
STATUTORY INSTRUMENTS

2010 No. 2474

The Montserrat Constitution Order 2010

PART V

ELECTORAL COMMISSION

Establishment and functions of Electoral Commission

- 78.**—(1) There shall be an Electoral Commission for Montserrat.
- (2) The Electoral Commission shall consist of—
- (a) a Chairman appointed by the Governor, acting in his or her discretion;
 - (b) a member appointed by the Governor, acting in accordance with the advice of the Premier;
 - (c) a member appointed by the Governor, acting in accordance with the advice of the Leader of the Opposition; and
 - (d) a member to represent the public interest appointed by the Governor, acting after consultation with such representatives of civil society as the Governor, acting in his or her discretion, thinks appropriate.
- (3) A person shall not be qualified to be appointed as a member of the Electoral Commission if he or she is a public officer.
- (4) The Chairman or other member of the Electoral Commission shall vacate his or her office—
- (a) at the expiration of five years from the date of his or her appointment;
 - (b) if he or she becomes a public officer; or
 - (c) if the Governor, acting in his or her discretion, directs that he or she shall be removed from office for inability to discharge the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.
- (5) The Electoral Commission may regulate its own procedure and, with the consent of the Governor, acting in his or her discretion, may confer functions on any public officer or on any authority of the Government for the purpose of the discharge of its functions.
- (6) The Electoral Commission may act notwithstanding any vacancy in its membership (including any vacancy not filled when appointments of members are first made) and its proceedings shall be valid even though some person who was not entitled to do so took part in them; but any decision of the Commission shall require the concurrence of not less than three of its members.
- (7) The Electoral Commission shall—
- (a) have the functions conferred on it by sections 52(3), 79, 96(2) and 114(1);
 - (b) supervise elections in Montserrat in accordance with any law regulating the conduct of elections; and
 - (c) have such other functions as may be prescribed by Act of the Legislature.

(8) An Act of the Legislature may make further provision, subject to this Constitution, for the functions and procedures of the Electoral Commission, and for the protection, privileges and remuneration of members of the Commission.

(9) In the exercise of its functions, the Electoral Commission shall not be subject to the direction or control of any other person or authority.

Review and alteration of electoral districts

79.—(1) Whenever—

- (a) the Legislative Assembly, by resolution; or
- (b) the Governor, acting after consultation with the Premier and the Leader of the Opposition,

so requests, the Electoral Commission shall review the electoral district or, if there is more than one, the boundaries of the electoral districts into which Montserrat is divided and, taking into account the changes or proposed changes, if any, in the number of electoral districts, shall submit a report to the Governor and the Legislative Assembly containing its recommendations for the establishment of, or any changes in, the boundaries of the electoral districts.

(2) In determining its recommendations in relation to more than one electoral district, the Electoral Commission shall seek to ensure that electoral districts contain, so far as is reasonably practicable, approximately equal numbers of persons qualified to be registered as electors under the law then in force in Montserrat; but the Commission may depart from this principle to such extent as it considers expedient in order to take into account—

- (a) the density of population and, in particular, the need to ensure adequate representation of sparsely populated areas;
- (b) the means of communication; and
- (c) geographical features and natural boundaries.

(3) As soon as may be after the Electoral Commission has submitted a report under this section, the Governor shall cause a Bill to be introduced into the Legislative Assembly for giving effect, whether with or without modifications, to the recommendations contained in the report; and such a Bill—

- (a) may contain provision for any matters which are incidental to or consequential on its principal provisions; and
- (b) shall include a provision for the coming into force of the measure when enacted for the determination of the electoral districts to which it relates upon the dissolution of the Legislative Assembly next following its enactment.

(4) Where any Bill introduced under this section proposes to give effect to the recommendations of the Electoral Commission with modifications, there shall be laid before the Legislative Assembly at the same time a statement of the reasons for the modifications.