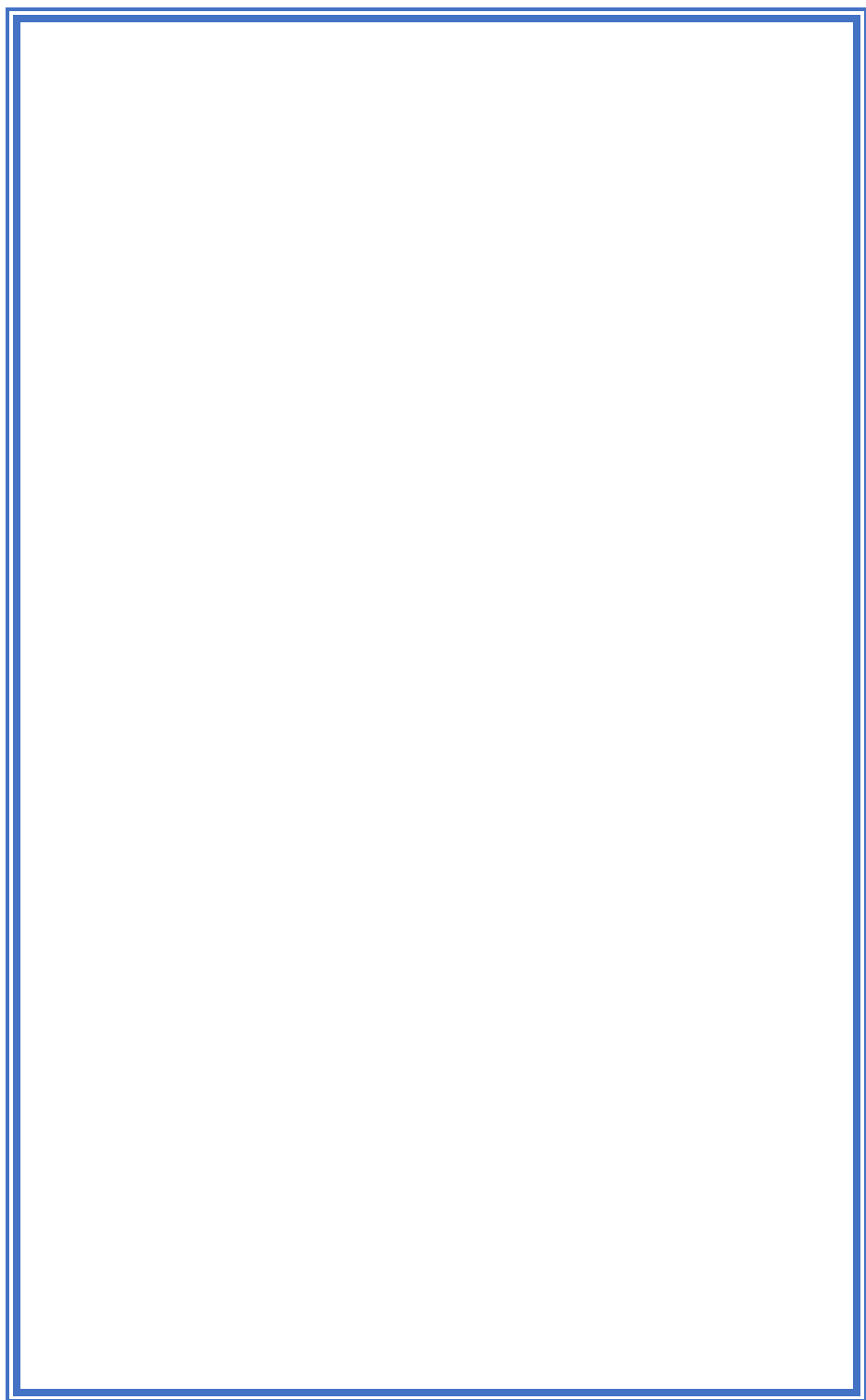


**EXCERPT FROM
THE ELECTIONS ACT
&
SUBSIDIARY LEGISLATION
REVISED EDITION
OF THE LAWS
OF MONTSERRAT AS OF
1 JANUARY 2019**

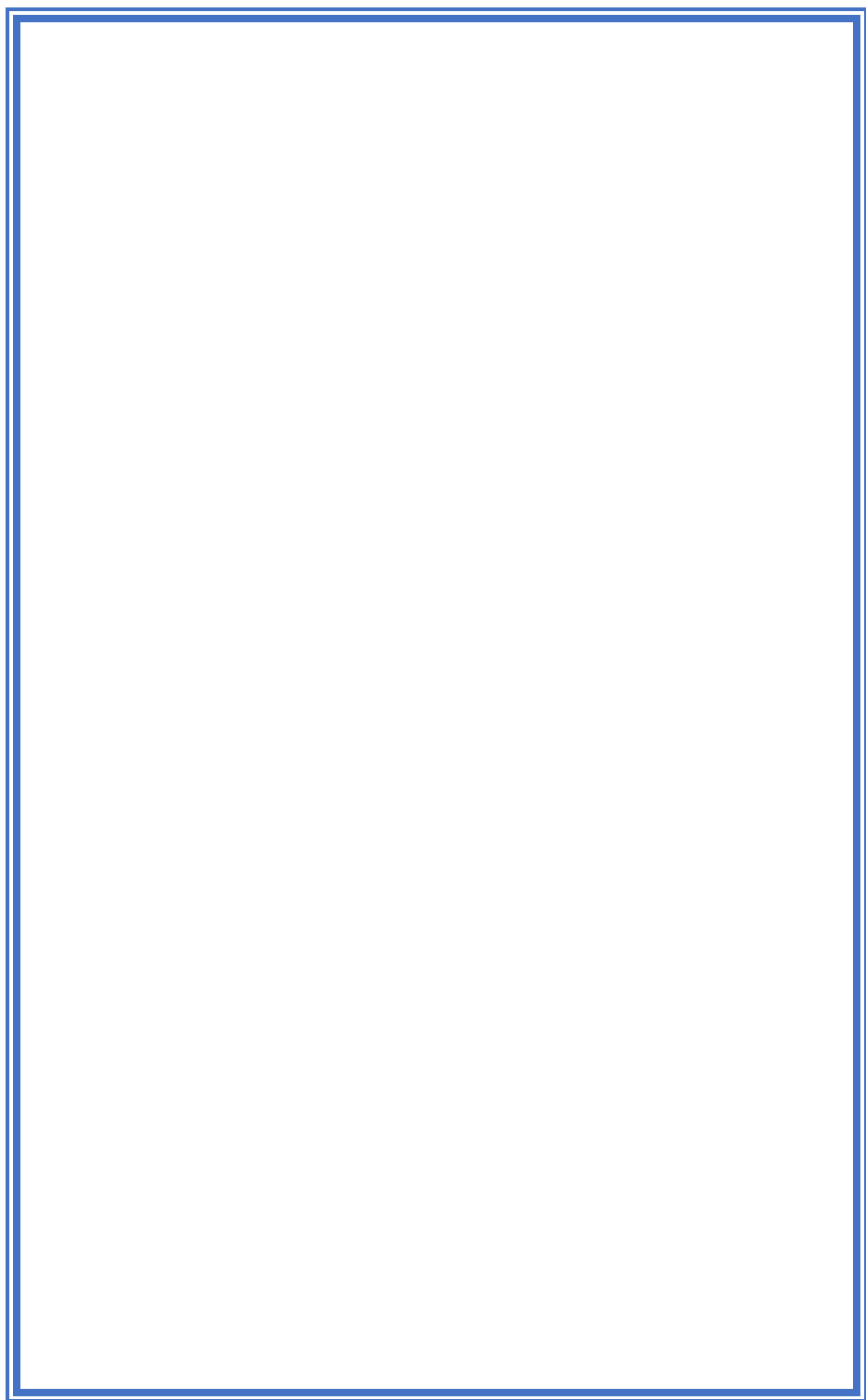
PART 5

ELECTIONS OFFENCES



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Intoxicating Liquor not to be Sold or Given on Polling Day

65. (1) No intoxicating liquor shall be sold, offered for sale, or given away at any premises to which a licence issued under the Liquor Licence Act, applies, at any time between the opening and the closing of the poll on polling day.

(2) A person who contravenes subsection (1) is liable on summary conviction to a fine of \$2,000 or to imprisonment for six months.

Employers to Allow Employees Time

66. (1) Every employer shall, on polling day, allow every voter in his employ a reasonable period for voting, and no employer shall make any deduction from the pay or other remuneration of any such voter or impose upon or exact from him any penalty by reason of his absence during such period.

(2) Any employer who, directly or indirectly, refuses, or by intimidation, undue influence, or in any other way, interferes with the granting to any voter in his employ, of such period for voting, as in this section provided, shall on summary conviction be liable to a fine of \$2,000 or to imprisonment for six months.

Offences by Election Officers

67. Every election officer who —

- (a) makes, in any record, return or other document which he is required to keep or make under this Act, any entry which he knows or has reasonable cause to believe to be false, or does not believe to be true; or
- (b) permits any person whom he knows or has reasonable cause to believe not to be a blind person, an illiterate person or an incapacitated person to vote in the manner provided for blind persons, illiterate persons or incapacitated persons, as the case may be; or
- (c) refuses to permit any person whom he knows or has reasonable cause to believe to be a blind person, an illiterate person or an incapacitated person to vote in the manner provided for blind persons, illiterate persons or incapacitated persons, as the case may be; or
- (d) wilfully prevents any person from voting at the polling station at which he knows or has reasonable cause to believe such person is entitled to vote; or
- (e) wilfully rejects or refuses to count any ballot paper which he knows or has

reasonable cause to believe is validly cast for any candidate in accordance with the provisions of this Act; or

- (f) wilfully counts any ballot paper as being cast for any candidate, which he knows or has reasonable cause to believe was not validly cast for such candidate;

shall be guilty of an offence against this section and, on conviction on indictment, shall be liable to be imprisoned for two years.

Loudspeakers, Ensigns, Banners, etc. Prohibited on Polling Day

68. No person shall furnish or supply any loudspeaker, bunting, ensign, banner, standard or set of colours, or any other flag, to any person with the intent that it shall be carried, worn, or used on motor cars, trucks, or other vehicles, as political propaganda, on polling day, and no person shall, with any such intent, carry, wear or use, on motor cars, trucks or other vehicles, any such loudspeaker, bunting, ensign, banner, standard or set of colours, or any other flag, on polling day.

Flags, Ribbons, or Favours not to be Furnished or Worn

69. (1) No person shall furnish or supply any flag, ribbon, label, or like favour to or for any person with the intent that it be worn or used by any person on polling day as a party badge to distinguish the wearer as the supporter of any candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate, and no person shall use or wear any flag, ribbon, label, or other favour, as such badge, within any electoral district on polling day.

(2) Nothing contained in section 68 or subsection (1) applies to the furnishing or supplying of any banner bearing only the name of any candidate or only such name preceded by the words “**Vote for**” or of any rosette or to the use of any such banner on any vehicle or of any such rosette.

(3) A person who contravenes subsection (1) is liable on summary conviction to a fine of \$2,000 or to imprisonment for six months.

Definition of Bribery

70. (1) The following persons are deemed to be guilty of bribery within the meaning of this Act—

(a) every person who, directly or indirectly, by

himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;

- (b) every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or to procure, or offers, promises, or promises to procure or to endeavour to procure, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;
- (c) every person who, directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to procure, or endeavour to procure, the return of any person as an elected member of the

Assembly, or the vote of any voter at any election;

- (d) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person as an elected member of the Assembly or the vote of any voter at any election;
- (e) every person who advances or pays or causes to be paid, any money to or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election;
- (f) every voter who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place, or employment for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election.
- (g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable

consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any such election.

(2) Subsection (1) does not apply to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.

(3) For the purpose of this section, “**legal expenses**” includes —

- (a) the payment of the agents, clerks, canvassers, and messengers of candidates;
- (b) payments made for the purpose of hiring vehicles for the conveyance of voters to or from a polling station;
- (c) payments made for the use of any premises for a public meeting in furtherance of the candidature of any person or for the use of any committee room or office for the purpose of promoting or procuring the election of a candidate;
- (d) payments made in respect of postage, stationery, printing, advertising, the distribution of advertising material, and the use of any public address system.

Definition of Treating

71. The following persons are deemed to be guilty of treating within the meaning of this Act —

- (a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly, gives, or provides or pays, wholly or in part, the expenses of giving or providing any food, drink, entertainment or provision to or for any person for the purpose of corruptly influencing that person or any other person, to vote or to refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election;
- (b) every voter who corruptly accepts or takes any such food, drink, entertainment or provision.

Definition of Undue Influence

72. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or

spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election, or who by abduction, duress or any fraudulent contrivance impedes or prevents the free exercise of the franchise of any voter, or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election, shall be guilty of undue influence within the meaning of this Act.

Definition of Personation

73. Every person who at an election applies for a ballot paper in the name of another person, whether that name is the name of a person living or dead, or of a fictitious person, or who, having voted once at any election, applies at the same election for a ballot paper in his own name, shall be guilty of personation within the meaning of this Act.

Penalty for Bribery, Treating Or Undue Influence

74. Every person who is guilty of bribery, treating or undue influence, under the provisions of this Act shall, on summary conviction thereof, be liable to imprisonment for six months or to a fine of \$2,000.

Penalty for Personation

75. Every person who is guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall, on conviction thereof on indictment, be liable to imprisonment for two years.

Disqualification For Bribery, Etc.

76. Every person who is convicted of bribery, treating, undue influence, or personation, or of aiding, counselling or procuring the commission of the offence of personation shall (in addition to any other punishment) be incapable during a period of seven years from the date of conviction —

- (a) of being registered as a voter, or of voting at any election;
- (b) of being elected a member of the Assembly or, if elected before his conviction, of retaining his seat as such member.

Penalty for Certain Illegal Practices At Elections

77. Every person who —

- (a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited by this Act, or by any law in force in Montserrat, from voting at such election;
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate;
- (c) between the date of the publication in the *Gazette* by the returning officer of a notice in accordance with section 21(1) and the day after polling at the election, whether in a general election or in a by-election, acts in a disorderly manner, with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member to serve in the Assembly, shall be guilty of an illegal practice, and shall, on summary conviction thereof, be liable to a fine of \$2,000 and be incapable, during a period of five years from the date of conviction, of being registered as a voter or of voting at any election.

Offence to Incite or Conspire to Disrupt Public Meetings of Candidates

78. Every person who, between the date of the publication in the *Gazette* by the returning officer of a notice in accordance with section 21(1), and the day after polling at the election, whether in a general election or in a byelection, incites, combines or conspires with others to act in a disorderly manner with intent to prevent the transaction of the business of a public meeting called for the purpose of promoting the election of a candidate as a member to serve in the Assembly, shall be guilty of an illegal practice and shall, on conviction on indictment thereof, be liable to imprisonment for two years, and be incapable, during a period of five years from the date of conviction, of being registered as a voter or of voting at any election.

Offences in Respect of Ballot Papers

79. (1) Every person who —

- (a) forges or counterfeits, or fraudulently defaces or destroys, any ballot paper or any nomination paper; or
- (b) without due authority supplies a ballot paper to any person; or

- (c) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (d) fraudulently takes out of the polling station any ballot paper; or
- (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of any election; or
- (f) not being duly registered as a voter, votes at an election, shall be liable on summary conviction, if he is an election officer, to imprisonment for six months or to a fine of \$2,000 and, if he is any other person, to imprisonment for three months or to a fine of \$1,000.

(2) In any information or prosecution for an offence in relation to the ballot boxes, ballot papers, and other things in use at an election, the property in such ballot boxes, ballot papers, or things may be stated to be in the returning officer at such election.

Infringement of Secrecy

80. (1) Every election officer and every agent appointed under section 35 in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not

communicate except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the list of voters of any voter who has or has not applied for a ballot paper or voted at that polling station, and no person shall interfere with or attempt to interfere with a voter when marking his vote or otherwise attempt to obtain in the polling station any information as to the candidate for whom any voter in such station is about to vote or has voted.

(2) Every election officer and every such agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting and shall not attempt to communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper.

(3) No person shall, directly or indirectly, induce any voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom or against whose name he has so marked his vote.

(4) Every person who acts in contravention of any of the provisions of this section shall be liable, on summary conviction, to imprisonment for six months or to a fine of \$1,000.

