

MONTSERAT

TOURISM AUTHORITY ACT 2024

No. 3 of 2024

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I ASSENT

(Sgd.) Sarah Tucker
Governor

DATE:07.02.24

M O N T S E R R A T

No. 3 of 2024

AN ACT TO ESTABLISH A TOURIST AUTHORITY TO REGULATE TOURISM
AND FOR CONNECTED PURPOSES.

BE IT ENACTED by The King'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:

PART 1—PRELIMINARY

1. Short title

This Act may be cited as the Tourism Authority Act, 2024.

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2. Interpretation

In this Act—

“**Authority**” means the Tourism Authority established under section 3;

“**Board**” means the Board of Directors of the Authority established under section 9;

“**Chairperson**” means a person appointed as Chairperson under section 11(1);

“**Deputy Chairperson**” means a person elected as Deputy Chairperson under section 11(3);

“**Chief Executive Officer**” means the person appointed as such under section 28;

“**Minister**” means the Minister responsible for tourism;

“**tourism**” means the range of activities related to meeting the needs and preferences of tourists; and

“**tourist**” means a person who visits Montserrat for the sole or partial purpose of recreation.

**PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS
OF THE AUTHORITY**

3. Establishment of the Authority

- (1) There is established a body corporate called the Montserrat Tourism Authority.
- (2) The Authority has perpetual succession with power to purchase, lease, sell or otherwise acquire and hold and dispose of land and other property of whatever kind, and may sue and be sued in its corporate name.

4. Seal of the Authority

- (1) The Authority shall have a common seal and the seal shall be kept in the custody of the Chairperson, Deputy Chairperson or an officer of the Authority, as approved by the Board.
- (2) The seal of the Authority may be affixed to documents or instruments in accordance with a resolution of the Board.
- (3) The seal of the Authority shall be authenticated by the signature of—
 - (a) the Chairperson and the Secretary; or
 - (b) the Deputy Chairperson and the Secretary.
- (4) All documents or instruments, other than those required by law to be under seal, and all decisions of the Authority may be signified under the hand of the Chairperson or Deputy Chairperson.

5. Functions of the Authority

The functions of the Authority are—

- (a) to develop all aspects of the tourist industry of Montserrat and to promote its efficiency;
- (b) to adopt all measures as the Authority may think fit to advertise, promote and market Montserrat as a tourist destination;
- (c) to promote and encourage increased shipping and airline facilities to increase tourist traffic to Montserrat;
- (d) to secure the most favourable arrangements for the entry of tourists into Montserrat;
- (e) to encourage the development of amenities to enhance the appeal of Montserrat to tourists, including entertainment, conservation of local flora and fauna, nature trails and handicrafts;

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- (f) to undertake research, experiments and operations as may appear necessary for the improvement of the tourist industry and to prevent or minimize any undesirable factors that may affect it;
- (g) to foster an understanding within Montserrat of the importance and economic benefit of the tourist industry;
- (h) to make enquiries of, and to collect information as it may think necessary for the purpose of carrying out its functions; and
- (i) generally to take all such other lawful measures as it may consider necessary to assist it in carrying out the purposes of this Act.

6. General powers of the Authority

Subject to this Act, the Authority shall have power for the purpose of the discharge of its functions under section 5—

- (a) to carry on all activities as appear necessary or convenient for or in connection with the carrying out of its functions; and
- (b) to do anything and to enter into any transaction (whether or not involving expenditure, borrowing or investment of money or the acquisition of any rights in property) which in its opinion is essential to facilitate the proper carrying out of its functions or is incidental or conducive to its functions.

7. Business Plan

- (1) The Authority shall prepare and submit to the Minister by 31 July in each year a business plan for the development of tourism in Montserrat.
- (2) The business plan shall—

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- (a) serve as a guide for structuring the programme of tourism promotion and visitor service activities for the succeeding year commencing on 1 January; and
- (b) specify the aims of the programme and outline the methods to be employed to accomplish the aims.

8. Powers of Minister

The Minister may give to the Authority directions of a general character in respect of the policy to be followed under this Act, in relation to matters appearing to him to concern the public interest and the Authority shall give effect to such directions.

PART 3—ESTABLISHMENT AND POWERS OF BOARD OF DIRECTORS OF THE AUTHORITY

9. Establishment of Board of Directors

There shall be a Board of Directors of the Authority which shall be responsible for the execution of the policy and the general administration of the Authority.

10. Composition of the Board

- (1) The Board shall consist of—
 - (a) as *ex-officio* members—
 - (i) the Permanent Secretary in the Office of the Premier or his representative; and
 - (ii) the Financial Secretary or his representative; and
 - (b) seven members appointed by the Governor acting on the advice of Cabinet from among persons who—
 - (i) have experience in the management of tourist accommodations, real estate management, air travel, public relations or cruise ship activities;

- (ii) are engaged in the business of travel;
 - (iii) are members of the taxi association;
 - (iv) are members of the tour guides association; or
 - (v) have technical experience in any other relevant field.
- (2) A member of the Board shall hold office for a period not exceeding three years and is eligible for re-appointment, but shall not be appointed for more than two consecutive terms.

11. Appointment of Chairperson

- (1) The Governor acting on the advice of Cabinet shall appoint a member of the Board as Chairperson.
- (2) The Chairperson of the Board shall hold office until the appointment of his successor but he shall cease to be Chairperson if he ceases to be a member of the Board.
- (3) The Board may elect one of its members as Deputy Chairperson and he shall exercise and perform the duties of the Chairperson whenever the Chairperson is absent or unable to act or whenever there is a vacancy in the office of Chairperson.
- (4) A Chairperson and Deputy Chairperson who resigns from the Board shall be eligible for reappointment.

12. Resignation of members of the Board

- (1) A member of the Board shall, subject to this Act, hold office for such period not exceeding three years as may be fixed by the Governor acting on the advice of Cabinet but the member shall be eligible for reappointment.
- (2) Where a member of the Board resigns his office, or is unable to carry out the duties and functions of his office, the Governor acting on the advice of Cabinet may appoint any qualified person to act as member for the remainder of

the term of the member who has resigned, or to act temporarily during the period of inability of such member.

- (3) A member of the Board, other than the Chairperson, may at any time resign his office by letter addressed to the Minister and transmitted through the Chairperson, and the resignation shall take effect after a period of one month from the date of the receipt of the letter by the Minister, if no response is given earlier by the Minister.
- (4) The Chairperson may at any time resign as a member of the Board by letter addressed to the Governor and the resignation shall take effect after a period of one month from the date of the receipt of the letter by the Governor, if no response is given earlier by the Governor.
- (5) The Governor acting on the advice of Cabinet, may at any time revoke the appointment of a member of the Board.

13. Publication of membership of the Board

The names of all members of the Board as first constituted and every change in the membership of the Board shall be published in the *Gazette*.

14. Power to appoint committees

- (1) The Board may appoint a Committee of the Board to examine and report on any matter arising out of or connected with any of its powers and functions under this Act.
- (2) A Committee appointed under subsection (1) shall consist of at least two members of the Board together with such other persons, whether members of the Board or not, whose assistance or advice the Board may desire.

15. Power to delegate

- (1) The Board may delegate to any of its members or employees of the Authority the power and authority to

carry out on its behalf such function as the Board may determine.

- (2) A delegation of power or authority under subsection (1) shall not prevent the Board from exercising the power and authority delegated.

PART 4—MEETINGS AND PROCEEDINGS OF THE BOARD

16. Meetings of the Board

- (1) The Board shall meet at least once each month and at such other times as may be necessary or expedient for the transaction of business, and the meetings shall be held virtually or in person at such place and time as the Board may determine.
- (2) The Chairperson—
 - (a) may at any time call a special meeting of the Board;
or
 - (b) shall, on receipt by him of a written request for the purpose addressed to him by at least one third of the members of the Board, call a special meeting of the Board to be held not later than seven days after the receipt by him of the request.
- (3) The Chairperson shall call a special meeting of the Board if directed by the Minister so to do.
- (4) A quorum of the Board shall consist of not less than five of the members.
- (5) The decisions of the Board shall be by a majority of votes, but in any case in which the votes are equal, the Chairperson or the Deputy Chairperson presiding at the meeting shall have a casting vote in addition to his original vote.

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- (6) The Chief Executive Officer shall attend all meetings of the Board but shall not have the right to vote.
- (7) If the Chief Executive Officer through sickness or other reason is unable to attend a meeting of the Board, or where he has obtained leave of absence from the Chairperson, he shall nominate an employee of the Authority to attend the meeting on his behalf, but the nominee shall not have the right to vote.
- (8) The Board may co-opt one or more persons to attend a particular meeting of the Board, for the purpose of assisting or advising the Board, but the co-opted person shall not have the right to vote.
- (9) If a person is co-opted by the Board under subsection (8), the Board may by Resolution declare the remuneration and allowances of the person and the sums are payable out of the funds and resources of the Board.

17. Disclosure of interest

- (1) If a member is present at a meeting of the Board at which a matter which is the subject of consideration is one in which the member has a pecuniary interest, the member—
 - (a) shall as soon as practicable after the commencement of the meeting and before the matter is discussed, disclose his interest; and
 - (b) shall not, unless the Board otherwise directs, be present for any consideration or discussion of any question touching on the matter.
- (2) If a member has disclosed his interest in a matter and the Board allows the member to take part in any consideration or discussion on the matter, the member shall not vote on the matter.
- (3) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it was made.

- (4) If a member fails to disclose his interest under subsection (1) and a decision by the Board is made benefiting the member, the decision shall be null and void to the extent to which it benefits that member.

18. Pecuniary interest

- (1) For the purposes of section 17, a member shall be treated as having an indirect pecuniary interest in a contract, proposed contract, licence or other matter if—
- (a) the member or any nominee of his is a member of a company or other body which has a direct or indirect pecuniary interest in the contract, proposed contract, licence or other matter under consideration;
 - (b) the member is a partner, or in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration;
 - (c) the member or any partner of his is a professional adviser to a person who has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration; or
 - (d) the member's spouse or child has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration.
- (2) Subsection (1) does not apply to membership of, or employment by, any public body.

19. Validity of decisions

The validity of any act or proceedings of the Board shall not be affected by—

- (a) a vacancy among its members;
- (b) a defect in the appointment of a member; or

(c) the failure of a member to disclose his interest in under section 17.

20. Protection of members of the Board

No personal liability shall attach to any member of the Board in respect of anything done in good faith under this Act, and any sum of money, damages or cost which may be recoverable against such member in respect of any act or thing done bona fide for the purpose of carrying this Act into effect, shall be paid out of the funds and resources of the Board.

21. Remuneration of members of the Board etc.

The Minister shall, with the approval of the Governor acting on the advice of Cabinet, determine the remuneration or allowances payable to—

- (a) a member of the Board; or
- (b) a person appointed to a Committee under section 14.

22. Secretary to the Board

- (1) The Governor acting on the advice of Cabinet shall appoint a Secretary of the Board.
- (2) The Secretary shall—
 - (a) attend meetings of the Board;
 - (b) record the minutes of each meeting in proper form; and
 - (c) perform any other duty connected with the work of the Board.
- (3) A Secretary who is not a public officer may be paid such remuneration as may be approved by the Governor acting on the advice of Cabinet.

**PART 5—FINANCIAL PROVISIONS AND RELATED
MATTERS**

23. Funds and resources of the Authority

The funds and resources of the Authority shall consist of—

- (a) such sums as may be provided annually for the purpose by the Legislative Assembly;
- (b) all sums payable to the Authority in respect of advertisements, promotions, public relations or any other service performed by the Authority;
- (c) all sums collected under the authority of regulations made under this Act;
- (d) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its powers and duties;
- (e) grants and aid.

24. Vesting of property in the Authority

The Governor may at any time by order vest any land or other immovable property of the Government in the Authority where it appears desirable to do so to enable the Authority to carry out its duties and responsibilities.

25. Borrowing powers

- (1) Subject to the approval of the Governor acting on the advice of Cabinet, the Authority may borrow sums required for meeting any of its obligations or discharging any of its functions.
- (2) The Governor acting on the advice of Cabinet shall not approve any borrowing unless such borrowing is approved by a Resolution of the Legislative Assembly.

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26. Accounts

The Authority shall keep proper accounts, in a form which conforms with generally accepted accounting practices, of its receipts, payments, credits, asset and liabilities.

27. Annual report and estimates

- (1) The Authority shall in each year prepare and on or before the last day of May in each year, present to the Minister a report of its activities, including the audited accounts, during the twelve months ending on 31 March of the preceding year.
- (2) The Public Finance (Management and Accountability) Act (Cap. 17.07) applies to the examination and audit of the accounts of the Board.
- (3) The Authority shall, as soon as practicable on or before 1 October in each year, submit through the Minister for approval, its estimates of revenue and expenditure in respect of the next succeeding financial year, and a copy of the estimates, as approved, shall be published in the *Gazette*.
- (4) In this section “**financial year**” means the year commencing on 1 April and ending on 31 March.

PART 6—STAFFING ARRANGEMENTS

28. Appointment of officers and agents

- (1) The Governor acting on the advice of Cabinet after consultation with the Authority may appoint and employ a Chief Executive Officer of the Authority and other officers and agents as it considers necessary for the proper carrying out of the provisions of this Act.
- (2) The Chief Executive Officer is subject to the directions of the Board and responsible to the Board for the execution of its policy and the management of its affairs.

- (3) The employment of a Chief Executive Officer and officers or agents shall be at such remuneration and on such terms and conditions as the Governor acting on the advice of Cabinet, after consultation with the Board, approves.

29. Secondment of public officers

- (1) The Deputy Governor may, with the consent of a public officer, second that public officer to the Authority for a period of two years, except in exceptional circumstances, when the secondment may be extended or renewed.
- (2) If a public officer is to be seconded to the Authority, the Deputy Governor shall ensure that the terms and conditions of the secondment are set out in an agreement among—
- (a) the Deputy Governor;
 - (b) the Authority; and
 - (c) the public officer.
- (3) The Deputy Governor shall ensure that an agreement for secondment under subsection (2) provides for the public officer on secondment to be—
- (a) paid the remuneration applicable to the position to which he is seconded; and
 - (b) eligible for leave and other conditions of employment,
- that are no less favourable than what he received as a public officer before and up to the effective date of his secondment.
- (4) The service of a seconded public officer during the period of secondment shall, in relation to pension, gratuity or other benefits and rights as a public officer, be treated as pensionable service in the public service.
- (5) A public officer seconded to the Authority continues to be a public officer until he resigns, retires or otherwise leaves

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the public service, but the officer shall, during his period of secondment to the Authority, comply with this Act and regulations made under this Act.

- (6) For the purposes of this section, “**remuneration**” means salary, wages, allowances, increments, gratuity and any benefit received as a result of employment.

PART 7—MISCELLANEOUS

30. Regulations

- (1) The Governor acting on the advice of Cabinet may make regulations generally for the carrying out of the purposes of this Act and in particular but without prejudice to the generality of the foregoing, may make regulations providing for—
- (a) the measures and methods to be adopted for the improvement of the tourist industry;
 - (b) the registration and grading of tourist accommodations and facilities catering for tourists;
 - (c) the keeping of accurate records, accounts and data necessary for the tourism industry, including the number of tourists in Montserrat, during any period and the countries to which they belong;
 - (d) the disclosure in full or in part, of records, accounts and data under paragraph (c);
 - (e) the imposition of fees or charges in such cases as may be determined by the Board for services rendered by the Authority, its servants or agents, in carrying out the provisions of this Act.
- (2) Regulations made under this section may empower a person, whether the person is a member or officer or agent of the Authority or not, to issue such directions to owners or managers of tourist accommodations and other persons

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engaged in the tourist industry as may be necessary for securing compliance with or carrying out the purposes of this Act or of any regulation made under this Act.

(Sgd.) Charliena White
SPEAKER

Passed by the Legislative Assembly this 30th day of, January, 2024.

(Sgd.) Judith Baker
CLERK OF THE LEGISLATIVE ASSEMBLY