

MONTSERAT

PORT SECURITY CHARGE ACT 2013

No. 15 of 2013

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I ASSENT

Adrian Davis (Sgd.)
Governor

DATE: 9.9.13

M O N T S E R R A T

No. 15 of 2013

AN ACT TO PROVIDE FOR THE COLLECTION OF A SECURITY CHARGE
AT THE PORTS.

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 **Port Security Charge Act,
2013**.

2 Interpretation

(1) In this Act—

“**airport**” means any area of land or water designed,
equipped or set apart or commonly used for
affording facilities for the landing and departure
of an aircraft;

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“carrier” means—

- (a) a person or firm transporting passengers by air, or over water on an aircraft or ship to a place outside Montserrat;
- (b) the pilot or other persons in command or control of the transporting aircraft or ship;
- (c) the agent in Montserrat of a person or firm in paragraph (a); and
- (d) if the person or firm in paragraph (a) is a corporation, every director and manager of that corporation;

“consignment” means each package, envelope, bag, container or similar receptacle forming part or the whole of a courier item, quick pak item or express delivery item delivered by a consignor to a place outside Montserrat;

“consignor” means a person or firm which delivers a consignment to a place outside of Montserrat;

“port” means airport or seaport;

“Port Authority” means the Montserrat Port Authority established under the Port Authority Act (Cap.7.09);

“Port Security Charge” or **“charge”** means the tax imposed under section 3;

“seaport” means the Port of Little Bay, and any other place designated under any enactment as a port of entry by sea;

“ship” includes any vessel, tug or boat of any kind whether the same is propelled by steam or otherwise or is towed; and

“traveller” includes a person proceeding to a destination outside Montserrat.

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3 Imposition of Port Security Charge

- (1) Subject to section 5, a charge called a Port Security Charge shall be levied and collected from the following parties, at the rate specified in the Schedule—
- (a) a traveller when that traveller leaves a port for a place outside Montserrat; and
 - (b) a consignor.
- (2) The Port Security Charge to be collected under subsection (1)(b) shall only be levied and collected on each consignment where the consignment is screened by the port security staff for shipment to a place outside of Montserrat.
- (3) The Governor acting on the advice of Cabinet may by Order vary the rate of the Port Security Charge but the Order does not have effect unless approved by a resolution of the Legislative Assembly.

4 Receipt

The carrier shall issue to the person paying the Port Security Charge a receipt as evidence of the payment made by him.

5 Exemptions

- (1) The Port Security Charge is not payable by—
- (a) members of the crew of any aircraft or ship;
 - (b) officials of an airline or shipping company travelling on the business of the company;
 - (c) a traveller in relation to whom the Minister of Finance is satisfied that by reason of such special circumstances as may be prescribed, the Port Service Charge should be remitted;
 - (d) official guests of the Government of Montserrat, as approved by the Office of the Premier;
 - (e) children under the age of 12 years;

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- (f)* the Governor, Speaker and Members of the Legislative Assembly;
 - (g)* Government officers when travelling on Government business as certified by the Ministry of Finance;
 - (h)* holders of a diplomatic passport;
 - (i)* holders of a United Nation “laissez passer”;
 - (j)* holders of an Organisation of Eastern Caribbean States “laissez passer”;
 - (k)* holders of a pass issued by the Caricom Secretariat;
 - (l)* in transit passengers remaining in Montserrat for a period not exceeding 24 hours; or
 - (m)* any other travellers or classes of travellers as may be prescribed.
- (2) The Governor acting on the advice of Cabinet may by Order amend subsection (1).

6 Port Security Charge to be collected by carrier

- (1) Subject to section 5, the Port Security Charge shall be collected by the carrier from each traveller and consignor prior to the departure of the aircraft or ship on which the traveller or consignment departs the port.
- (2) A carrier shall pay the Port Security Charge collected in respect of a traveller or consignment departing from—
 - (a) the airport, to the Accountant General; and
 - (b) a seaport, to the Port Authority.
- (3) The amount payable under subsection (2) is payable immediately on collection or within the period and subject to the conditions as may be prescribed.
- (4) A carrier shall make a return with respect to the collection of each Port Security Charge and submit that return, at the end of each month, to the Accountant General or the Port Authority.

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- (5) A carrier failing to collect any Port Security Charge which it is required by subsection (1) to collect shall, despite the failure to collect, pay the amount of the charge under subsection (2).
- (6) Any claim by a traveller or consignor to entitlement to exemption from the Port Security Charge under section 4(1) which cannot be resolved by the carrier shall be referred to the Comptroller of Customs.
- (7) For the purpose of deciding any claim under subsection (6) a customs officer may make inquiries, either of the traveller, consignor or any other person.

7 Offences

- (1) A person or firm which, for the purpose of evading payment by himself or by any other person of the Port Security Charge, knowingly makes any false statement or false representation commits a summary offence and is liable to a fine of \$300 or 3 months' imprisonment.
- (2) A carrier who fails or neglects to make a return under the requirements of this Act or knowingly makes in the return any false statement or false representation commits a summary offence and is liable to a fine of \$2,000.
- (3) A person who fails, without reasonable cause to furnish to a customs officer any information required by the customs officer for the purpose of section 5(7) commits a summary offence and is liable to a fine of \$300.

8 Enforcing payment

Where the Port Security Charge, being due and payable under section 5, remains unpaid—

- (a) the full amount of the charge may be recovered from the carrier, traveller or consignor as a debt due in civil proceedings before the Magistrate's Court;
- (b) a customs officer may withhold clearance of a traveller in respect of whom the charge is payable

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if he is not satisfied that adequate arrangements for the payment of the Port Security Charge have been made.

9 Power of the Court

A Magistrate's Court shall, in addition to any penalty it may impose on a person under this Act, order the payment to the Accountant General or the Port Authority of any Port Security Charge due and payable by that person and may order, in default of the payment, imprisonment of that person for a period of 3 months.

10 Refunds

- (1) A person who proves to the satisfaction of the Accountant General or the Port Manager of the Port Authority that he has paid, on account of the Port Security Charge, an amount in excess of the amount which he is properly required to pay under this Act is entitled to have the excess amount refunded, and the Accountant General or the Port Authority is authorised to make the refund.
- (2) No claim for a refund, under this section shall be entertained after the expiration of 6 months from the date on which payment of the excess amount was made.

11 Regulations

The Governor acting on the advice of Cabinet may make regulations to provide for—

- (a) the production to and inspection by persons as may be prescribed, of documents used and records kept by a person for the purpose of determining that the Port Security Charge has been collected and accounted for under this Act;
- (b) the furnishing to the Accountant General or the Port Authority of information and returns, certificates and other documents as may be prescribed by this Act;

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- (c) anything required to be prescribed by this Act;
- (d) any other matter in respect of which it may be expedient to make regulations to give effect to the purpose of this Act.

12 Repeal

The Airport Security Charge Act (Cap. 7.05) is repealed.

SCHEDULE

(Section 3(1))

Section	Party	Rate
3(1)	Each traveller	\$10.00
3(1)	Each consignment	\$5.00

Teresina Bodkin (Sgd.)
SPEAKER

Passed the Legislative Assembly this 25th day of July, 2013.

Judith Baker (Sgd.)
CLERK OF THE LEGISLATIVE ASSEMBLY