



MONTSERRAT

## **CHAPTER 6.04**

# **GOLDEN YEARS FOUNDATION (CARE OF THE ELDERLY) ACT**

### **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—

### **GOLDEN YEARS FOUNDATION (CARE OF THE ELDERLY) ACT**

Act 10 of 1997 .. in force 15 December 1997

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

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(CARE OF THE ELDERLY) ACT**

**ARRANGEMENT OF SECTIONS**

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SCHEDULE



## CHAPTER 6.04

### GOLDEN YEARS FOUNDATION (CARE OF THE ELDERLY) ACT

*(Acts 10 of 1997 and 9 of 2011)*

AN ACT TO ESTABLISH A FOUNDATION FOR THE CARE OF THE ELDERLY AND DISABLED AND FOR MATTERS INCIDENTAL THERETO.

#### Commencement

*[15 December 1997]*

#### Short title

1. This Act may be cited as the Golden Years Foundation (Care of the Elderly) Act.

#### Interpretation

2. In this Act unless the context otherwise requires—

“care”, used in relation to elderly and disabled persons, means to provide physical care and to cater to the educational, spiritual and recreational needs of such persons;

“Committee” means the Executive Committee of the Foundation;

“Foundation” means the Golden Years Foundation for the Care of the Elderly established by this Act;

“Minister” means the Minister responsible for Social Services.

#### Foundation for Care of the Elderly

3. (1) There is hereby established a body to be called the Golden Years Foundation for the Care of the Elderly, having the objects and powers hereinafter conferred.

(2) The Foundation shall be a body corporate with perpetual succession and a common seal and shall be composed and administered in accordance with the provisions of this Act.

#### Objects of the Foundation

4. The Foundation shall be a charitable organisation, established to alleviate the condition of the elderly and disabled, and shall, within the limits of its resources initiate, implement and administer programmes for the care of elderly and disabled persons who may require the services of the Foundation.

## Constitution of the Foundation

5. The provisions of the Schedule shall have effect with respect to the constitution and proceedings of the Foundation.

## Powers

6. (1) The Foundation shall have power to do all things reasonably necessary or incidental to the carrying out of the objects for which it is established.

(2) Without prejudice to the generality of subsection (1) the Foundation may—

- (a) provide funds, with or without conditions for the establishment, management and maintenance of persons or organisations concerned with the care of the elderly and disabled;
- (b) raise money, by any lawful means, for the furtherance of the objects of the Foundation;
- (c) hold shares, debenture stock or other securities in any company;
- (d) employ such numbers of persons as may be necessary for the effective implementation of the programs of the Foundation;
- (e) promote, by way of advertising or otherwise the services and products of the Foundation;
- (f) enter into such arrangements with organisations or authorities whether within or outside of Montserrat, as may appear to the Foundation to be conducive to the objects of the Foundation.

## Common Seal

7. (1) The Seal of the Foundation shall—

- (a) be kept in the custody of the Secretary and may be affixed to instruments pursuant to a resolution of the Foundation and in the presence of the Chairman and the Secretary; and
- (b) be authenticated by the signature of the Chairman and of the Secretary.

(2) All deeds, instruments, contracts and other documents, other than those required by law to be under seal may be signified under the hand of the Chairman.

## Liability

8. The property of the Foundation shall be alone subject and liable to any charge, demand or judgement against the Foundation and no subscriber



or contributor to the capital or fund of the Foundation shall be liable for or charged with the payment of any debt or demand due from the Foundation.

### **Income**

**9. (1)** The income of the Foundation shall consist of—

- (a) such funds as may from time to time be appropriated for this purpose by the Legislative Assembly; (*Amended by Act 9 of 2011*)
- (b) gifts and contributions as may from time to time be given to the Foundation;
- (c) funds raised by the Foundation for the furtherance of its objects;
- (d) subscriptions of members to the Fund of the Foundation; and
- (e) all other sums that may become payable to or vested in the Foundation in respect of any matter incidental to its powers and duties.

**(2)** The income of the Foundation shall be paid into and placed to the credit of the Foundation in an account at such bank or banks as the Committee may determine.

### **Investment**

**10.** Any financial investment made by the Foundation shall be with the approval of, and in such manner as the Committee may direct.

### **Borrowing**

**11.** The power of the Foundation to borrow shall not be exercised unless a proposal in writing, showing—

- (a) the amount and particulars of the proposed loan;
- (b) the purpose of the loan; and
- (c) the manner in which the loan is to be repaid,

is first submitted to the Committee for approval and verified by the general membership of the Foundation.

### **Accounts and Audit**

**12. (1)** The Foundation shall keep proper accounts in respect of each financial year.

**(2)** The accounts of the Foundation shall be audited in each financial year by an auditor approved by the Executive Committee.

**(3)** The Auditor approved under subsection (2) shall, not later than three months after the accounts have been submitted for audit send to the

Chairman of the Executive Committee an audited statement of accounts and an auditor's report in respect of the accounts.

(4) The Executive Committee shall submit a report to the Annual General Meeting containing—

- (a) a statement of the audited accounts and report submitted under subsection (3);
- (b) an account of the activities of the Foundation during the preceding financial year; and
- (c) a copy of the audited accounts and reports shall be submitted to the Minister of Social Services.

### **Minister may require information**

13. Notwithstanding section 12 the Foundation shall furnish the Minister with such returns, accounts or other information as he may require, with respect to the property and activities of the Foundation and shall afford him facility for verifying such information in such manner and at such times as he may reasonably require.

### **Exemption**

14. The Foundation shall be exempt from—

- (a) stamp duty under the provisions of the Stamp Act on instruments drawn, made or executed by or on behalf of the Foundation;
- (b) registration fees and transfer fees under the provisions of the Stamp Act where such fees are payable by the Foundation;
- (c) the payment of income tax and the other requirements of the Income and Corporation Tax Act.

### **Amendment of Schedule**

15. The Governor acting on the advice of Cabinet may by Order amend the Schedule. (*Amended by Act 9 of 2011*)

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## SCHEDULE

### (Section 5)

#### Constitution of the Foundation

1. The Foundation shall consist of an Executive Committee constituted in accordance with paragraph (2), and such other members as may from time to time subscribe to the Fund of the Foundation.

#### Executive Committee

2. The Executive Committee of the Foundation shall consist of—
- (a) the Director of the Montserrat Branch of the Red Cross;
  - (b) the President of the Montserrat Old Peoples Welfare Association (OPWA);
  - (c) the Director of Social Services;
  - (d) the Chief Medical Officer;
  - (e) the Financial Secretary; and
  - (f) four other persons elected at the annual general meeting of the Foundation.

#### Chairman and Secretary

3. The Chairman shall be elected by the Executive Committee from among the Members of the Executive Committee. The Secretary shall be appointed by the Chairman from among the Members of the Foundation.

#### Meetings

4. (1) The Foundation shall hold an Annual General Meeting once in each year and such other special meetings as may be necessary for the transaction of its business.

(2) The Executive Committee shall meet at such times as it considers necessary or expedient for the transaction of its business.

(3) The Chairman may at any time call a special meeting of the Committee and shall call a special meeting within seven days of a requisition for that purpose addressed to him by at least three Members of the Executive Committee.

(4) The quorum for a meeting of the Committee shall be four members, and the decision of the Committee in relation to any question shall be determined by a majority of the members present. In the event that the quorum is not reached, the Chairman is authorised to convene a meeting within seven days at the same time, same venue and those in attendance will constitute a quorum.

**Administration**

5. (1) The Annual General Meeting of the Foundation may from time to time make regulations for the effective administration and good government of the Foundation.

(2) Subject to the provisions of this Schedule the Executive Committee may make rules to regulate its own proceedings.

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