

M O N T S E R R A T

**EASTERN CARIBBEAN MAGISTRATES AGREEMENT  
BILL**

No. of 2012

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**I ASSENT**

**Governor**

DATE:

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**A BILL FOR**

AN ACT TO GIVE EFFECT TO THE EASTERN CARIBBEAN MAGISTRATES AGREEMENT.

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 and commencement**

This Act may be cited as the Eastern Caribbean Magistrates Agreement Act, 2012 and shall come into force by Order on a date fixed by the Governor acting on the advice of Cabinet.

**2. Interpretation**

In this Act—

“**Agreement**” means the Eastern Caribbean Magistrates Agreement 2011 of which the text of the Articles is set out in the Schedule;

**3. Agreement to have force of law**

The Agreement has the force of law in Montserrat.

**4. Power of Chief Justice to make rules**

The Chief Justice may make rules for carrying into effect the provisions of the Agreement.

**5. Amendment of Schedule**

- (1) The Attorney General may, by Order, amend the Schedule to include any amendments agreed by the parties to the Agreement.
- (2) The Order may contain consequential provisions necessary for the purpose of giving due effect to the amendment.
- (3) The Order is subject to negative resolution.

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**SCHEDULE**

*(sections 2 & 5)*

**THE EASTERN CARIBBEAN MAGISTRATES AGREEMENT**

**PREAMBLE**

**WHEREAS:**

**THE MEMBER STATES TO THIS AGREEMENT:**

**AWARE** of the importance of the magistracy in the administration of Justice and the preservation of the rule of law in the Eastern Caribbean States;

**RECOGNIZING** that the majority of cases are heard and determined in the Magistrate's Courts;

**CONSCIOUS** of the overriding need to ensure that proper facilities are provided to enable Magistrates to carry out their duties conscientiously and impartially and to fulfil the duties inherent in their role;

**RESOLVED** to take further steps to advance the professional development of the Magistrates as judicial officers;

**MINDFUL** of the provisions of the respective Constitutions of the Member States governing the appointment, removal and disciplinary control of Magistrates;

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**NOTING** the need to improve the security of tenure and other conditions of employment of Magistrates;

**COMMITTED** to ensuring that the Constitutions of Member States are reviewed and amended to ensure that Magistrates are fully integrated with the judiciary of the Eastern Caribbean Supreme Court;

**AND WHEREAS** Her Majesty's Government in the United Kingdom have authorised the Governments of the Member States which require such authority to enter into this Agreement:

**NOW THEREFORE**, the undersigned agree as follows:

**EASTERN CARIBBEAN MAGISTRATES AGREEMENT**

**Article I**

**Definitions**

For the purposes of this Agreement:

“commencement date” means the date of entry into force under Article XVI;

“constituted authority” means in relation to each member State, the person or authority who, under the Constitution of that Member State, is vested with the power to appoint, remove or exercise disciplinary control over Magistrates or to give advice in relation to the appointment, removal from office or exercise disciplinary control over Magistrates;

“Member States” means the Full Member States and the Associate Member States of the Organisation of Eastern Caribbean States;

“prescribed proceedings” means any proceedings which, under the Constitution of a Member State, are required to be conducted in connection with the removal or suspension of a Magistrate from office.

## **Article II**

### **Purposes**

1. The purposes of this Agreement are:
  - (a) to promote and strengthen the Magistracy within the Member States through integration, so as to facilitate continued effectiveness in the manner in which the Magistrates carry out their functions; and
  - (b) to improve facilities, conditions of employment and security of tenure of Magistrates in all Member States that are parties to this Agreement, so as to improve the manner in which they carry out their functions.

## **Article III**

### **Terms and conditions of employment of Magistrates**

1. The members States may after consultation with the Judicial and Legal Services Commission, or the Chief Justice in the case of Montserrat, establish—
  - (a) the terms and conditions of employment that are appropriate to the office of Magistrate; and
  - (b) the salary and allowances to be paid to a Magistrate.
2. Subject thereto, any power to give administrative direction or to exercise administrative control over a Magistrate shall be

exercisable only by the Chief Justice or a person authorised to do so by the Chief Justice.

3. The Chief Justice may, where he considers it expedient or desirable in any particular circumstances, and where the constituted authority of both Member States agree, assign a Magistrate appointed in one Member State and who agrees to such assignment, to perform such duties in another Member State.

#### **Article IV**

##### **Tenure of office of Magistrate**

Subject to liability to be removed from office for cause, a person holding the office of Magistrate other than acting Magistrate shall do so until such person attains the age of retirement.

#### **Article V**

##### **Retirement and Pension**

1. Save for the case of a Magistrate employed on a fixed term contract for service, the office of Magistrate shall be a pensionable office.

2. Where a person has served as a Magistrate in more than one Member State, the Government of the Member State in which the person has served shall be responsible for a proportional part of the pension payable to the Magistrate in respect of the period of service in that Member State: provided that this shall not apply to a person appointed to act as a Magistrate in respect of the acting appointment of that person.

3. Nothing on this Agreement prejudices the entitlement of a Magistrate to a pension in accordance with the laws or regulations relating to Magistrates in force in each Member State.

## **Article VI**

### **Continuing Education for Magistrates and training of staff**

The Chief Justice may make such arrangements as he considers necessary or desirable for –

- (a) continuing education courses for Magistrates in order to enhance professional development and to improve the performance of their judicial tasks, including training on specific legislative or policy developments in the Member States;
- (b) training programmes for the clerical, administrative and other support staff in the court offices of the Magistrates.

## **Article VII**

### **Reports to Chief Justice**

Every Member State shall ensure that the Magistrate, at the end of each month, make and transmit to the Chief Justice or to a person designated by the Chief Justice for that purpose, a return in such form and containing such particulars as the Chief Justice may prescribe.

## **Article VIII**

### **Provision of facilities**

1. Each Member State shall, on recommendations made by the Chief Justice, take such steps as may be reasonable practicable, having regard to the circumstances of each Member State, to provide such facilities and institute such measures as are necessary and appropriate for the effective performance by Magistrates of their judicial functions in that Member State.



2. Without prejudice to the generality of paragraph (1), each Member State shall institute such measures as are necessary for ensuring the security of the Magistrates, buildings, equipment and records of the Courts.

### **Article IX**

#### **Transitional**

In each Member State there shall be appointed a resident judge designated by the Chief Justice to make an assessment of the performance of a person employed on contract in the Member State as a Magistrate, during the period of the contract and hold such discussions with the person as the Chief Justice considers necessary or desirable, in order to make recommendations as to whether that person should, on the date of expiration of the contract, be re-employed on the terms set forth in this Agreement.

### **Article X**

#### **Implementation**

Member States undertake to take all steps necessary for the implementation of the provisions of this Agreement.

### **Article XI**

#### **Variation of Agreement**

1. This agreement may be varied by further Agreement between the Governments of all Member States in respect of which it is for the time being in force.
2. If a Government of a Member State wishes to propose an amendment or variation to this Agreement, it shall give at least six months' notice in writing to the Governments of the other Member

States, of the proposed amendment or variation and the Governments of the Member States to whom notice has been issued shall consult with each other before the expiration of the notice to consider the desirability of adopting the proposal with or without modification.

## **Article XII**

### **Withdrawal and Termination**

This Agreement shall cease to have effect with respect to any Member State –

- (a) if the Government of that Member State gives the Governments of all other Member States in respect of which this Agreement is for the time being in force and the Chief Justice, at least six months' notice in writing of its desire to terminate this Agreement in its application to that Member State; or
- (b) if the Governments of all the other Member States give the Government of that Member State and the Chief Justice at least six months' notice in writing of their desire to terminate this Agreement in its application to that Member State.

## **Article XIII**

### **Accession**

1. Any State Party may accede to this Agreement in accordance with the terms and conditions set out in this Agreement.
2. Accession shall be effected by deposit of an instrument of accession approved by the Member States.

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3. This Agreement shall enter into force for the acceding Member State on the thirteenth day following the date on which the instrument of accession was deposited with the Director General of the Organisation of Eastern Caribbean States.

#### **Article XIV**

##### **Signatures**

This Agreement shall be open for signature by the Member States.

#### **Article XV**

##### **Ratification**

1. This Agreement shall be subject to ratification by the signatory Member States in accordance with their respective constitutional procedures.
2. Instruments of Ratification shall be deposited with the Director General of the Organisation of Eastern Caribbean States, who shall transmit certified copies to each Member State.

#### **Article XVI**

##### **Entry into force**

This Agreement shall enter into force upon the deposit of all Instruments of Ratification and participating Governments of the Member States undertake to take all steps necessary for the implementation of this Agreement.

**IN WITNESS WHEREOF**, the undersigned, being duly authorised thereto by their respective Governments, have signed this Agreement.

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Signed by: Hubert Hughes on behalf of the Government of Anguilla on the 20<sup>th</sup> day of May 2011 at Kingstown, St. Vincent and the Grenadines.

Signed by: Baldwin Spencer on behalf of the Government of Antigua and Barbuda on the 20<sup>th</sup> day of May, 2011 at Kingstown, St. Vincent and the Grenadines.

Signed by: Roosevelt Skerrit on behalf of the Government of the Commonwealth of Dominica on the 20<sup>th</sup> day of May 2011 at Kingstown, St. Vincent and the Grenadines.

Signed by: Tillman Thomas on behalf of the Government of Grenada on the 20<sup>th</sup> day of May, 2011 at Kingstown, St. Vincent and the Grenadines.

Signed by: Rueben T. Meade on behalf of the Government of Montserrat on the 06<sup>th</sup> day of July, 2011 at Montserrat.

Signed by: Denzil Douglas on behalf of the Government of the Federation of St. Christopher and Nevis on the 20<sup>th</sup> day of May, 2011 at Kingstown, St. Vincent and the Grenadines.

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Signed by: Stephenson King on behalf of the Government of Saint Lucia on the 20<sup>th</sup> day of May 2011 at Kingstown, St. Vincent and the Grenadines.

Signed by: Ralph A. Gonsalves on behalf of the Government of Saint Vincent and the Grenadines on the 20<sup>th</sup> day of May, 2011 at Kingstown, St. Vincent and the Grenadines.

Signed by: Ralph T. O’Neal on behalf of the Government of the Territory of the British Virgin Islands on the 20<sup>th</sup> day of May, 2011 at Kingstown, St. Vincent and the Grenadines.

**SPEAKER**

Passed the Legislative Assembly this      day of      ,  
2012.

**CLERK OF THE LEGISLATIVE ASSEMBLY**