



MONTSERRAT

CHAPTER 18.03

SOCIAL WELFARE ACT and Subsidiary Legislation

Revised Edition

showing the law as at 1 January 2013

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

SOCIAL WELFARE ACT

Act 15 of 1999 .. in force 17 January 2000 (S.R.O. 2/2000)

Amended by Act 9 of 2011 .. in force 27 September 2011 (S.R.O. 40/2011)

SOCIAL WELFARE REGULATIONS – Section 15

S.R.O. 1/2000

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CHAPTER 18.03

SOCIAL WELFARE ACT

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CHAPTER 18.03

SOCIAL WELFARE ACT

(Acts 15 of 1999 and 9 of 2011)

AN ACT TO PROVIDE FOR THE INSTITUTION OF A SOCIAL WELFARE SYSTEM TO CARE FOR THOSE IN NEED.

Commencement

[17 January 2000]

Short title

1. This Act may be cited as the Social Welfare Act.

The Fund

2. (1) There is hereby established a Social Welfare System to be administered by a Social Welfare Board appointed by the Governor acting on the advice of Cabinet (hereinafter referred to as “**the Board**”). *(Amended by Act 9 of 2011)*

(2) The benefits payable shall be disbursed from monies appropriated annually for that purpose from the Consolidated Fund by the Legislative Assembly. *(Amended by Act 9 of 2011)*

(3) No monies shall be paid out of the Fund except—

- (a) to meet grants made by the Board to pay the benefits payable under the Act; and
- (b) to meet expenditures incurred in the administration of the Social Welfare System set up by this Act and chargeable to it.

Social Welfare Board

3. (1) There shall be a Board, to be known as the Social Welfare Board, appointed by the Governor acting on the advice of Cabinet and consisting of seven members. *(Amended by Act 9 of 2011)*

(2) The members of the Board shall be—

- (a) the Permanent Secretary of the Ministry responsible for social welfare or his representative;
- (b) the Financial Secretary or his representative;
- (c) Principal Community Development Officer; and
- (d) four members appointed to represent Non Governmental Organisations with expertise in such fields as the Governor

acting on the advice of Cabinet shall consider to be useful in the work of the Board. (*Amended by Act 9 of 2011*)

(3) The Permanent Secretary of the Ministry responsible for social welfare shall be the Chairman of the Board:

Providing that, if he is not personally present, the Financial Secretary shall, if he is present in person, act as Chairman, and if he too is not present the person representing the Permanent Secretary shall act as Chairman.

(4) The Director of Social Services shall be a member of the Board but shall not sit as a member when the Board is sitting to hear appeals from decisions of the Assessment Panel.

(5) The quorum for a meeting of the Board shall be four of whom one shall be the Permanent Secretary of the Ministry responsible for social welfare or his representative.

(6) All decisions of the Board shall be made by a majority vote of those members present and voting:

Providing that, where the Chairman considers it necessary he may instead of calling a meeting of the Board, circulate a motion setting out the matter to be decided and request the members to signify their decision in writing thereon.

Duration of appointment

4. (1) Members other than the *ex officio* members shall be appointed for a term of two years at a time.

(2) Members whose appointment expires with the effluxion of time may be re-appointed.

(3) Where any vacancy arises through ill health, death or resignation in the number of appointed members of the Board, the vacancy shall be filled by the appointment of another person by the Governor acting on the advice of Cabinet to complete the term of appointment of that member. (*Amended by Act 9 of 2011*)

(4) The Governor acting on the advice of Cabinet may terminate the appointment of any member of the Board other than the *ex officio* members, if he is satisfied that having regard to the usefulness and other circumstances of the case the termination of his appointment is in the public interest. (*Amended by Act 9 of 2011*)

(5) The members appointed under section 3(2)(d) to the Board shall be paid an allowance to be determined by the Legislative Assembly for attending the sittings of the Board. (*Amended by Act 9 of 2011*)

Responsibility of the Board

5. The Board shall be responsible for—

- (a) the general management and supervision of the social welfare system set up under this Act;
- (b) the periodic review of the basis upon which the benefits payable under the Act are to be paid;
- (c) deciding when and what benefits are to be paid to the applicant;
- (d) promoting schemes to encourage welfare recipients to seek employment and assisting them in such endeavours;
- (e) advising government from time to time on the form of test to be applied to ascertain an applicant's eligibility for any particular benefit under the Act;
- (f) appointing two persons from the staff of the Community Services Department to sit with the Director of Social Services as the Assessment Panel to entertain applications for welfare benefits;
- (g) reviewing random selections of welfare applications which were disallowed by the Panel and not appealed, so as to satisfy themselves that no injustice was done;
- (h) acting as the final arbiter, in deciding whether an application for benefit should be granted, by hearing appeals from the decisions of the Assessment Panel.

Manager of social welfare

6. (1) The Director of Social Services shall be the Manager of the Social Welfare System and shall be responsible to the Board for the administration and control of the Social Welfare System and its staff and shall act as Secretary to the Board except when the Board sits to hear appeals from the decisions of the Assessment Panel.

(2) The staff of the Social Welfare System shall be appointed from the public service by the Governor after consultation with the *ex officio* members of the Board.

(3) The staff selected to serve in the Social Welfare System shall be given such training as they may require to deal with sensitivity with applicants and the public in the administration of the Social Welfare System.

Application for benefit

7. (1) Any person in need may apply to the Board for any benefit available under this Act by completing the application form set out in the regulations made under this Act.

(2) Where a person in need is unable to complete the application form by reason of any physical or mental disability, he may seek from and shall be granted assistance by an officer of the Social Welfare System to complete the form.

(3) Upon completion of the application form the applicant shall sign the declaration on the form that all the facts provided by him in answer to questions on the form are true to the best of his knowledge and belief.

(4) Upon receipt of the completed application form the social welfare officer shall satisfy himself that the form is duly completed and may for that purpose, question the applicant to obtain such further information as may be required to assess the eligibility of the applicant to the benefit.

(5) Any additional information provided by the applicant under subsection (4) shall be taken down in writing either by the officer or by the applicant himself and shall be signed by the applicant as true and shall form part of the original application.

Assessment Panel

8. (1) There shall be an Assessment Panel consisting of two persons appointed from the staff of the Community Services Department and the Director of Social Services who shall consider all applications for benefit and decide on the entitlement or otherwise of the applicant. The Director of Social Services shall be the Chairman of the Assessment Panel.

(2) The Assessment Panel shall record its decision and the reasons for its decision in writing.

(3) All decisions of the Assessment Panel shall be submitted to the Board for its approval.

Refusal of benefit

9. (1) Where the Assessment Panel decides against granting an application for benefit it shall inform the applicant of its decision and the reasons for its decision in writing and shall also inform the applicant of his right to appeal to the Board against the decision.

(2) As soon as possible thereafter and in any event within ten working days of its decision the applicant shall be given—

- (a) a written copy of the decision of the Assessment Panel and its reasons for so deciding; and
- (b) a printed notice in the prescribed form of the applicant's right to appeal to the Board,

and be required to acknowledge receipt of the same by signing a copy of each:

Providing that, the ten day limit shall not come into force until a date three months after the coming into force of the Act.

Appeal

10. (1) An applicant for benefit whose application is refused by the Assessment Panel may, within ten days of the receipt by him of the written decision of the Assessment Panel, appeal to the Board in the prescribed form.

(2) The Assessment Panel shall, where its decision has been appealed against, within ten days of the filing of the appeal, forward to the Board a copy of the original application, the notes of the hearing along with the decision and the reasons for the decision and the relevant appeal form.

(3) (a) The Board shall consider and determine the appeal within ten days of the submission to the Board by the Assessment Panel.

(b) The appellant may be represented by his next friend at the hearing.

(4) The Board may, however, summon the appellant and hear his submission if it deems it necessary, and in such a case the appeal shall be determined within four weeks of its submission by the Assessment Panel.

(5) The Board shall in all cases have the power to grant such temporary relief as it may consider appropriate to an appellant who the Board is satisfied is suffering real hardship while awaiting the outcome of the appeal.

(6) The temporary relief referred to in subsection (5) above is the payment of such sum as the Board considers sufficient to keep the appellant until such time as his appeal is finally determined.

Appeals out of time

11. The Board may, where an appeal is made out of time, consider the reason for the delay and if it is satisfied that the delay was not caused by any negligence or carelessness on the part of the applicant but was due to reasons beyond his control, the Board may accept the appeal and proceed under section 10 above.

Re-application

12. (1) An applicant for benefit whose application has been refused may not apply for benefit for a period of six months after his application is finally determined, unless he is able to show that his circumstances have materially changed for the worse.

(2) Where an applicant re-applies within six months and the Assessment Panel concludes that—

(a) his condition has in fact materially worsened, it shall proceed to hear and determine his application under section 9; or

(b) his condition has not changed at all or not materially worsened, it shall refuse his application and in such a case he shall not be entitled to appeal or to re-apply for a further period of six months from the date of that refusal.

Confidentiality

13. Members of the Board, the Assessment Panel and the staff of the Community Services Department shall not disclose to any person who is not

himself a member of those groups any information of which they become aware in the course of carrying out their duties under this Act.

Immunity

14. Members of the Board and the Assessment Panel shall not, so long as they have acted with *bona fides*, be personally liable for any decision made by them in their capacity as members of the Board or the Panel.

Regulations

15. The Governor acting on the advice of Cabinet may by regulation prescribe—

- (a) the benefits that may be paid under the Act and the circumstances in which each shall be payable;
- (b) the test to be applied to ascertain an applicant's eligibility to a benefit under the Act;
- (c) such forms as may be required under the provisions of the Act;
- (d) the criteria for ascertaining entitlement to any benefit under the Act;
- (e) the benefits payable and the manner in which they are to be calculated;
- (f) the conditions that may be attached to the grant of a benefit under the Act;
- (g) the duration for which a benefit may be granted;
- (h) all such other matters as may be necessary to give effect to the provisions of the Act.

(Amended by Act 9 of 2011)

SOCIAL WELFARE REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title
2. Application for the benefit
3. Assistance
4. Verification
5. Assessment Panel
6. Social Welfare Board
7. Annual report
8. Procedures
9. Appeals
10. Eligibility criteria
11. Access to information
12. Penalty for misinformation

SCHEDULES

SOCIAL WELFARE REGULATIONS – SECTION 15

(S.R.O. 1/2000 and Act 9 of 2011)

Short title

1. These Regulations may be cited as the Social Welfare Regulations.

Application for the benefit

2. Every applicant shall be required to complete an application in the form set out in Schedule 1 hereto. Any applicant who fails to fully complete the form without an acceptable reason for failing to do so shall not be eligible for consideration for the grant of any benefit under the Act.

Assistance

3. (1) Applicants may obtain assistance from another person to complete the application form.

(2) Any social welfare officer requested by an applicant shall assist the applicant in completing the form by faithfully recording the applicant's responses to questions in the form.

Verification

4. (1) A social welfare officer to whom an application form is tendered may, if he thinks it necessary for a proper completion of the form, question the applicant and record the applicant's answers on the form.

(2) Where an applicant answers are recorded by the social welfare officer, he shall require the applicant to sign against each such answer and if the applicant refuses to do so, he shall make a note to that effect in the application before submitting it to the Assessment Panel.

(3) The social welfare officer shall not in any event reject an application but shall submit it to the Assessment Panel for a decision.

Assessment Panel

5. (1) The Assessment Panel shall sit as often as may be necessary providing it is not less often than once a week.

(2) The Assessment Panel shall decide on the applications before it at each sitting or adjourn the matter for sufficient reason as defined in paragraph (3) hereof.

(3) The only reason for adjourning an application without a decision shall be for want of further information and the required information shall be particularised in a contemporaneous record made by the Chairperson and shall be essential to the Panel's ability to make a just decision.

Social Welfare Board

6. (1) The Board shall sit as often as necessary to ensure that an application is dealt with by the Board within a week of the date when that application was made.

(2) If for any reason the Board consider that it will not be able to deal with an application within a week of it being made, the Board shall—

- (a) state the reasons for its inability to do so on the record; and
- (b) make an interim grant sufficient to keep the applicant until the Board is able to make a decision.

(3) Decisions of the Board shall be made by a majority of the members present and voting.

Annual report

7. (1) The Board shall make an annual report to the Minister setting out—

- (a) the number of applications made over the past year and the number allowed;
- (b) recommendations as to changes that should be considered either to the forms or the procedures or to the law relating to social welfare;
- (c) the Board's opinion on the adequacy of welfare payments and payments to *ex officio* members of the Board;

Providing that the report shall not set out facts from which the identity or circumstances of any applicant can be ascertained.

(2) The Board may, in addition to its annual report, commission members of the Board or staff members of the Community Services Department to inquire into and report to the Board any issues such as the cost of foodstuffs, accommodation and any related matters relevant to the Minister on the changes that may be required to the social welfare system.

Procedures

8. (1) The Board shall ensure that there are comprehensive and efficient practices and procedures for the working of the Assessment Panel and the Board.

(2) The Board may recommend to the Minister such changes as the Board considers necessary either to the composition of the Assessment Panel or to the procedures followed in the social welfare system.

(3) The Governor acting on the advice of Cabinet shall set out in Schedule 3 hereof the forms applicable to the procedures to be followed in the social welfare system. (*Amended by Act 9 of 2011*)

Appeals

9. The Board may draw up rules for the conduct of appeals and submit them to the Minister for implementation.

Eligibility criteria

10. (1) The Assessment Panel and the Board shall be bound by the eligibility criteria, set out in Schedule 2 hereof, in deciding an application for benefit.

(2) Wherever possible, either the forms set out in Schedule 3 hereto or forms similar to them shall be used, where anything is to be submitted in writing.

Access to information

11. Applicants shall be entitled to be informed of the progress of their applications at every stage if they should request it.

Penalty for misinformation

12. Any applicant guilty of supplying inaccurate or misleading information or refusing to supply material in their custody, or to which they have access, that is relevant to a decision of their eligibility to benefit shall be refused benefit and may then be disqualified from applying again within six months.

SCHEDULE 1

APPLICATION FORM FOR SOCIAL WELFARE

Please see the guidance notes for help in answering the questions. You must answer *all* the questions, writing your answers clearly in black ink, and you *must* sign the declaration on the last page.

1. *Your Details*

Full Name of Applicant:

Male

Female

Any other name by which you are known, such as a nickname:

Address:

Telephone Number:

Date of Birth:

(Day, Month, Year e.g. 22 June 1958)

What is your marital status?

Please tick (✓)

Single

Separated

Married

Divorced

Common Law

Widowed

What is your employment status?

Please tick (✓)

Employed

Unemployed – seeking work

Self-employed

Unable to work (e.g. illness)

Retired

Taking care of dependants

Other (*please give details*)

What work do you normally do?

2. *How many people are there in your household, including yourself?
Please put a circle round the total number: 1 2 3 4 5 6 7 8.
Now fill in the details for each person other than you, in the table below.*

Individual Reference Number	Full Name	M	F	Date of Birth	How is this person related to you?	What is his/her employment status
No. 1	The Applicant					
No. 2						
No. 3						
No. 4						
No. 5						
No. 6						
No. 7						
No. 8						

3. *Are there any other persons not living in your household who are dependent on you, or on anyone in your household, in any way?*

Please write YES or NO

If YES, please give details below

	Full Name of each dependent person	Date of Birth	How is he/she related to you?	Where does he/she live? (address)	What does he/she depend on you for?	What is his/her employment status?
D1						
D2						
D3						

4. Why are you applying for assistance?***Please tick
(✓)one box***

You are disabled and unable to support yourself otherwise

You are over sixty years of age and unable to support yourself otherwise

Your obligation to dependants means that you are unable to support yourself

Another reason

*Please give details:***5. How have you and your household been supporting yourselves in the past year?**

6. Do you or anyone else in your household earn any income from employment or self-employment?

Please write **YES** or **NO**

If **YES**, please give details below

Employer's name and Address <i>(If self-employed, please say so)</i>	Amount	Frequency (e.g. every day, week, fortnight, month)	Date of last payment	Individual Reference Number

7. Do you or anyone else in your household receive any income from pensions?

Please write **YES** or **NO**

If **YES**, please give details below

Where does the pension come from?	What type of pension is it?	How often is the pension paid?	Amount	Individual Reference Number

8. *Do you or anyone else in your household receive any money from relatives or other persons on Island or overseas?*

Please write **YES** or **NO**

If **YES**, please give details below

Who is the money from?	How much is it? (EC\$)	How often is it received?	What was the date of the last payment?	Individual Reference Number

9. *Do you or anyone else in your household receive any income from any other source?*

Please write **YES** or **NO**

If **YES**, please give details below

Where does the pension come from?	What type of pension is it?	How often is the pension paid?	Amount	Individual Reference Number

10. Do you or anyone else in your household have any savings?Please write **YES** or **NO**If **YES**, please give details below**Tick box to show the range of savings your household has altogether:**Less than \$2000 EC Between \$2000 and \$4000 EC More than \$4000 EC

Where are these savings held?	Amount (EC\$)	Individual Reference Number

11. Do you or anyone else in your household own any land or property on Montserrat or elsewhere? (This does not include the house you are living in now)Please write **YES** or **NO**If **YES**, please give details below

Is this land or property? Where is it? (If it is in the unsafe zones, please say so)	How much is the land or property worth?	Does anyone get any rent from it?	Individual Reference Number

12. Do you or anyone else in your household have any other assets?

Please write **YES** or **NO**

If **YES**, please give details below

Details	Amount/Value	Individual Reference Number

13. What is the status of the house you are living in now?

Please tick (✓) box

- Rented from private Landlord
- Rented from Government of Montserrat
- Owned subject to a mortgage
- Owned outright by the household
- Family property not owned by household
- Leased by the household
- Other (*give details*)

14. How much does your rent or mortgage cost you each month?

15. Does your household have any special expenses arising out of the long-term illness or disability of a member of the household?

Please write **YES** or **NO**

If **YES**, please give details below

What is the nature of the special need?	How much does this cost you each month?	Individual Reference Number

16. *Do you or your household have any ongoing liabilities that you think should be taken into account?*

Please write **YES** or **NO**

If **YES**, please give details below

What is the nature of the liability?	How much does this cost each month?	Individual Reference Number

Please give the names of any Banks, Building Societies or other financial institutions who hold monies on behalf of you or any other member of your household:

By completing this form, you have complied with the requirement under the Social Welfare Act to undertake a means test in order to qualify for financial assistance. Before you sign the declaration below, make sure you have answered all the questions on the form as fully as possible.

DECLARATION

“I declare that I, and any other members of my household for whom assistance is sought, are residents of Montserrat *or* are fully and legally entitled to reside for an extended period on the Island.

I authorise you to check with other government departments, or their agents, any information about the financial circumstances of any member of my household.

I authorise you to approach any Bank or other financial institution named on this form, with the purpose of obtaining further information about the financial circumstances of any member of my household. I authorise any named Bank or other financial institution to disclose to you any necessary information about the financial circumstances of any member of my household, if they are requested by you to do so. I indemnify those institutions against any claims made against them in respect of such disclosures.

I have answered the questions above to the best of my ability and I understand that, if I have given any false information, I may jeopardise any right to government assistance and may be prosecuted.

Should I or another member of my household decide to apply for any other help from government, the details I have given in reply to the above questions may be considered as part of that application.

I undertake to inform the Social Welfare Board immediately of any changes in my circumstances, or in the circumstances of other members of my household, which may affect my right to assistance.”

Signed (Applicant) **Date**

Signed (Witness) **Date**

Full name of Witness

SCHEDULE 2 ELIGIBILITY CRITERIA AND ENTITLEMENT

Purpose of the Eligibility Criteria

The purpose of these criteria is to determine which groups of persons may be eligible to receive financial assistance under the Social Welfare Act. Persons from eligible groups who do not satisfy the Means Test will not receive assistance and similarly persons who satisfy the means test but do not fulfil any of the relevant criteria will not be entitled to help.

1. Overriding Qualifications

The following are overriding qualifications in that, if an applicant and the relevant members of that applicant's household do not fulfil these, they will not be eligible for support regardless of any other circumstances.

In order to qualify, applicants must:

- Have the legal status of Citizen or Residents of Montserrat
- Have not intentionally renounced an otherwise valuable source of income in order to qualify for assistance
- Make a full declaration of their financial resources, and satisfy the upper limits of income and assets currently pertaining.
- Not be in receipt of any other payment from government by way of remuneration, pension or social security payment or other similar monies *except* in relation to Social Security pensioners with no other means and whose pension from social security is below the welfare threshold.
- Understand that payments will be made in respect of households and that no household will be entitled to more than one payment at any time.

2. Specific Criteria

Any applicant, in respect of a household, must satisfy at least one of the following criteria in order to qualify:

(a) Age

Persons over sixty who have no means of support (this includes savings, remittances from abroad, family support in finance or kind or social security or pensions) and who are not in full time care.

(b) Dependants

- (i) Persons unable to work but who have dependent children and who have no other means of support;

- (ii) Persons rendered unable to work by the requirements of dependent family members and who have no other support financially or in kind.

(c) Disability

Persons who cannot support themselves by reason of prolonged sickness and/or physical and/or mental disability

3. Entitlement

The entitlement describes the amount which will be paid in respect of any household. It will be determined by taking into account—

- (a) The maximum benefit payable to each relevant member of the household;
 - (b) The total income of the household;
 - (c) Any special expenses or ongoing liabilities which may be allowed to be offset against income.
-

SCHEDULE 3

(A)

NOTICE OF RIGHT TO APPEAL

..... (date)

To (name of applicant)

You are entitled to appeal against the decision made by the Assessment Panel on (date of decision).

If you should decide to do so, you should complete the attached form and submit it to this office within ten days.

Signed (PCDO)

I,, (name of applicant) acknowledge receipt of this notice and the appeals form.

Signature of Applicant

Date

(B)

APPEAL FORM

I,, (name of applicant) appeal against the decision of the Assessment Panel dated (date of decision).

Signature of Applicant

Date
