

CHAPTER 3

Conduct of Public Officers

301. (1) An officer shall discharge the usual duties of the office to which he is appointed and any other reasonable duties that the Governor, a Permanent Secretary or Head of Department may, at any time, call upon him to discharge.

Duties of officers

(2) In the discharge of his duties, an officer shall be courteous and polite both to members of the staff and to members of the public.

(3) Any act of an officer that is considered to be likely to bring the public service into disrepute must be reported forthwith to the Permanent Secretary, Administration, by the Permanent Secretaries or Heads of Departments.

302. (1) The normal hours of work of public officers are thirty-five hours in each week as prescribed in Appendix I. Permanent Secretaries and Heads of Departments may require any or all of the staff to work temporarily for longer hours than those prescribed whenever the public interest makes this desirable.

Hours of work

(2) An officer may be required by his Permanent Secretary or Head of Department to work on any public holiday but in such cases the officer shall be compensated by being given time off in lieu, or if it be specially authorised by payment in lieu.

(3) Works staff, that is technical staff supervising industrial employees or staff employed on out-door work are required to work a forty hour-week or an eight-hour day, the same hours as those of the employees they are supervising.

(4) The hours of work of the Airport, Schools, Hospital, Customs, Library, Prisons and Post Office staff will be prescribed by the Governor; and those of members of the Police Force will be as prescribed by the Commissioner of Police.

303. No officer may absent himself from duty during working hours without the permission of his Permanent Secretary or Head of Department or such officer as may be authorised to give such permission.

Absence from office during working hours

304. (1) An officer who absents himself from duty without permission except in cases of illness or other unavoidable circumstances or who wilfully refuses or omits to perform his duties shall render himself liable to disciplinary action.

Absence from duty without permission

(2) An officer may not leave Montserrat without permission. Permission may be granted by his Permanent Secretary or Head of Department. Permission for Permanent Secretaries and Heads of Departments may be granted by the Governor.

(3) An officer who proposes to leave Montserrat on duty, on leave, on a course of training or a course of study is required to comply with the procedures set out in Establishment Circular No. 2/1984.

305. (1) Every officer save those who may be exempted by the Permanent Secretary or Head of Department shall sign his name in the Attendance Register kept in the Ministry or Department for this purpose and insert the time of his arrival and departure from duty in the mornings and afternoons. The Permanent Secretary or Head of Department may depute an officer to examine and initial this Register every day and bring to his notice any case of habitual or frequent unpunctuality or absenteeism on the part of any officer.

Attendance Register

(2) If an officer persistently arrives late for work without acceptable explanation or is absent from work during office hours without permission, the Permanent Secretary or Head of Department shall call for the officer's explanation in writing and require him to show cause why disciplinary proceedings should not be instituted against him. If the explanation is considered by the Permanent Secretary or Head of Department to be unsatisfactory, satisfactory proceedings should thereupon be instituted against the officer.

Private interests

306 (1) Subject to the following and except in the case of an officer employed part time, an officer's whole time is at the disposal of the Government whenever the exigencies of the public service so require -

- (i) an officer may not engage in any private activity whatsoever during his normal hours of work;
- (ii) an officer may be called upon any time to undertake without additional remuneration official duties in the public interest. In particular senior officers will be expected to work longer than official hours when the public interest makes this desirable;
- (iii) subject to sub-paragraph (iv) of this Order an officer may not at any time engage in any private activity which might -
 - (a) bring the officer or the Government into disrepute;
 - (b) conflict with his official duties or responsibilities;
 - (c) place him or give the appearance of placing him in a position to use his official position for his private benefit;
 - (d) make him unavailable for reasonable out of hours duties or official commitments.
- (iv) an officer, who is of the opinion that any private activity upon which he is engaged or in which he has a private pecuniary interest is likely to offend against the provisions of sub-paragraph (iii) of this Order, must declare it fully to the Governor and either discontinue the activity or divest himself of his interest in it, or undertake not to pursue the activity as long as the prevailing circumstances continue or to comply with such conditions or restrictions as the Governor, after due inquiry, may consider necessary;
- (v) within a period of thirty days after his first appointment to a public office, an officer shall disclose in writing to the Governor particulars of any investment or shareholding which he possesses in any company carrying on business in Montserrat and also of any direct or indirect interest which he has in any professional, commercial, agricultural or industrial undertaking in Montserrat;
- (vi) an officer may not without the written permission of the Governor invest in or acquire shares in any company carrying on business in Montserrat or acquire any direct interest in any professional, commercial, agricultural or industrial undertaking in Montserrat;
- (vii) whenever the Governor is of the opinion that an officer's performance of his duties is likely to be influenced by the fact that he owns shares or investments in any company, or he has direct interest in any professional, commercial, agricultural or industrial undertaking, the Governor may require the officer to dispose of such shares, investment or interest within such period as may be specified or may transfer the officer to other duties. If the officer, on being required to dispose of such shares, investment or interest fails to do so within the specified period, he shall be liable to disciplinary action.

Provided that the term "agricultural undertaking" in sub-paragraphs (v), (vi) and (vii) shall not be deemed to include any agricultural activity which an officer may engage in on his own account and outside normal hours of work.

(2) Declarations and disclosures made under sub-paragraphs (iv) and (v) of sub-section (1) of this Order may be made in confidence.

307. An officer is required to report to the Governor any interest in trade, commerce or agricultural undertakings held by his wife as a principal or on her own account. Where it is considered by the Governor that the interests of an officer's spouse in this connection conflict, or are likely to conflict, or may seem to conflict, with the efficient and faithful performance of the officer's duties, the Governor may direct the transfer of the officer to other duties where such conflict real or apparent does not exist, unless the spouse has in the meantime divested herself/himself of the interest which has caused the transfer to be ordered. The restriction in this Order does not extend to employment of an officer's spouse as a paid employee of the Government or any private firm.

Private family interests

Provided that the term "agricultural undertakings" shall not be deemed to include any agricultural activity which an officer's spouse may engage in on his/her own account.

308. (1) Save in the course of his official duties, an officer is not permitted to undertake work for public boards or committees without obtaining the sanction of the Governor.

Work for Public Boards or Committees

(2) No officer will be eligible to receive any fee or other emoluments in respect of his membership of, or service to, a public board or committee without the consent of the Governor in consultation with the Public Service Commission.

(3) An officer who is nominated by the Government as a member of the Board of Directors of a company or statutory body carrying on business in Montserrat and who receives fees in respect of his membership of or service to such company or statutory body will pay such fees to the Accountant General for credit to Revenue, unless the Governor after consultation with the Public Service Commission directs otherwise.

(4) The preceding paragraph does not apply in the case of officers who are appointed to be Currency Commissioner or Currency Officer and who receive fees paid from the funds of the Caribbean Currency Authority.

309. No officer may accept any paid employment while on leave without previously obtaining the permission of the Governor. Officers on retirement leave or to whom a pension or other allowance has been granted may normally accept paid employment but should seek the prior permission of the Governor should the employment contemplated fall within the provisions of section 16 of the Pensions Ordinance, 1948.

Private employment while on leave

310. No officer shall sign any public petition to the Government which may require executive action or which relates to any action or proposals of the Government of Montserrat.

Public petitions

311. No officer, whether he is on duty or leave of absence, shall -

- (i) act as editor of any newspaper, magazine or periodical or take part directly or indirectly in the management thereof; or

Public Officers and the Press

- (ii) contribute to, whether anonymously or otherwise, or publish in any newspaper, magazine or periodical or otherwise cause to be published in any manner, in Montserrat or elsewhere, anything which may reasonably be regarded as of a political or administrative nature; or
- (iii) allow himself to be interviewed on any matter of a political or administrative nature or on matters affecting the administration or the security of any state or territory; or
- (iv) speak in public or broadcast in any way on matters which may reasonably be regarded as of a political or administrative nature.

Provided also that the provisions of this Order shall not apply to an officer acting in the pursuance of his official duties or as editor of or contributor to a publication issued by a recognised Staff Association or Union and with prior permission of the Governor.

Provided also that statements for publication of factual and technical information may be made by Permanent Secretaries, Heads of Departments and other senior officers, if authorised by the Governor.

Publication of official documents

312. No officer may, without the written approval of the Governor make public or communicate to the Press or to unauthorised individuals any documents, papers or information which may come into his possession in his official capacity or make private copies of any such documents or papers. Every public officer is required to exercise due care and diligence to prevent unauthorised access to or disclosures of any information.

Publication of books and articles

313. Nothing in the preceding two Orders shall be deemed to prevent an officer from publishing in his own name, by writing, speech or broadcast, matters other than that which may reasonably be regarded as of a political or administrative nature, provided that if the publication is a book, article or other work, the subject of which is connected with the officer's official duties or those of other officers, the prior consent of the Governor is obtained.

Public meetings

314. Save in the course of his official duties, no officer may call a public meeting to consider any action of the Government or speak or appear on the platform or otherwise actively take part in such a meeting.

Representations by public officers

315. No officer may seek to influence any member of the Legislature or any other person as a means of bringing his services to official notice especially in connection with appointments, leave, postings, transfers, discipline, promotions, or any condition of service, or as a means of furthering his interests in the Government service in any way. The employment of such methods will not be to the advantage of the person concerned and will render him liable to disciplinary proceedings.

Engagement in political activities

316. Officers are expressly forbidden to participate actively on behalf of any party or candidate in any election to the Legislature or in any Local Authority election. They are expressly forbidden to act as agents, sub-agents or canvassers at elections of this nature.

Engagement in trade union activities

317. Public officers may be members of a trade union and they are entitled to attend private meetings of their union and to speak and vote at such meetings. But they may not hold office in a trade union, the objects of which are wholly or in part political, nor may they speak or vote at public meetings organised by such trade union.

318. (1) Public Officers are prohibited from receiving valuable presents (other than gifts from relatives or close personal friends) whether in the shape of money, goods, services or other personal benefits, and from giving such presents. This Order applies not only to the officers themselves but also to their families and officers will be held responsible for its observance by their families. It does not apply to remuneration for special services rendered and paid for with the consent of the Government.

Acceptance of gifts

(2) A present given to an officer by an officer or representative of a foreign Government or to a member of a recognised organisation in Montserrat, either official or unofficial, which cannot be refused without giving offence, may be accepted but the fact and the circumstances must at once be reported to the Governor and the recipient shall abide by any instructions which may be given as to the disposal of the gift.

(3) The collection of voluntary subscriptions to defray the cost of testimonials and presentations to an officer may be permitted by a Permanent Secretary or Head of Department.

319. No steps may be taken by public officers to institute civil proceedings in any court in connection with matters arising out of the discharge of their public duties, or against a Minister, Permanent Secretary, Head of Department or other public officer, for anything done in the performance of his duty unless and until the sanction of the Governor has been obtained.

Legal proceedings against officers

320. (1) Subject to the provisions of this Order the Government will, unless advised otherwise by the Attorney General in any particular case, accept responsibility for the defence of officers against whom legal proceedings are threatened or instituted in respect of acts done or liabilities incurred in the execution of their duty.

Legal proceedings against public officers

(2) Where any such legal proceedings are threatened or instituted, the fact thereof shall be reported forthwith to the Attorney General and no legal or other expenses shall be incurred by the officer against whom the proceedings have been threatened or instituted, or other steps taken in connection with any such proceedings until the directions of the Attorney General have been received by the officer.

321. (1) An officer may not, except as provided in this Order, give expert evidence in Court in civil cases other than as a witness for the Crown.

Officers called to give evidence as expert witness

(2) An officer who is requested to give voluntarily in Court advice or evidence of technical nature, in respect of which by virtue of his qualifications and appointment he is regarded as an expert must obtain prior permission of his Head of Department to do so and if he is a Head of Department he must seek the prior permission of the Governor.

(3) An officer who receives a subpoena to give technical advice or evidence of a technical nature must obey the subpoena but he must report the fact immediately in writing to his Head of Department and if he is a Head of Department he must notify the Governor.

(4) All fees received by an officer in respect of technical advice or evidence he gives in Court must be paid into the Treasury. Only in exceptional cases and with the express approval of the Governor will he be permitted to retain any part of such fees.

322. (1) Public officers are required to be prudent in the conduct of their private financial affairs. Serious pecuniary embarrassment arising out of the imprudent conduct of an officer's private financial affairs may be regarded as impairing his effi-

Pecuniary embarrassment

ciency, thus affecting his claim to promotion or increments. In an aggravated case of this description the officer concerned will be liable to disciplinary proceedings.

(2) An officer will be liable to the provisions of this Order if he becomes a party to accommodation bills or promissory notes, under whatever plea, whether for his own purposes or for another person, and whether resulting in pecuniary embarrassment or not.

Bankruptcy **323.** In the event of an officer filing a petition in bankruptcy or of bankruptcy proceedings being taken against him, or of his entering into a composition with his creditors under the Bankruptcy Act, or of any other serious financial embarrassment on his part, the officer shall immediately notify his Head of Department who will report the fact to the Permanent Secretary, Administration.

Bankruptcy proceedings to be reported by Officer of Court **324.** In every instance of bankruptcy proceedings against a public officer, the officer of the Court before whom the proceedings are taken shall forthwith report the matter to the Permanent Secretary, Administration giving particulars of the officer's indebtedness. On the conclusion of the examination the officer of the Court shall furnish a further report to the Permanent Secretary, Administration, showing whether or not the officer's difficulties were occasioned by (a) imprudence or extravagance or (b) unavoidable misfortune or other extenuating circumstances.

Judgment summons **325.** (1) Any public officer who is publicly sued for debt and against whom, after an order of payment has been made, a judgment summons is issued, will be regarded, in the absence of a reasonable explanation of his failure to pay the debt, as having brought himself within the terms of Order No. 322.

(2) The Clerk of the Court shall report to the Permanent Secretary, Administration, the issue of any such judgment against a public officer, giving particulars of the indebtedness of such officer.

Loans to and by public officers **326.** No officer shall borrow at interest from or make any loan at interest to, any public officer, or borrow from or lend money to, any public officer, in return for payment of a larger sum or any other valuable consideration whatsoever, or shall act as intermediary between any public officer and a money lender or shall take any part in collecting debts on behalf of a money lender. In particular, no officer shall borrow money from a subordinate officer. Heads of Departments and Permanent Secretaries are responsible for reporting to the Permanent Secretary, Administration, any officer who is known to be contravening this Order and such an officer will render himself liable to disciplinary action.

Misconduct **327.** An officer will be liable to disciplinary action for any misconduct including general misconduct to the prejudice of discipline or the proper administration of Government business and contravention of specific rules and regulations.

Strikes by public officers **328.** Public officers who go on strike violate the terms of their employment and render themselves liable to summary dismissal.

Certificate of Service **329.** Any public officer may, if he so wishes, obtain on leaving the service a Certificate of Service in the prescribed form. The purpose of a Certificate of Service is that it may be used as reference covering the holder's government service when seeking other employment. Accordingly, a Certificate should contain that information which a prospective employer might fairly expect to obtain from the person who had previ-

ously employed the holder. In no circumstances may a public officer who leaves the service be provided with a personal testimonial.

330. Valedictory letters may be sent by the Permanent Secretary, Administration to public officers who retire after long and valuable service.

Valedictory
Letters