



MONTSERRAT

## CHAPTER 9.08

# AGRICULTURE ACT

**Revised Edition**  
showing the law as at 1 January 2019

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—

### AGRICULTURE ACT<sup>1</sup>

Act 13 of 1958 .. in force 1 August 1958

Amended by Acts: 26 of 1958

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

17 of 2014 .. in force 1 September 2014 (S.R.O. 67/2014)

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**CHAPTER 9.08**

**AGRICULTURE ACT**

**ARRANGEMENT OF SECTIONS**

SECTION

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SCHEDULE: Notification of Advance



## CHAPTER 9.08

### AGRICULTURE ACT

*(Acts 13 of 1958, 26 of 1958, 9 of 2011 and 17 of 2014)*

#### Commencement

*[1 August 1958]*

#### Short title

1. This Act may be cited as the Agriculture Act.

#### Interpretation

2. In this Act—

“**agriculture**” includes horticulture, fruit growing, seed growing, dairy farming and livestock breeding and keeping, the use of land as grazing land, meadow land, market gardens and nursery grounds, and the use of land for woodlands when that use is ancillary to the farming of land for other agricultural purposes, and “**agricultural**” shall be construed accordingly;

“**agricultural land**” means land used for agriculture, which is so used for the purposes of a trade or business:

Provided that, this expression shall not extend to land used as pleasure grounds or private gardens;

“**Council**” means the National Conservation and Environmental Advisory Council established by section 6 of the Conservation and Environmental Management Act; *(Amended by Act 17 of 2014)*

“**Director**” means the Director of Agriculture appointed under section 3; *(Amended by Act 17 of 2014)*

“**relevant circumstances**”, in relation to an owner or occupier, includes all circumstances affecting management or farming, other than the personal circumstances of the owner;

“**Tribunal**” means the Physical Planning and Environmental (Appeals) Tribunal established by section 55 of the Physical Planning Act. *(Amended by Act 17 of 2014)*

#### Appointment of Director of Agriculture

3. The Governor shall appoint a Director of Agriculture for the purposes of this Act. *(Amended by Act 17 of 2014)*

## Duties of good estate management and good husbandry

4. This Act shall have effect for the purpose of securing that owners and occupiers of agricultural land fulfil their responsibilities to the community to manage and farm the land so as to prevent erosion and ruination of the soil.

### Good estate management

5. (1) For the purposes of this Act, an owner of agricultural land shall be deemed to have fulfilled his responsibilities to the community as mentioned in section 4, if the management of the land by him is such as to be reasonably adequate, having regard to the character and situation of the land and other relevant circumstances, to enable an occupier of the land reasonably skilled in husbandry to prevent erosion and ruination of the soil.

(2) In determining whether the owner or occupier of agricultural land is fulfilling his responsibilities as, regard shall be had to the character and situation of the land and to the extent to which steps are being taken—

- (a) to terrace sloping land under cultivation;
- (b) to prevent or check the formation of gullies;
- (c) to prevent surface water from causing erosion on adjoining land;
- (d) to protect water courses or public roads;
- (e) to preserve forest and vegetation on ridges and steep slopes;
- (f) to control, or where necessary prevent, the grazing of animals on steep slopes.

### Power of Director to supervise management and farming

6. (1) Where the Director is satisfied that the owner or occupier of any agricultural land is not fulfilling his responsibilities under this Act, the Director may apply to the Governor acting on the advice of Cabinet to make an order (hereinafter referred to as a “**supervision order**”) placing the owner or occupier of the said land under the supervision of the Director in so far as it relates to the management and farming of the land in question.

(2) Before a suspension order is made under subsection (1), the Council shall—

- (a) examine the Director’s application and make recommendations regarding the application to the Governor acting on the advice of Cabinet; and
- (b) in examining the application, afford the owner or occupier of the land in question an opportunity of being heard in opposition to the application.

### **Duties and powers of Director under supervision order**

7. (1) While a supervision order is in force, the Director, or any of his officers authorised by him in writing in that behalf, may at all reasonable times enter upon the land to which the order relates, for the purpose of inspecting the way in which it is being managed and farmed.

(2) Where a supervision order is in force and the Governor acting on the advice of Cabinet is satisfied that, by reason of the standard of management and husbandry, as the case may be, attained by the person to whom it relates, it is no longer necessary that the order should continue in force, the Governor acting on the advice of Cabinet shall revoke the order: Provided that, the revocation of an order shall not affect any direction given thereunder in so far as it is in force immediately before the revocation of the order.

(3) Forthwith after the making of supervision order the Governor shall cause a copy of the said order to be served upon the person to whom it relates, and forthwith after the revocation of such an order the Governor shall cause notice of such revocation to be served upon the person to whom it relates.

*(Amended by Acts 9 of 2011 and 17 of 2014)*

### **Supervision order affected by change of owner or occupier**

8. Where a supervision order is in force in respect of an owner or occupier any disposition of land to which the order relates, whereby some other person becomes the owner or occupier of that land, shall not affect the continued operation of the supervision order and the said order shall continue in force so far as it relates to that land as if it had been made so as to relate to the new owner or occupier, as the case may be, as well as to the former owner or occupier.

### **Directions to secure good management of land and to avoid soil erosion**

9. (1) Where a supervision order is in force, the Director shall by notice in writing served on the person to whom the order relates give to that person such directions as he is satisfied are required to secure that the said person fulfils his responsibilities to manage and farm the land so as to avoid erosion and ruination of the soil.

(2) Such directions may impose requirements, restrictions or prohibitions as to the carrying out of work and as to the manner in which the land is to be used.

(3) If any person to whom a direction is given under this section, contravenes or fails to comply with the direction, he shall be liable on summary conviction to a fine of \$100 and in default of payment thereof to imprisonment for a period of three months.

(4) Without prejudice to the bringing of proceedings under subsection 3, where a direction under this section to carry out any work is not complied with, any person authorised by the Director may enter upon

the land to which the direction relates and carry out the work required by the direction, and the reasonable cost of carrying out such work shall be recoverable from the person to whom the direction was given.

(5) Any person who obstructs a person acting in the exercise of powers conferred by subsection (4) shall be liable on summary conviction to a fine of \$100 and in default of payment thereof to imprisonment for a period of three months.

(6) Where a direction under this section provides for the doing of anything within a specified time and (whether before or after the expiration of the specified time) the Director is satisfied that it is reasonable that the specified time should be extended, he may extend it accordingly.

### Reference of notice to the Tribunal

10. (1) Any person upon whom a notice is served under section 9 may within twenty one days of the service of such notice request the Director to refer his case to the Tribunal.

(2) Upon the receipt of this request the Director shall inform the Tribunal who shall, after giving the person an opportunity of being heard, decide whether the notice shall stand or be modified or cancelled.

*(Amended by Act 17 of 2014)*

### Appeals

11. (1) A person aggrieved by a decision of the Director under this Act may appeal to the Tribunal against that decision.

(2) Part 7 of the Physical Planning Act applies, with any modifications necessary, to appeals to the Tribunal under this Act.

*(Substituted by Act 17 of 2014)*

### Maintenance of anti-erosion works

12. (1) Where any anti-erosion works have been established by the owner or occupier of any land in pursuance of a direction issued by the Director, or by any person authorised by the Director on a failure to obey such direction, the owner or occupier of such land shall at all times maintain the said anti-erosion works in a fit and proper condition to the satisfaction of the Director. *(Amended by Act 17 of 2014)*

(2) Any person who fails to maintain the said anti-erosion works shall be guilty of an offence against this Act and shall be liable on summary conviction to a fine of \$100 and, in default of payment thereof, to imprisonment for a period of three months or to both such fine and imprisonment.

### Appeal

13. Where any person is required, under section 9, to do any act or thing which may involve him in the expenditure of any money, he may, subject

to any regulation made under section 18, apply to the Director for an advance of money to enable him to do such act or thing, and the Director in making the advance shall state the terms and conditions under which the advance is made and such advance shall be recoverable as a civil debt in the name of the Director from the person to whom the advance is made.

*(Amended by Act 17 of 2014)*

### **Source, interest on and payment of advances**

#### **14. Any advances under this Act shall—**

- (a) be made from funds provided for the purpose by the Legislative Assembly of Montserrat; *(Amended by Act 9 of 2011)*
- (b) bear interest at such rate per annum as the Governor acting on the advice of Cabinet may from time to time determine; *(Amended by Act 9 of 2011)*
- (c) be repaid in equal yearly instalments of capital and interest within such period, not exceeding thirty years, as may be agreed upon between the applicant and the Director: Provided that, nothing in this paragraph contained shall preclude any person from repaying any balance due from him to the Director at any time before the expiration of the period so agreed upon.

*(Amended by Act 17 of 2014)*

### **Advance to be charge on land**

**15.** All moneys advanced under this Act, together with any interest thereon and all charges incidental thereto and to the repayment thereof, shall be a charge upon the land in respect of which the advance or payment has been made: Provided that—

- (a) where the Director proposes to make an advance on land which is subject to a statutory or contractual mortgage or charge; or
- (b) where the Director proposes to make an advance on land which is the subject of a lease or licence and the lessee or licensee (not being a lessee or licensee from the Crown) is in possession,

the Director shall in writing advise the mortgagee or chargee or lessee or licensee, as the case may be, who shall, if he objects to the making of the advance, be given an opportunity of being heard by the Director before the advance is made.

*(Amended by Act 17 of 2014)*

## Registration of advances

**16. (1)** As soon as possible after an advance has been approved by the Director, the Director shall prepare a notification in the form in the Schedule and shall—

- (a) when the land to be charged has not been brought under the Title by Registration Act, forward the same signed to the Registrar of Deeds to be registered under the Registration and Records Act, and as soon as such notification has been registered by the Registrar of Deeds he shall inform the Director who shall pay the advance to the applicant in accordance with the terms contained in such notification;
- (b) when the land to be charged has been brought under the Title by Registration Act, forward the same duly signed to the Registrar of Titles to be noted as a mortgage upon the duplicate certificate of title placed on the register in respect of the land in like manner as is provided for the noting of mortgages under section 39 of the Title by Registration Act, and as soon as the said noting has been made by the Registrar of Titles he shall inform the Director who shall pay the advance to the applicant in accordance with the terms contained in such notification. As soon as practicable thereafter the Registrar of Titles shall make a similar noting on the certificate of title issued to the registered proprietor and for this purpose, the Registrar of Titles shall have the power to direct any person to produce such duplicate certificate of title, and any person who fails to comply with such direction shall be dealt with in the manner and be subject to the same penalty as is provided in section 140 of the Title by Registration Act.

**(2)** No fees under the Title by Registration Act and no stamp duties under the Stamp Act shall be payable in respect of anything required to be done by the Registrar of Deeds or the Registrar of Titles under this section.

*(Amended by Act 17 of 2014)*

## Right of a lessee to compensation for work done

**17.** Where a lessee holding land under a lease from any other person has, in complying with any order or direction issued under this Act, done at his own expense any work on such land, such lessee shall be entitled at the termination of his lease to obtain from the lessor as compensation such sum as fairly represents the residuary value of such work to the lessor.

## Power to make Regulations

**18.** The Governor acting on the advice of Cabinet may make regulations for carrying into effect the provisions of this Act, and without prejudice to the generality of the foregoing, for all or any of the following purposes—

- (a) prescribing the manner in which applications for advances shall be made;
- (b) prescribing the purposes for, and the terms and conditions on which, advances may be made;
- (c) prescribing the maximum amount of, and the rate of interest to be charged on advances;
- (d) appointing an advisory board or boards to consider and report upon, and to make recommendations in regard to applications for advances under this Act.

*(Amended by Act 9 of 2011)*

### **Service of notices**

**19. (1)** Any notice or other document required or authorised by or under this Act to be given or served on any person shall be duly given or served if it is delivered to him, or left at his proper address, or where this is not known, his last known address, or sent to him by post in a registered letter.

**(2)** Any such document required or authorised to be given to or served on an incorporated company or body shall be duly given or served if given to or served on the secretary or clerk of the company or body at the registered or principal office of the company or body.

**(3)** Where any document is to be given to or served on a person as being the person having any interest in land, and it is not practicable after reasonable inquiry to ascertain his name or address, the document may be given or served by addressing it to him by the description of the person having that interest in land (naming it) and delivering the document to some responsible person on the land, or by affixing it, or a copy of it, to some conspicuous object on the land.

**SCHEDULE**

*(Section 16)*

**NOTIFICATION OF ADVANCE**

- (a) Name and Address of Applicant .....
  - (b) Name, extent, description and  
boundaries of land against which  
advance is made .....
  - (c) Amount of advance .....
  - (d) Date of payments or dates and  
amounts of instalments of  
repayment .....
- .....  
Signature of Applicant
- (e) Approved .....
- .....  
Signature of Director