

MONTSERAT

ATTORNEY GENERAL'S REFERENCE ACT 2021

No. 17 of 2021

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I ASSENT

(Sgd.) Andrew Pearce
Governor

DATE: 30.06.2021

M O N T S E R R A T

No. 17 of 2021

AN ACT TO PROVIDE FOR THE REFERRAL OF IMPORTANT QUESTIONS OF INTERPRETATION OF THE CONSTITUTION AND THE CONSTITUTIONALITY OF LEGISLATION ENACTED BY THE LEGISLATIVE ASSEMBLY.

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 Attorney General's Reference Act, 2021 and shall come into force on a date as the Governor may by Order appoint.

2 Interpretation

In this Act unless the context otherwise requires—

“**Constitution**” means the Montserrat Constitution Order (Cap 1.01);

“**Court**” means the Court of Appeal;

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“Counsel” means a person whose name has been entered on the Roll of Attorneys-at-law in Montserrat.

3 Referring questions for opinion

The Attorney General may, with the approval of the Governor acting on the advice of Cabinet, refer to the Court for hearing and consideration, important questions of law or fact concerning—

- (a) the interpretation of the Constitution;
- (b) the constitutionality or interpretation of any legislation enacted by the Legislative Assembly; and
- (c) any other matter that the Attorney General submits is of public interest or public importance, whether or not that other matter is in the opinion of the Court similar to the matters set out in paragraphs (a) and (b).

4 Opinion of Court

(1) If a reference is made to the Court under section 3, the Court shall—

- (a) hear and consider the reference;
- (b) answer each question so referred;
- (c) certify to the Attorney General its opinion on each question, with the reasons for each answer,

and the opinion shall be pronounced in like manner as in the case of a judgment on appeal to the Court.

(2) For the purpose of considering a question referred to the Court under this Act, the Court shall hear argument—

- (a) by the Attorney General or by a person appearing on behalf of the Attorney General; and
- (b) by any person interested or by Counsel acting on behalf of that person.

5 Notice of interested person

(1) The Court may, in its own discretion or upon the application of the Attorney General or Counsel representing an interested party, direct that any person

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interested or, where there is a class of persons interested, any one or more persons as representatives of that class, shall be notified of the hearing on a reference under this Act and those persons are entitled to be heard thereon, whether in person or by Counsel acting on behalf of that person.

- (2) The Court, where a person is to be notified under subsection (1), may direct that a copy of the reference be served on—
- (a) the interested person; or
 - (b) Counsel acting on behalf of the interested person.

6 Appointment of Counsel by Court

The Court may, in its discretion, request any Counsel to argue the case with respect to any interest that is affected and with respect to which Counsel has not been instructed by an interested person.

7 Cost and expenses

- (1) The Court shall not make an order as to costs unless, for exceptional reasons, the Court considers it proper to do so.
- (2) The Court may, in its discretion, make an order that the expenses incurred for a matter heard under this Act be paid by the Ministry of Finance and shall be charged on the Consolidated Fund.

8 Rules

The Chief Justice may make Rules regulating all matters of practice and procedure for the proper exercise of the jurisdiction and powers conferred on the Court by the Act and such Rules may provide for any matter of procedure on a referral of a question under section 3.

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9 Savings

The provisions of this Act do not derogate from the powers of the Court under any other enactment.

(Sgd.) Charliena White

SPEAKER

Passed by the Legislative Assembly this 23rd day of June, 2021.

(Sgd.) Judith Baker

CLERK OF LEGISLATIVE ASSEMBLY