



MONTSERRAT

CHAPTER 9.03

EXPORTATION OF FRUIT 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—

EXPORTATION OF FRUIT ACT

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Act 4 of 1938 .. in force 8 August 1938

Amended by Acts: 2 of 1939

16 of 1956

7 of 1966

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

FRUIT APPLICATION ORDER – Section 2

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S.R.O. 4/1938

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EXPORTATION OF FRUIT RULES – Section 11

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S.R.O.s 3/1949 and 30/1956

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CHAPTER 9.03

EXPORTATION OF FRUIT ACT

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CHAPTER 9.03

EXPORTATION OF FRUIT ACT

(Acts 4 of 1938, 2 of 1939, 16 of 1956, 7 of 1966 and 9 of 2011)

Commencement

[8 August 1938]

Short title

1. This Act may be cited as the Exportation of Fruit Act.

Interpretation

2. In this Act and in any Rules made thereunder—

“**container**” includes any barrel, crate, package, bag or covering which may be prescribed;

“**export**” with its grammatical variations and cognate expressions means to take or cause to be taken out of Montserrat;

“**fruit**” means any variety of fresh fruit, nut, vegetable or other unmanufactured product of any tree, plant, shrub or root to which this Act shall be made to apply by proclamation of the Governor acting on the advice of Cabinet published in the *Gazette*;

“**fruit inspector**” means any person or persons appointed by the Governor to exercise the powers of inspection of fruit under this Act;

“**Government Depot**” means the Government Fruit and Vegetable Marketing Depot and Cold Storage Plant, established for the development of the fruit trade and appointed for the purposes of this Act;

“**packing station**” includes the Government Depot and any place for the packing of fruit appointed under section 4.

(Amended by Act 9 of 2011)

Appointment of fruit inspectors

3. The Governor may, by notice in the *Gazette*, appoint fit and proper persons to be fruit inspectors under this Act, one of whom shall be designated as the Chief Fruit Inspector.

Licensing of packing station

4. The Governor may by licence under his hand appoint such place or places as he shall think fit to be packing stations for the purposes of this Act.

Inspection and certification of fruit

5. (1) From and after the coming into operation of this Act, all fruit intended for export shall be packed—

- (a) under the supervision of a fruit inspector;
- (b) at a packing station; and
- (c) in standard containers marked legibly and in plain letters on the outside thereof with—
 - (i) the name or identification mark of the shipper;
 - (ii) the name of the variety of the fruit;
 - (iii) the number or weight of the fruit; and
 - (iv) the grade of the fruit contained therein.

(2) Any person intending to pack any fruit for export shall give reasonable notice to the Chief Fruit Inspector of such intention and of the place and time at which he proposes to pack such fruit; and no fruit shall be wrapped, packed or shipped until such fruit and the containers in which the same is shipped shall have been inspected and approved by a fruit inspector.

(3) If the fruit inspector is satisfied that such fruit is in all respects fit for export, and that all the requirements of this Act and of any regulations made thereunder have been complied with, he shall—

- (a) affix to each package of fruit a label in the prescribed form denoting that the fruit contained therein has passed inspection; and
- (b) issue to the owner or shipper of the fruit a certificate of fitness for export in the form prescribed by the Schedule.

(4) Where the exigencies of any particular trade or special demand require that any variety of fruit shall be prepared for export or shipped in any particular manner, the provisions of this section, shall, in relation to such requirements, have effect subject to such modifications and adaptations as regards the preparation of such fruit for export and the conditions of shipment thereof as may be prescribed: Provided always that no fruit shall be exported unless and until a fruit inspector shall have examined the same and certified it as in all respects fit for export.

Cancellation of certificate

6. If at any time after certification by a fruit inspector it appears that a certified package of fruit has become in any respect unfit for export, the Chief Fruit Inspector shall cancel the certificate of fitness for export in respect of that package and shall forthwith give notice in writing of such cancellation to the owner or shipper as the case may require.

Power of entry

7. It shall be lawful for a fruit inspector at all reasonable times—
- (a) to board any ship, launch, lighter, boat or other vessel on which fruit may be stored for the purpose of being exported; and
 - (b) to have access to and enter upon any packing station, building or land where fruit is stored, kept or otherwise dealt with, for the purpose of ascertaining whether the provisions of this Act or of any regulations made thereunder have been complied with.

Cold storage

8. Unless the Chief Fruit Inspector otherwise permits, all fruit certified as fit for export, if not shipped within twelve hours after the issue of such certificate, shall immediately be placed in cold storage at the Government Depot until the date of shipment.

Destruction of diseased fruit

9. The Chief Fruit Inspector may order any fruit submitted to any fruit inspector for examination and found to be affected by disease or insect or fungus pest to be destroyed, and such fruit shall be deemed to be forfeited and shall be destroyed accordingly.

Offences

10. Any person who—
- (a) packs or attempts to pack for export any fruit in a place other than a packing station;
 - (b) packs or attempts to pack for export any fruit which has been rejected by a fruit inspector;
 - (c) removes from any packing station any package of fruit without the sanction of a fruit inspector;
 - (d) exports or attempts to export any fruit which has not been examined and certified by a fruit inspector as fit for export, or any fruit in respect of which the certificate of fitness for export has been cancelled;
 - (e) wilfully tampers with any container or the contents thereof after inspection or certification of the same by a fruit inspector;
 - (f) hinders, molests or obstructs any fruit inspector in the execution of any duty imposed on him by this Act;
 - (g) acts in contravention of or fails to comply with any of the provisions of this Act or of any regulations made thereunder,

shall be guilty of an offence and shall on summary conviction be liable in the case of a first offence to a penalty not exceeding \$120 and in the case of a second or subsequent offence to a penalty not exceeding \$240.

Payment and application of fees

11. All fees and charges payable under the provisions of this Act and any rules made under this Act shall be paid into the Treasury to the credit of the general revenue of Montserrat.

SCHEDULE

(Section 5(3)(b))

EXPORTATION OF FRUIT ACT

CERTIFICATE OF FITNESS FOR EXPORT

Name of owner or shipper	Number and identification mark of package or packages	Description and Grade of Fruit

I hereby certify that the fruit specified above has been packed under my supervision at a licensed packing station, and is in my opinion free from unnecessary foliage, trash and soil, and in all respects fit for export.

Dated

.....
GOVERNMENT FRUIT INSPECTOR

FRUIT APPLICATION ORDER – SECTION 2

(S.R.O. 4/1938 and Act 9 of 2011)

In exercise of the powers contained in section 2 of the Exportation of Fruit Act, the Governor with the advice of the Cabinet hereby orders and proclaims that the said Exportation of Fruit Act shall apply to the following fruit, namely—

Avocado pears, beets, carrots, cucumbers, egg plants, limes, mangoes, onions, pineapples, pumpkins, string beans, sweet peppers, sweet potatoes and tomatoes.

(Amended by Act 9 of 2011)

EXPORTATION OF FRUIT RULES – SECTION 11

(S.R.O.s 3/1949, 30/1956, 18/1965 and Act 9 of 2011)

Short title

1. These Rules may be cited as the Exportation of Fruit Rules.

Wrapping

2. All tomatoes, limes and grafted mangoes intended for export to the United Kingdom, Canada or Bermuda shall be tightly wrapped in wrapping paper approved by the Chief Fruit Inspector. Limes intended for export to the United States of America shall be wrapped in approved wrapping paper or straw paper.

Fee for examination

3. There shall be collected a fee of 10 cents for every crate, barrel or other container having fruit therein and examined by a fruit inspector.

(Substituted by S.R.O. 18/1965)

Licensed packing houses to be clean

4. The owner, occupier or person in charge of any licensed packing house shall keep such premises in a clean condition to the satisfaction of the Chief Fruit Inspector.

Diseased fruit

5. A Fruit Inspector may order any fruit submitted to him for examination which is affected by any insect pest or fungus disease to be destroyed and the same shall be forfeited and destroyed accordingly:

Provided that the owner of such fruit may appeal without delay to the Governor whose decision shall be final and binding on all parties.

Condition of fruit

6. All fruit intended for export shall be of the degree of maturity required by the trade, and shall be undamaged and free from any dirt, decay, disease, bruising or any other defect which, in the opinion of the Fruit Inspector, renders it unfit for export.

Grades

7. All fruit for export shall be graded for quality according to the standards defined below—

TOMATOES

There shall be one grade for tomatoes, in the case of shipments to Canada to be certified as “Canada No. 2 or better”, which shall consist of tomatoes which are—

- (i) sound, clean, reasonably smooth, well formed, of similar varietal characteristics and of uniform state of maturity;
- (ii) free from disease, scald, ground spots, stem ends and worm holes, growth cracks and other scars which are likely to cause leaking or materially affect their appearance;
- (iii) free from excessive damage caused by blossom end, plant or stem rub and insect injury; and
- (iv) properly packed.

OTHER FRUITS

The following shall be the grades for other fruits—

Choice

“**Choice**” shall consist only of first class fruits of similar varietal characteristics, particularly as regards colour and shape. The fruits shall be firm and free from all discolouration and insect or fungus damage.

Standard

“**Standard**” shall consist only of fruits which, whilst conforming to the general requirements, are not up to the specification of “Choice”.

Standard containers

8. Containers shall conform to the standard quality and sizes generally accepted by the fruit trade and approved by the Chief Fruit Inspector.

Packing

9. *Tomatoes.* The containers shall be tightly packed. Tomatoes in any one container shall be of uniform size and packed to represent the following counts per crate—

6 X 6, 6 X 7, 7 X 7, 7 X 8.

Limes. The containers shall be tightly packed, and the limes in any one container shall be of uniform size. Limes shall be of a minimum size of $1\frac{3}{8}$ inches in diameter. Limes packed in barrels shall be graded for size as “Large”, “Medium” and “Small”. “Large” shall include all limes which will not pass through a grade ring of $1\frac{7}{8}$ inches diameter; “Medium” those which will pass through a $1\frac{7}{8}$ inches, but not through a $1\frac{3}{8}$ inch ring; and “Small” all such as will pass through a ring of $1\frac{3}{8}$ inches in diameter. Limes packed in crates shall be packed to represent the following counts per crate—

177, 226, 281, 342.

Marking and stencilling

10. All containers intended for export must be clearly marked with the following particulars—

- (1) Shippers’ markings and port of destination.
- (2) Kind of fruit.
- (3) Country of origin.
- (4) Count or size of fruit.

In the case of tomatoes the net weight must be marked on the crate.

Such marks shall be made either by stencilling or stamping in bold letters.

Special Trade Requirements

11. To meet the requirements of any special trade or demand it shall be competent for the Chief Fruit Inspector to permit, subject to such terms and conditions as he shall see fit—

- (a) the exportation of fruit unwrapped;
- (b) the use of packages other than those of standard dimensions; and
- (c) the preparation for export and the shipment of fruit in any particular manner prescribed by the Chief Fruit Inspector.

Fruit Advisory Committee

12. For the better regulation of the shipping and marketing of fruit, there shall be established an advisory committee to be called the Fruit Advisory Committee which shall consist of the officer for the time being in charge of the Government Depot who shall be Chairman and six other persons appointed annually by the Governor one of whom shall be an officer in the service of the Government of Montserrat and five of whom shall be unofficial persons.

Marketing Depot

13. (1) *Marketing Depot.* In addition to such other duties as may be imposed on him by any law, rule, or administrative order, it shall be the duty of the officer in charge of the Government Depot to receive and market fruit submitted to him for shipment, provided that he considers that market conditions justify shipment.

(2) *Delivery of fruit.* The days and times for delivering of fruit for marketing by the Agricultural Department shall be fixed by the Officer-in-Charge.

Transport of fruit intended for export

14. Fruit intended for export shall not be conveyed in bags, but shall be placed for transport in boxes, or baskets properly lined to prevent bruising.

Accounts

15. (1) *Tomatoes.* All tomatoes delivered by growers shall be pooled. The Officer-in-Charge of the Government Depot shall be empowered to make advances on fruit shipped and at a rate approved by the Governor. Adjustment and final payments shall be made at the end of the season.

(2) *Other Vegetables.* Immediately on receipt of account sales for fruit shipped through the Agricultural Department, other than tomatoes, adjustment shall be made with the person for whom the fruit was shipped, after deducting all expenses.

(3) *Losses.* In all cases where there has been a loss on the shipment of fruit through the Agricultural Department such loss shall be borne by the person for whom the fruit was shipped, and in default of payment may be sued for in a Court of competent jurisdiction and recovered with costs of suit as a debt due to the Collector of Customs and Excise.

(4) *Crate Material.* All materials supplied by the Government Depot must be paid for prior to delivery, except when fruit is marketed by the Government Depot when such expenses shall be recovered on receipt of account sales. No material shall be issued on loan by the Government Depot.

(5) *Contracts.* It shall be lawful for the Officer in charge of the Government Depot to make contracts for the transport of packing material and the shipping of fruit.

(6) *Cess.* A cess will be charged on all fruit packed and shipped by the Agricultural Department at the following rates—

Fruit packed and shipped	2 cents per crate
Fruit shipped but not packed	1 cent " "
Fruit packed, but not shipped	1 " " "

(7) *Packing House Charge.* A packing house charge at the rate of 15% of the cost of the labour employed will be charged in respect of all fruit packed by the Agricultural Department:

Provided that the Governor acting on the advice of Cabinet shall have the power to waive or remit all or part of any cess or packing house charges payable under sub-rules (6) and (7).

(Amended by Act 9 of 2011)

Cold storage depot

16. (1) Fruit will be received for cold storage on days and at times to be fixed by the Officer-in-Charge of the Government Depot, who shall be under no obligation to

accept fruit for cold storage if accommodation is not available. No space will be reserved for any person.

(2) *Cold Storage Fees.* Cold Storage Fees will be charged at the following rates—

<i>Article</i>	<i>Rate</i>	<i>Period</i>
Fruit and vegetables in packages not exceeding 25 lb.	3 cents	fortnight or part thereof
Fruit and vegetables in packages of over 25 lb. and not exceeding 35 lb.	4 "	"
Fruit and vegetables in packages of over 35 lb. and not exceeding 50 lb.	5 "	"
Fruit and vegetables in packages of over 50 lb. and not exceeding 100 lb.	10 "	"
Fruit and vegetables in packages of over 100 lb.	20 "	"

(3) *Porterage and Stacking of Fruit.* The porterage and stacking of fruit for cold storage may be undertaken by the Cold Storage Depot, and fees shall be charged at the following rates—

<i>Article</i>	<i>Rate</i>
Fruit and vegetables in packages not exceeding 25 lb.	\$1.00 per 100 packages
Fruits and vegetables in packages of over 25 lb. and not exceeding 35 lb.	2 cents per package
Fruit and vegetables in packages of over 35 lb. and not exceeding 50 lb.	3 cents "
Fruit and vegetables in packages of over 50 lb. and not exceeding 100 lb.	5 cents "
Fruit and vegetables in packages of over 100 lb.	8 cents "

(4) *Payment of Cold Storage Fees.* All fees, as provided by law, charged in respect of fruit pre-cooled for export shall be paid into the Treasury, and shall be included on the Export Warrant.

Exemption

17. No liability shall attach to the Government or any officer or servant of the Government for any loss of or damage to any fruit at the Government Depot or any Government Packing House unless such loss or damage was due to negligence on the part of an officer or servant of the Government.

Forfeiture of Rejected Fruit

18. Rejected fruit not removed within 24 hours of the giving of an oral or written notice by the Chief Fruit Inspector will be forfeited and destroyed or otherwise disposed of.

Overtime Fees

19. Fees for overtime work shall be paid to officers of the Government Marketing Depot in accordance with the scale and rates hereunder—

Scale A. For duties performed on Sundays, Public Holidays and any night between 10 p.m. and 6 a.m.

Scale B. For duties performed on ordinary working days before and after the prescribed hours of attendance, except between 10 p.m. and 6 a.m.

<i>Grade</i>	<i>Hourly rate of Overtime</i>	
	<i>Scale 'A'</i>	<i>Scale 'B'</i>
Principal	96 cents	84 cents
Senior Clerk	84 "	72 "
Junior Clerk	72 "	60 "
Chief Petty Officers	50 "	40 "
Other Petty Officers	40 "	30 "

