

MONTSERRAT
STATUTORY RULES AND ORDERS
S.R.O. 89 OF 2020

BANKING (ABANDONED PROPERTY) REGULATIONS 2020

ARRANGEMENT OF REGULATIONS

1.	Citation.....	2
2.	Interpretation	2
3.	Publication of Abandoned Property	2
4.	Report on Abandoned Property	3
5.	Submission of Abandoned Property.....	4
6.	Submission of Contents of a Safe Deposit Box.....	4
7.	Sale of Contents of a Safe Deposit Box	4
8.	Deduction of Expenses.....	5
9.	Handling of proceeds from Sale of Contents of a Safe Deposit Box	5
10.	Unsold Abandoned Property	5
11.	Claim on Abandoned Property	6
12.	Claim on Safe Deposit Box Contents	7
13.	Settlement of Claims	8
14.	Retention of Customer Records	9
15.	Prohibited Items	9
16.	Forms	9
17.	Repeal.....	10
	SCHEDULE 1.....	11



Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

MONTSERRAT
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S.R.O. 89 OF 2020

BANKING
(ABANDONED PROPERTY) REGULATIONS 2020

THE BANKING (ABANDONED PROPERTY) REGULATIONS 2020 MADE BY THE GOVERNOR ACTING ON THE ADVICE OF CABINET UPON THE RECOMMENDATION OF THE CENTRAL BANK, UNDER SECTION 168 OF THE BANKING ACT NO 15 OF 2015.

1. Citation

These Regulations may be cited as the Banking (Abandoned Property) Regulations, 2020.

2. Interpretation

In these Regulations —

“**abandoned property**” means any property presumed abandoned under Part XII of the Act;

“**Act**” means the Banking Act, No 15 of 2015;

“**claimant**” means a person who makes a claim to abandoned property as the owner or a person claiming through or under the owner.

3. Publication of Abandoned Property

- (1) Subject to regulation 15, a notice issued by a licensed financial institution or licensed financial holding company under subsection 168(4) of the Act shall be—
 - (a) published in a newspaper for two consecutive weeks;
 - (b) published in one issue of the Gazette; and
 - (c) mailed to the owner at his or her last known address by registered mail.
- (2) A notice published or mailed shall include a statement to the effect that upon the expiration of the date stipulated within the notice and

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

without a claim from the owner, the abandoned property shall be paid to the Central Bank.

- (3) A licensed financial institution or licensed financial holding company shall confirm to the Central Bank that it has complied with section 168(4) within two (2) months after the end of the financial year of the licensed financial institution.
- (4) Pursuant to sub-regulation (3) a licensed financial institution or licensed financial holding company shall provide to the Central Bank, the following details regarding the publication of abandoned property—
 - (a) a copy of the gazetted notice;
 - (b) a copy of the notice published in the newspaper;
 - (c) a link to the website of the licensed financial institution or licensed financial holding company where the abandoned property has been published;
 - (d) the number of owners notified;
 - (e) the number of accounts presumed to be abandoned;
 - (f) the total value of abandoned property; and
 - (g) a copy of the template of the notice sent to owners.
- (5) Where a licensed financial institution or licensed financial holding company does not hold any abandoned property, the licensed financial institution or licensed financial holding company shall inform the Central Bank in writing.

4. Report on Abandoned Property

- (1) A licensed financial institution or licensed financial holding company shall submit the report required by subsection 168(1) of the Act electronically to the Central Bank.
- (2) A licensed financial institution or licensed financial holding company shall submit the report required by subsection 170(2) of the Act in the form set out as Form A in the Schedule.
- (3) Form A shall be completed in triplicate, one of which shall be kept by the—
 - (a) licensed financial institution;

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

- (b) Minister; and
- (c) Central Bank.

5. Submission of Abandoned Property

- (1) Subject to regulation 8 and at the time the report is made to the Central Bank pursuant to subsection 168(1) of the Act, a licensed financial institution or licensed financial holding company shall pay to the Central Bank any abandoned property.
- (2) The Central Bank shall publish the particulars of the abandoned property on its website until whichever of the following events occurs first—
 - (a) a claim is legally settled; or
 - (b) the expiration of fifteen (15) years from the date on which it was paid into the custody of the Central Bank.

6. Submission of Contents of a Safe Deposit Box

- (1) A licensed financial institution or licensed financial holding company shall deliver abandoned property in a safe deposit box together with customer details to the Minister pursuant to subsection 170(2) of the Act, along with the report referred to in sub-regulation 4(2).
- (2) The Minister shall acknowledge receipt of the abandoned property by completing and signing the designated area of the form referred to in sub-regulation 4(2).

7. Sale of Contents of a Safe Deposit Box

- (1) Prior to exercising the power to sell under section 171 of the Act, the Minister shall give to the Central Bank not less than seven (7) business days written notice.
- (2) A notice referred to in sub-regulation (1) shall include—
 - (a) the date, time and place of the sale; and
 - (b) an inventory of the property to be offered for sale.
- (3) The Minister shall publish a notice of the date, time and place of a sale in—
 - (a) a newspaper for two consecutive weeks; and
 - (b) one issue of the Gazette.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

- (4) The Minister shall execute all documents necessary to transfer ownership of sold abandoned property to the purchaser.
- (5) The Minister shall exercise the power to sell within sixty (60) days after the expiration of the period prescribed under section 171 of the Act.

8. Deduction of Expenses

- (1) A licensed financial institution or licensed financial holding company may deduct from the abandoned property all reasonable expenses properly incurred and incidental to publishing and mailing notices required by subsection 168(4) of the Act before the abandoned property is paid to the Central Bank.
- (2) Where pursuant to sub-regulation (1) a licensed financial institution or licensed financial holding company deducts expenses and the value of the abandoned property is insufficient to cover the expenses, any excess shall be borne by the licensed financial institution or licensed financial holding company.

9. Handling of proceeds from Sale of Contents of a Safe Deposit Box

- (1) The Abandoned Property Fund shall be established at the Central Bank.
- (2) The Minister shall deposit proceeds of a sale into the Abandoned Property Fund within seven (7) business days of the sale, less all reasonable expenses properly incurred and incidental to the sale.
- (3) A deposit made under sub-regulation (2) shall be accompanied with a statement in the form set out as Form B in the Schedule.
- (4) Form B shall be completed in duplicate, one of which shall be kept by the—
 - (a) Minister; and
 - (b) Central Bank.

10. Unsold Abandoned Property

- (1) The Minister shall submit to the Central Bank, within seven (7) business days of a sale, a statement of unsold abandoned property in the form set out as Form C in the Schedule.
- (2) The Minister shall submit to the Central Bank, within sixty (60) days of the sale, a statement of any unsold abandoned property the Minister intends to dispose of in the form set out as Form D in the Schedule.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

- (3) The statement submitted under sub-regulation (2) shall be accompanied with a notice of the date, time, method and location of intended disposal of the unsold abandoned property.
- (4) The Minister shall provide the Central Bank, within thirty (30) days of the disposal of unsold abandoned property, written confirmation that the unsold abandoned property has been disposed of.
- (5) Forms C and D shall be completed in duplicate, one of which shall be kept by the —
 - (a) Minister; and
 - (b) Central Bank.

11. Claim on Abandoned Property

- (1) A claimant shall make a claim for abandoned property pursuant to subsection 173(1)(a) of the Act to the licensed financial institution or licensed financial holding company where the account was established in the form set out as Form E in the Schedule.
- (2) A claim under sub-regulation (1) shall be—
 - (a) signed by the claimant;
 - (b) duly notarised by a Notary Public, Commissioner of Oaths or Justice of the Peace; and
 - (c) supported by affidavit evidence.
- (3) Upon receiving a claim under sub-regulation (1), the licensed financial institution or licensed financial holding company shall verify that the claimant legally has rights to the abandoned property.
- (4) In verifying a claim under sub-regulation (3) the licensed financial institution or licensed financial holding company shall consider—
 - (a) the names and signatures of the owner and the claimant;
 - (b) whether the account number in the claim and that associated with the abandoned property are the same;
 - (c) any documentary evidence of the address of the owner on record or of the business relationship with the licensed financial institution or licensed financial holding company;

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

- (d)* any documentary evidence of legal authorisation to claim the abandoned property if the claimant is not the owner; and
 - (e)* any other document or record that the licensed financial institution or licensed financial holding company may consider substantive to the validity of the claim and the identity of the owner and the legal authority of the claimant.
- (5)** A licensed financial institution or licensed financial holding company upon receiving a claim and after satisfying its internal requirements shall submit the claim to the Central Bank for verification before the claim is settled.
- (6)** The Central Bank shall verify a claim submitted to it by a licensed financial institution or licensed financial holding company and where a claim is verified the Central Bank shall credit the account of the licensed financial institution or licensed financial holding company and advise the licensed financial institution or licensed financial holding company to settle the claim.
- (7)** Form E shall be completed in triplicate, one of which shall be kept by the —
 - (a)* claimant;
 - (b)* licensed financial institution; and
 - (c)* Central Bank.

12. Claim on Safe Deposit Box Contents

- (1)** A claimant shall make a claim for abandoned property pursuant to subsection 173(1) *(b)* and *(c)* to the Minister in the form set out as Form F in the Schedule.
- (2)** Form F shall be completed in triplicate, one of which shall be kept by the —
 - (a)* claimant;
 - (b)* Minister; and
 - (c)* Central Bank.
- (3)** A claim under sub-regulation (1) shall be—
 - (a)* signed by the claimant;
 - (b)* duly notarised by a Notary Public, Commissioner of Oaths or Justice of the Peace; and

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

- (c) supported by affidavit evidence.
- (4) Upon receiving a claim under sub-regulation (1), the Minister shall verify that the claimant is the rightful and legal owner of the abandoned property.
- (5) In verifying a claim under sub-regulation (3) the Minister shall consider—
 - (a) the names of the owner and the claimant;
 - (b) whether the safe deposit box number in the claim and that associated with the abandoned property are the same;
 - (c) any documentary evidence of address of the owner on record or of the business relationship with the licensed financial institution or licensed financial holding company;
 - (d) any documentary evidence of legal authorisation to claim the abandoned property if the claimant is not the owner; and
 - (e) any other document or record that the Minister may consider substantive to the validity of the claim and identity of the owner and the legal authority of the claimant.
- (6) The Minister shall submit to the Central Bank quarterly records of claimed abandoned property in the form set out as Form G in the Schedule.
- (7) Form G shall be completed in duplicate, one of which shall be kept by the —
 - (a) Minister; and
 - (b) Central Bank.

13. Settlement of Claims

- (1) Where a claim is settled the licensed financial institution, licensed financial holding company or the Minister shall within two (2) business days give notice to the Central Bank that the claim has been settled in the form set out as Form H in the Schedule.
- (2) The notice under sub-regulation (1) shall include the —
 - (a) particulars of the claimed abandoned property; and
 - (b) method of payment used to settle the claim.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

- (3) Form H shall be completed in duplicate, one of which shall be kept by the—
- (a) licensed financial institution, licensed financial holding company or Minister; and
 - (b) Central Bank.

14. Retention of Customer Records

- (1) A licensed financial institution or licensed financial holding company shall maintain customer records pertaining to abandoned property paid into the custody of the Central Bank for a period of fifteen (15) years from the date of payment to Central Bank to facilitate the verification and settlement of claims under regulation 11.
- (2) The Minister shall maintain—
- (a) customer details in respect of abandoned property in safe deposit boxes to facilitate the verification and settlement of claims under regulation 12; and
 - (b) all records of the disposal of any unsold abandoned property pursuant to regulation 10.

15. Prohibited Items

- (1) For the purposes of this regulation, “prohibited item” means anything deemed controlled or illegal by an Act of Parliament.
- (2) A licensed financial institution or licensed financial holding company shall not publish a prohibited item or the particulars of a prohibited item in a notice.
- (3) Immediately upon discovery, a licensed financial institution or licensed financial holding company shall deliver any abandoned property that is a prohibited item to the relevant authority.

16. Forms

- (1) Except as may be otherwise prescribed herein, the Forms prescribed in these regulations shall be —
- (a) typewritten or printed;
 - (b) legible and suitable for photocopying; and
 - (c) produced on good quality 8.5 inches by 14.0 inches paper.
- (2) Numbers in the forms must be numerical and not in words.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

- (3) If information or an item required to be disclosed on the form does not apply it must be so indicated by the phrase “not applicable” or the abbreviation “N/A”.

17. Repeal

The Banking (Abandoned Property) Regulations 2008 (No. 23 of 2008) is repealed.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

SCHEDULE 1

Form A: *Statement of Delivery of the Contents of a Safe
Deposit Box*

Form B: *Statement of Sold Abandoned Property*

Form C: *Statement of Unsold Abandoned Property*

Form D: *Statement of Disposal of Abandoned Property*

Form E: *Claim for Abandoned Property from the ECCB*

Form F: *Claim for Abandoned Property from the Minister*

Form G: *Statement of Claimed Abandoned Property*

Form H: *Confirmation of Payment of Claim for Abandoned
Property*

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

FORM A

Statement of Delivery of the Contents of a Safe Deposit Box

(Regulation 4)

Name of Financial Institution

Minister for Finance

[Address]

Package No.	Name(s)	Last known address of Owner	Safety Deposit Box No	Date of Last Lease or Rental Payment	Description of Property

For the financial year ended [date]

To be completed by the Financial Institution

SIGNED AND DELIVERED TO)

Manager/Authorized Signatory

THE MINISTER FOR FINANCE)

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

Manager/Authorized Signatory

Date

To be completed by the Minister of State

SIGNED AND DELIVERED FROM)
THE FINANCIAL INSTITUTION)

Minister/Appointed Trustee

Authorized Signatory

Date

Note: Form to be completed in triplicate

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

FORM B

Statement of Sold Abandoned Property

Governor

ECCB

Package No.	Name(s) of Purchaser	Name(s) of Previous Owner	Safety Deposit Box No	Name of Financial Institution	Date of auction	Value EC\$	
						Gross	Net of authorized deductions

Minister for Finance/Appointed Trustee

Authorized Signatory

Date

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

FORM C

Statement of Unsold Abandoned Property

Governor

ECCB

Package No.	Name(s)	Safety Deposit Box No	Name of Financial Institution	Date of auction	Description of Property	Gross Value of property EC\$

Minister for Finance/Appointed Trustee

Authorized Signatory

Date

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

FORM D

Statement of Disposal of Abandoned Property

Governor

ECCB

Package No.	Name(s)	Safety Deposit Box No	Name of Financial Institution	Description of Property	Reason for Disposal	Intended Form of Disposal	Recipient (if necessary)	Gross Value of Property EC\$

Minister for Finance/Appointed Trustee

Authorized Signatory(ECCB)

Date

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

FORM E

Claim for Abandoned Property from the ECCB

(Regulation 11)

[LICENSED FINANCIAL INSTITUTION/ HOLDING COMPANY]

Claimant Information

Name: SSN/ID

Current Address:

Telephone Email

Owner's Information

Name: SSN/ID

Address on Record

Telephone Email

Description of Abandoned Property

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

Account No.

Name of Licensed Financial Institution:

Your status as a claimant: check one box below and attached documents requested:

I am the OWNER.

Attach proof of identity and address on record (utility bill or monthly statement).

I am an HEIR of the owner.

Attach a copy of probated will AND a copy of death certificate of the owner.

I am a TRUSTEE or GUARDIAN to the owner.

Attach copies of current documents establishing guardianship or trust.

I am an EXECUTOR or ADMINISTRATOR for the owner's estate.

Attach a copy of the death certificate AND Letters of Administration.

I am an OFFICER OF A COMPANY.

Attach current documents establishing your authority to act for the company.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

__ I am a PARENT of the owner who is under age 18.

Attach a copy of the minor's birth certificate, adoption papers (if applicable).

The named Claimant hereby certifies that this claim for property presumed abandoned is valid and just, that all statements herein are true and correct, and that upon payment of this claim said Claimant will indemnify and hold harmless the [Name of Licensed Financial Institution], the Eastern Caribbean Central Bank, their Officers and Employees, from any damages, claims or losses of any kind resulting from the payment of the above described property to claimant.

CLAIMANT SIGNATURE

DATE:

NOTARY PUBLIC/COMMISSIONER OF OATHS/JUSTICE OF THE PEACE SIGNATURE

DATE:

Note: The Licensed Financial Institution reserves the right to request any additional information it deems necessary to support the validity of the claim.

ATTACH THE FOLLOWING INFORMATION

- (A). Proof of Claimant's Social Security or National Identification Number
- (B). Copies of Claimant's Driver's License or any official form of picture identification
- (C). Copies of any form of Government Issued Identification for Owner
- (D). Proof of current mailing address

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

Failure to provide your **IDENTIFICATION, SIGNATURE, or COMPLETE THE CLAIM FORM** will delay processing.

TO BE COMPLETED BY LICENSED FINANCIAL INSTITUTION

Authorized signature:

.....

Dated.....

[Position]

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

Safe Deposit Box No.

Contents:

Property Reported by:

(Name of Licensed Financial Institution)

Your status as a claimant: check one box below and attached documents requested:

I am the OWNER.

Attach proof of identity and address on record (utility bill or monthly statement).

I am an HEIR of the owner.

Attach a copy of probated will AND a copy of death certificate of the owner.

I am a TRUSTEE or GUARDIAN to the owner.

Attach copies of current documents establishing guardianship or trust.

I am an EXECUTOR or ADMINISTRATOR for the owner's estate.

Attach a copy of the death certificate AND Letters of Administration.

I am an OFFICER OF A COMPANY.

Attach current documents establishing your authority to act for the company.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

___ I am a PARENT of the owner who is under age 18.

Attach a copy of the minor's birth certificate, adoption papers (if applicable).

CLAIMANT SIGNATURE

The name Claimant hereby certifies that this claim for property presumed abandoned is valid and just, that all statements herein are true and correct, and that upon payment of this claim said Claimant will indemnify and hold harmless the [Name of Licensed Financial Institution], the Eastern Caribbean Central Bank, their Officers and Employees, from any damages, claims or losses of any kind resulting from the payment of the above described property to claimant.

CLAIMANT:

DATE:

Note: The Government reserves the right to request any additional information it deems necessary to support the validity of the claim.

ATTACH THE FOLLOWING INFORMATION

- (A). Proof of Claimant's Social Security or National Identification Number
- (B). Copies of Claimant's Driver's License or any official form of picture identification
- (C). Copies of any form of Government Issued Identification for Owner
- (D). Proof of current mailing address

Failure to provide your **IDENTIFICATION, SIGNATURE, or COMPLETE THE CLAIM FORM** will delay processing.

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

TO BE COMPLETED BY GOVERNMENT

APPROVAL OF CLAIM No:

Claimant Name:

Year Delivered to State:

Date of Last Lease Payment:

Amount less authorized deductions: EC\$

Description of Property:

Paid to:.....

Claimant

Authorized signatures:

.....

Dated.....

[Minister for Finance/Appointed Trustee]

.....

Dated

[Senior Official]

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

FORM G

Statement of Claimed of Abandoned Property

Governor

ECCB

Package No.	Name(s)	Safety Deposit Box No	Name of Financial Institution	Description of Property	Name of Claimant	Relationship of Owner to Claimant	Gross Value of Property EC\$

Minister for Finance/Appointed Trustee

Authorized Signatory

Date

Montserrat
Banking (Abandoned Property) Regulations
S.R.O. 89 of 2020

Minister/Licensed Financial Institution/Holding Company

Date:

Made this day of , 20[]

.....
MINISTER OF FINANCE

Made by the Governor acting on the advice of Cabinet this 19th day of November, 2020.

(Sgd.) Marjorie Smith
CLERK OF CABINET

Published by exhibition by the Clerk of Cabinet at the Office of the Legislature, Farara Plaza, Brades, Montserrat, MSR1110, this 23rd day of December, 2020.

(Sgd.) Marjorie Smith
CLERK OF CABINET