

MONTSE R R A T

**ELECTORAL COMMISSION BILL**

No. of 2011

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Montserrat  
Electoral Commission Bill, 2011  
No. of 2011

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**I ASSENT**

**Governor**

**DATE:**

M O N T S E R R A T

No. of 2011

**A BILL FOR**

AN ACT TO PROVIDE FOR THE COMPOSITION, FUNCTIONS OPERATION  
AND PROCEDURE OF THE ELECTORAL COMMISSION AND MATTERS  
CONNECTED THEREWITH.

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

**1. Short Title**

This Act may be cited as the Electoral Commission Act,  
2011 and shall come into force by Order of the Governor.

**2. Interpretation**

In this Act:

"**Commission**" means the Electoral Commission established by section 78 of the Constitution;

"**Constitution**" means the Montserrat Constitution Order 2010.

**3. Electoral Commission**

- (1) There shall be an Electoral Commission as prescribed by PART V of the Constitution.
- (2) The Chairman and the other members of the Commission shall be appointed by the Governor in accordance with section 78 of the Constitution.

**4. Duties of the Commission**

- (1) The Commission shall supervise elections in Montserrat in accordance with section 78 of the Constitution.
- (2) It shall be the duty of the Commission to -
  - (a) prescribe the qualification for the selection and appointment of all officers of the Commission;
  - (b) develop and design training programmes for persons appointed to be election officers, including such programmes as shall ensure that the functions of the Commission are carried out in an independent and impartial manner;
  - (c) design a continuous non-partisan voter education programme for voters;
  - (d) regulate the conduct of election officers.
- (3) The Commission shall, further to section 78(9) of the Constitution, act impartially and independently of any political or governmental influence.

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- (4) The Commission shall conduct its affairs in a transparent manner, consistent with good election management practice.
- (5) The Commission shall prepare and furnish to the Governor -
  - (a) as soon as practicable after June 30 in each year, a report on the operations of the Commission during the year that ended on March 31; and
  - (b) a copy of the statement of accounts required under section 6(2) and the auditor's report on that statement of accounts.
- (6) The Governor shall cause the reports to be laid before the Legislative Assembly within a period of three months after their receipt.

**5. Funds of the Commission**

The funds of the Commission shall consist of monies that are appropriated to it by the Legislative Assembly for the purposes of this Act.

**6. Accounts and audit**

- (1) The Commission shall cause proper accounts of all financial transactions of the Commission to be kept in a form as the Auditor-General may direct.
- (2) The Commission shall, within three months after the end of each financial year, prepare a statement of the accounts of the Commission.
- (3) The accounts required to be kept under subsection (1) and the statement of accounts required under subsection (2) shall be audited, as soon as practicable and in any case within four months after the end of each financial year, by the Auditor-General or an auditor appointed for the purpose by the Auditor-General.

**7. Appointment of staff**

- (1) The Commission shall be provided with such staff as the Deputy Governor, after consultation with the Commission, considers necessary for the efficient administration of this Act.
- (2) The administrative expenses of the Commission, including salaries, allowances and pensions payable to persons serving with the Commission, shall be charged to the Consolidated Fund.
- (3) The Commission shall prepare its annual budget proposals and submit them to the Governor who shall seek the approval of the Legislative Assembly of the budget as proposed by the Commission.

**8. Premises and supplies**

Within the funds allocated under section 5, the Commission may lease premises and acquire equipment and supplies as are necessary for the efficient operation of the Commission.

**9. Shared staff, services etc.**

Notwithstanding any provision of this Act, the Commission may share staff, services, equipment and supplies with any other Government entity.

**10. Protection of Commission from legal proceedings**

- (1) No member shall be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of the operation of the Commission.
- (2) Where any member is exempt from liability by reason only of the provisions of this section the Commission shall be liable to the extent that it would be if the said member were a servant or agent of the Commission.

**11. Public education during election campaign**

The Commission shall, upon the issuing of the writ for an election, consult with the management of all electronic and print media houses operating in Montserrat to draw up a timetable for public education programmes for voters.

**12. Review and alteration of electoral districts**

- (1) Notwithstanding section 79 of the Constitution, the Commission shall at least once every ten years review the electoral district or, if there is more than one, the boundaries of the electoral districts into which Montserrat is divided and, taking into account the changes or proposed changes, if any, in the number of electoral districts, shall submit a report to the Governor and the Legislative Assembly containing its recommendations for the establishment of, or any changes in, the boundaries of the electoral districts.
- (2) Section 79 subsections (2), (3) and (4) of the Constitution shall apply to a review conducted by virtue of subsection (1).

**13. Review of remuneration of Speaker and Legislative Assembly**

- (1) The Commission shall review the remuneration and allowances, paid to the Speaker and the elected members of the Legislative Assembly at least once every five years.
- (2) Notwithstanding subsection (1), the Governor or Legislative Assembly may request the Commission to review the remuneration and allowances, paid to the Speaker and the elected members of the Legislative Assembly at any other time.
- (3) The Commission shall upon completing its review under subsection (1) or (2), comply with the procedure set out in section 96 (2) of the Constitution.

**14. Review of Constitution**

The Commission shall review the operation of the Constitution as provided for by section 114 of the Constitution.

**15. Amendment of Elections Act. CAP. 01.04**

The Elections Act is amended as set out in the Schedule.

**SCHEDULE**  
(Section 15)

**Election Act (Cap. 01. 04) amended**

1. Section 4 is repealed and replaced as follows:

**“Electoral Commission**

4. (1) The Electoral Commission established under section 78 of the Constitution shall supervise elections under this Act.

(2) Notwithstanding subsection (1), the Chairman of the Electoral Commission shall under the direction of the Electoral Commission perform the duties of the Supervisor of Elections.”

2. Section 5 is amended by renumbering the existing section as “5(1)” and adding a new subsection as follows:

“ (2) Notwithstanding subsection (1), the Electoral Commission may review the electoral districts in accordance with section 78 of the Constitution and the Electoral Commission Act.”

3. Sections 39(1) and 44(1) are amended by deleting the words “Supervisor of Elections” and substituting the words “members of the Electoral Commission”.

**SPEAKER**

Passed the Legislative Assembly this     day of                     ,  
2011.

**CLERK OF THE LEGISLATIVE ASSEMBLY**