li><li>(c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;</li><li>(d) payment in sterling from a registered account;</li><li>(e) payment in Belgian, Luxembourg or Congolese francs.</li></ul> |
| 3. Denmark, the Faroe Islands and Greenland | <ul style="list-style-type: none"><li>(a) payment in sterling from a transferable account of a person resident in a transferable account territory;</li></ul>  |

- (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) Payment in Danish or Faroese kroner.
- 4. French Franc Area
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in the currency of any of the territories comprised in the French Franc Area.
- 5. French Somali Coast
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;



- (d) payment in sterling from a registered account;
        - (e) payment in Djibouti francs.
- 6. Italian Monetary Area
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in Italian lire.
- 7. Netherlands Monetary Area
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in guilders of the Netherlands, Surinam or the Netherlands Antilles.
- 8. Norway
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;

- (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in Norwegian kroner.
- 9. Portuguese Monetary Area
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in Portuguese escudos.
- 10. Sweden
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in Swedish kroner.

11. Switzerland and Liechtenstein
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in Swiss francs.
12. The Western Zones of Germany
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;
  - (d) payment in sterling from a registered account;
  - (e) payment in Deutsche marks.
13. All other Transferable Account Territories
  - (a) payment in sterling from a transferable account of a person resident in a transferable account territory;
  - (b) payment in sterling from an account of a person resident in any territory specified in the First Schedule;
  - (c) payment in any other currency of a scheduled territory from an account of a person resident in a transferable account territory or in any territory specified in the First Schedule;

- (d) payment in sterling from a registered account.
14. The territories specified in the First Schedule
- (a) payment in sterling or any other currency of a scheduled territory from an account of a person resident in any territory specified in the First Schedule;
- (b) payment in sterling from a registered account;
- (c) payment in Canadian dollars;
- (d) payment in United States dollars.
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**PRESCRIBED SECURITIES ORDER – SECTION 19**

*(S.R.O. 52/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

**1.** This Order may be cited as the Exchange Control (Prescribed Securities) Order.

**Securities prescribed for purposes of section 19**

**2.** Section 19 of the Exchange Control Act shall apply to securities on which capital moneys, dividends or interest are payable in Canadian dollars or United States dollars, or as respects which the holder has an option to require payment of any capital moneys, dividends or interests thereon in any of those currencies.

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**TEMPORARY VISITORS (EXEMPTION) ORDER – SECTION 33**

*(S.R.O. 54/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Temporary Visitors (Exemption) Order.

**Exemption of non-residents from surrender of gold and foreign currency**

2. There shall be exempted from the obligation imposed by the provisions of section 4 of the Exchange Control Act, any person in Montserrat who is not resident in Montserrat.

**Power to remove exemption**

3. The Accountant General may at any time direct that the exemption conferred by this Order shall not apply to such person as may be specified in the direction.
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**LENDING TO BANKS (EXEMPTION) ORDER – SECTION 33**

*(S.R.O. 51/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Lending to Banks (Exemption) Order.

**Exemption on loans to banks**

2. There shall be exempted from the provisions of section 32(3) of the Exchange Control Act, the lending of any money or securities by any person resident in Montserrat to any office or branch in Montserrat of a Bank which is by any means controlled (whether directly or indirectly) by persons resident outside the scheduled territories.
-



**IMPORT AND EXPORT ORDER – SECTION 33**

*(S.R.O. 50/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Import and Export Order.

**Exemption from restrictions on importation of notes and securities**

2. There shall be exempted from the provisions of section 23 of the Exchange Control Act, the importation into Montserrat—

- (a) on the person of, or in the baggage of, a traveller to Montserrat in any ship or aircraft from some place outside Montserrat, of bank notes legally issued in Montserrat, notes which are legal tender in Montserrat and bank notes which are legal tender in the United Kingdom or in any part thereof;
- (b) of the certificate of title to any security which is registered in the scheduled territories and is not and cannot, without the necessity for an entry in the register in the scheduled territories, become registered outside the scheduled territories, or is registered both in the scheduled territories and outside the scheduled territories but on a transfer cannot, without the necessity for an entry in the register in the scheduled territories, become registered outside the scheduled territories in the name of the transferee and on which none of the dividends or interest is payable on presentment of a coupon.

**Exemption from restrictions on exportation of notes and securities**

3. There shall be exempted from the provisions of section 24 of the Exchange Control Act, the exportation from Montserrat—

- (a) by any traveller on his person or in his baggage, if he is about to leave Montserrat, of bank notes legally issued in Montserrat and notes which are legal tender in Montserrat to an amount not exceeding ten pounds sterling in value, and in addition thereto, bank notes which are legal tender in the United Kingdom or in any part thereof and foreign currency notes to such amount that the sum of such notes does not exceed in total £25 sterling in value or the amount brought by such person into Montserrat whichever is the greater:

Provided that—

- (i) if and so long as there is in force a permission granted under section 24(1) of the Exchange Control Act, authorizing that person to take any notes to which the said section 24 applies, out of Montserrat, he shall not be entitled to any exemption;

- (ii) nothing in this sub-paragraph shall be deemed to authorise the contravention of any of the provisions of section 3 of the Exchange Control Act, which relates to dealings in gold and foreign currency or section 8 of the said Act which relates to payments outside Montserrat;
- (b) in any manner other than on the person of a traveller or in a traveller's baggage, to any of the scheduled territories except the United Kingdom, of notes to any amount expressed in the currency of the territory to which the notes are exported;
- (c) in any manner other than on the person of a traveller, or in a traveller's baggage, to any of the scheduled territories, of postal orders;
- (d) to any of the scheduled territories, of any policy of assurance expressed in the terms of currency of any of the scheduled territories;
- (e) of any bill of exchange or promissory note expressed in terms of the currency of any of the scheduled territories not being a bill or note which is or has at any time been legal tender in any of those territories;
- (f) of any bill of exchange or promissory note expressed in terms of a currency other than sterling and issued by an authorised dealer or in pursuance of a permission granted by the Accountant General;
- (g) of the certificate of title to any security which is registered in the scheduled territories and is not and cannot, without the necessity of an entry in the register in the scheduled territories, become registered outside the scheduled territories or is registered both in the scheduled territories and outside the scheduled territories but on a transfer cannot without the necessity for an entry in the register in the scheduled territories become registered outside the scheduled territories in the name of the transferee and on which none of the dividends or interest is payable on presentment of a coupon;
- (h) by any traveller not resident in Montserrat on his person or in his baggage, of any traveller's cheque or letter of credit which has been imported by that traveller.

#### **Calculation of sterling value of notes**

4. For the purpose of the last foregoing paragraph the sterling value of notes which are or have at any time been legal tender in any territory other than the United Kingdom shall be calculated—

- (a) at the Bank of England's selling rates for the relative notes on the day in question, or if there is no such selling rate;
- (b) at the current market rate, or, if there is neither a selling rate nor a market rate;
- (c) at a rate determined or to be determined by the Accountant General for the currency concerned.

**Non-Application of above exemptions**

5. The exemptions granted by this Order shall not apply to—
- (a) a person employed or engaged in any capacity on board any ship or aircraft arriving in or departing from Montserrat; or
  - (b) any person described in the Schedule when travelling on official duty.

**Definition of “scheduled territories”**

6. In this Order the expression “**scheduled territories**” has the meaning ascribed to it by section 3 of the Exchange Control Act.

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**SCHEDULE**

1. Male person serving in the Armed Forces of the Crown.
  2. Female person serving in any of the capacities hereinafter mentioned, that is to say—
    - (a) member of Queen Alexandra’s Royal Naval Nursing Service or any reserve thereof;
    - (b) member of the Women’s Royal Naval Service;
    - (c) woman medical or dental practitioner serving in the Royal Navy or any naval reserve;
    - (d) member of Queen Alexandra’s Imperial Military Nursing Service or any reserve thereof;
    - (e) member of the Territorial Army Nursing Service or any reserve thereof;
    - (f) member of the Auxiliary Territorial Service;
    - (g) woman employed with the Royal Army Medical Corps or the Army Dental Corps with relative rank as an officer;
    - (h) member of Princess Mary’s Royal Air Force Nursing Service or any reserve thereof;
    - (i) member of the Women’s Auxiliary Air Force;
    - (j) woman employed with the Medical Branch or the Dental Branch of the Royal Air Force with relative rank as an officer;
    - (k) member of the Voluntary Aid Detachments employed under the Admiralty Army Council or Air Council.
-



**BAILEES EXEMPTION ORDER – SECTION 33**

*(S.R.O. 46/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Bailees Exemption Order.

**Exemption of Bailee Bankers**

2. There shall be exempted from the obligation imposed by the provisions of section 5 of the Exchange Control Act, any Banker to the extent that he shall not be required to notify to the Accountant General as provided in the said section 5 in any case where he is satisfied that the person for whom or by whose order any gold or specified currency in the form of notes is held is not required by virtue of the provisions of section 4 of the Exchange Control Act, to offer that gold or specified currency or cause it to be offered for sale to an authorised dealer.

**Power to remove exemption**

3. The Accountant General may at any time direct that the exemption conferred by this Order shall not apply as may be specified in the direction.

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**TRANSITIONAL PROVISIONS ORDER – SECTION 38**

*(S.R.O. 55/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Transitional Provisions Order.

**Continuance of existing directions, permissions, etc.**

2. Subject to the provisions of this Order any direction, permission or consent given or granted by the Governor under any regulation of the Defence (Finance) Regulations, which could have been so given or granted under the corresponding provision of the Exchange Control Act, and which is not superseded by any order, direction, permission, consent or authority made, given or granted by the Governor under that Act shall have effect as if it had been given or granted under the corresponding provision of that Act.

**Continuance of provisions as to blocked accounts**

3. The provisions of the Third Schedule to the Exchange Control Act (which relates to blocked accounts) shall have effect in relation to any sum standing to the credit of an account which is a blocked account as defined in the Defence (Finance) Regulations, as if the Accountant General had given a direction under section 34 of that Act that the sum should be credited to a blocked account only.

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**SUSPENSION OF PROVISIONS ORDER— SECTION 39**

*(Amended by S.R.O. 27/2004)*

**Commencement**

*[22 July 2004]*

**Short title**

1. This Order may be cited as the Suspension of Provisions Order.

**Interpretation**

2. In this Order—

“**Act**” means the Exchange Control Act;

“**capital account transaction**” includes the buying and selling of a foreign security, the acquisition abroad of an asset of a non-consumable nature and the transfer abroad of funds or any other asset;

“**current account transaction**” includes the buying and selling of a good, payment or receipt of payment for services and payment or receipt of income, whether derived from employment, profit, interests, rent or any other legitimate source.

**Suspension of provisions**

3. (1) The provisions of the Act listed in the Schedule are suspended generally.  
(2) All other Rules, Orders or Statutory Instruments made under any of the provisions listed in the Schedule shall be deemed to be suspended.

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**SCHEDULE**

Sections 4–23  
Section 24(1)(b)(d)(e)  
Sections 25–28  
Sections 30–31  
Section 32(1)(2)  
Section 34  
Third Schedule

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**BRANCHES ORDER – SECTION 42**

*(S.R.O. 47/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Branches Order.

**Application of Act to branch businesses**

2. For the purposes of the Exchange Control Act, any transaction with or by a branch of any business whether carried on by a body corporate or otherwise shall be treated in all respects as if the branch were a body corporate resident where the branch is situated.

**Branch businesses in Montserrat deemed resident**

3. A person or body of persons carrying on in Montserrat a branch of any business, shall, as respects such business as is carried on by that branch, be treated for all the purposes of the Act as resident in Montserrat.

**Head Offices included in reference to branches**

4. Reference in this Order to a branch of a business shall be deemed to include a reference to the head office of that business.

**Power to vary Order**

5. This Order may be varied by subsequent Orders as respects any particular person or body of persons.

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**DETERMINATION OF RESIDENCE ORDER – SECTION 44(2)**

*(S.R.O. 56/1958)*

**Commencement**

*[10 December 1958]*

**Short title**

1. This Order may be cited as the Determination of Residence Order.

**Determination of residence**

2. A person or body of persons (whether corporate or unincorporate) carrying on any business or any activity, whether for the purpose of profit or not, in two or more countries, shall as respects such business or activity as is carried on in each country, be treated for all the purposes of the Exchange Control Act, as resident in the country in which the business or activity is carried on.

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