



MONTSERRAT

CHAPTER 18.08

INFO-COMMUNICATIONS DEVELOPMENT 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—

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CHAPTER 18.08

INFO-COMMUNICATIONS DEVELOPMENT ACT

(Acts 4 of 2009, 9 and 15 of 2011)

Commencement

[1 August 2009]

PART 1

PRELIMINARY

Short title

1. This Act may be cited as the Info-Communications Development Act.

Interpretation

2. In this Act—

“**access**” means the ability of a user or provider to utilize the available network of another provider or user;

“**affiliate**” means an affiliated body corporate within the meaning of the Companies Act;

“**Authority**” means the Info-Communications Authority of Montserrat established under section 4;

“**broadcasting service**” means the offering of the transmission of programmes whether or not encrypted, by any means of an info-communications platform, for reception by the general public;

“**closed user group**” means a group of persons who have a common business or other economic interest other than the provision of an info-communications service;

“**closed user group service**” means an info-communications service used by a closed user group, operated without interconnection to a public info-communications network;

“**computer**” means an electronic, magnetic optical, electro-chemical or other data processing device performing logical arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device or group of such interconnected or related devices, but does not include—

(a) an automated typewriter;

(b) a portable hand-held calculator;

(c) a similar device which is non-programmable or which does not contain any data or storage facility;

(d) such other devices as the Governor acting on the advice of Cabinet may prescribe; (*Amended by Act 9 of 2011*)

“concession” means an authorisation to operate a public info-communications network or provide a public info-communications service pursuant to section 21;

“Convention” means the International Telecommunication Union Convention adopted from time to time and in force, to the extent ratified by United Kingdom;

“Executive Manager” means the Chief Executive Officer of the Authority appointed by the Board in accordance with section 8;

“facility” means any physical component of an info-communications network, other than terminal equipment used, for the purpose of communication;

“frequency band” means a continuous frequency range of spectrum;

“harmful interference” means interference which endangers the functioning of info-communications so as to impede, degrade, obstruct or interrupt an info-communications service;

“info-communications” includes the transmission, emission or reception of signs, signals writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems whether or not such signs, signals writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission or reception, and includes any technology employed in collecting, storing, using or sending information involving the use of computer or any telecommunications system;

“info-communications network” means a system or any part thereof used for the provision of an info-communications service;

“info-communications service” includes voice, data, image sound and any other form of intelligence transmitted over closed user group networks, private networks, or public networks and also includes a radio-communication service;

“Intelligent Island” means an island where most of the people have the requisite level of info-communications knowledge and skills that enable them to use info-communications applications to derive solutions to improve their daily lives;

“interconnection” means the linking of public info-communications networks and public info-communications services, to allow the users of one provider of a public info-communications service to communicate with the users of another provider of a public info-communications service, and to access the services provided by such other provider;

“Island” means Montserrat

“licence” means an authorisation granted under section 31;

“Minister” means the member of the Cabinet to whom responsibility for info-communications is assigned; (*Amended by Act 15 of 2011*)

“network termination point” means the point designated for connection of equipment by a user to an info-communications network;

“pension fund plan” has the meaning assigned to it by the relevant Act;

“pension law” has the meaning assigned to it by the relevant Pensions Legislation;

“private info-communications service” means an info-communications service used within one enterprise or its affiliates, to satisfy its or their internal needs and operated without any interconnection to a public info-communications network;

“public info-communications network” means a communications network used to provide a public info-communications service;

“public info-communications service” means any computer technology, telecommunication or broadcasting service, including a public telephone service, offered to members of the general public, whereby one user can communicate with any other user in real time, regardless of the technology or equipment used to provide such service;

“public service” has the meaning assigned to it by the Constitution;

“public telephone service” means the commercial provision to the public of the direct transport and switching/routing of voice in real time from one point to points at which users are connected to a network such that a user can use terminal equipment to communicate with another user;

“spectrum” means the continuous range of electromagnetic wave frequencies used for communication;

“station” means one or more transmitters or receivers or a combination of transmitters and receivers including accessory equipment at one location for carrying on a radio-communication service;

“terminal equipment” means equipment on the user’s side of the network termination point that is connected to an info-communications network and with which a user can originate, process or terminate info-communications services;

“terminal equipment dealer” means a person who imports, exports, repairs, maintains, sells or trades in terminal equipment in any manner; (*Inserted by Act 15 of 2011*)

“universal service” means the provision of info-communications services throughout Montserrat in accordance with the criteria stipulated in section 27;

“user” means a customer or a subscriber;

“utility installation” means any facility in or over a street or public ground;

“utility installation owner” means the owner or operator of any utility installation, and includes any concessionaire or licensee;

“value added service” means a service, other than a basic public info-communications service, that is modified in form, content, code, protocol or other similar aspect of the communication, in a manner which restructures, adds or supplies information or permits user interaction with information.

(2) Terms and words relating to info-communications used in this Act but not defined in this section shall bear the meaning assigned to them in the Convention.

(3) The Governor acting on the advice of Cabinet may, by Order, amend this section, subject to negative resolution of the Legislative Assembly. (*Amended by Act 9 of 2011*)

Objects of the Act

3. This Act is purposed on establishing conditions for—

- (a) encouraging competitive markets for info-communications networks and services, including conditions for fair competition in such markets;
- (b) facilitating the orderly development of an info-communications system that serves to safeguard, enrich and strengthen the national, social, cultural and economic well being of the society;
- (c) promoting and protecting the interests of the public by—
 - (i) promoting access to info-communications services delivered over technology platforms;
 - (ii) ensuring that services provided to subscribers meet the financial and technical obligations stipulated for those services;
 - (iii) providing for the protection of customers;
 - (iv) promoting the interests of customers, purchasers and other users in respect of the quality and variety of info-communications services and equipment supplied;
 - (v) ensuring that competition is introduced and managed in a manner which does not lead to unsustainable economic situations for suppliers and consumers of info-communications networks and services;
 - (vi) promoting a regulatory framework that is transparent, non-discriminatory and fosters innovation, investment and affordable access to info-communications services

for all persons in Montserrat, to the extent that is reasonably practicable to provide such access;

- (d) facilitating the achievement of the objects referred to in paragraphs (a) and (b) in a manner consistent with existing international commitments in relation to the liberalization of info-communications market;
- (e) promoting the info-communications industry in Montserrat by encouraging investment in, and the use of, infrastructure to provide info-communications services;
- (f) ensuring regulatory flexibility and technology neutrality in a manner that supports legacy and internet protocols network and any other network that evolves; and
- (g) regulating info-communications activities on the Island within the parameters of the law in order to achieve and sustain fair competition for purposes of the public good.

PART 2

THE INFO-COMMUNICATIONS AUTHORITY

Establishment of the Authority

4. (1) There is hereby established a body corporate to be known as the Info-Communications Authority of Montserrat (hereinafter referred to as “**the Authority**”) with perpetual succession and shall by that name be capable of—

- (a) suing and be sued;
- (b) acquiring, owning, holding and developing and disposing of property both movable and immovable; and
- (c) doing such other acts a body corporate may do or suffer.

(2) The Authority shall have a common seal which may, from time to time, be broken, altered, or make anew as the Authority thinks fit.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to any document and shall presume that it was duly affixed.

Management of Authority by Board

5. The Authority shall be managed by a Board of Directors (hereinafter referred to as “**the Board**”) for the purpose of exercising and performing such duties as are conferred upon it by this Act and by any other written law.

Composition of Board

6. (1) The Board shall consist of at least three members but not more than five appointed by the Governor acting on the advice of Cabinet, one of

whom shall be appointed Chairman on such terms and conditions as the Governor acting on the advice of Cabinet may determine. (*Amended by Act 9 of 2011*)

(2) Of the members appointed under subsection (1)—

- (a) at least one member shall be qualified, by reason of training and experience, in an info-communications discipline; and
- (b) one member shall be an attorney-at-law.

(3) An appointment under subsection (1) shall be for such period, being not more than three years at any one time, as the Governor acting on the advice of Cabinet shall specify in the instrument of appointment, and the appointments of members shall not all expire at the same time. (*Amended by Act 9 of 2011*)

(4) The Chairman may at any time resign his office as Chairman or as a member of the Board or both by letter addressed to the Governor acting on the advice of Cabinet. (*Amended by Act 9 of 2011*)

(5) A member of the Board may at any time resign by letter addressed to the Chairman who shall forthwith cause it to be forwarded to the Governor acting on the advice of Cabinet. (*Amended by Act 9 of 2011*)

(6) The appointment of any person as member of the Board and the termination thereof whether by death, resignation, revocation, effluxion of time or otherwise, shall be notified in the *Gazette*.

(7) The Governor acting on the advice of Cabinet may terminate the appointment of a member of the Board where the member—

- (a) becomes of unsound mind or is incapable of carrying out his duties;
- (b) has been declared bankrupt;
- (c) is convicted of any offence which brings the Authority into disrepute;
- (d) is guilty of misconduct in relation to his duties;
- (e) is absent, except on leave granted by the Board, from three consecutive meetings of the Board; or
- (f) fails materially and wilfully to carry out any of the duties or functions conferred or imposed on him under this Act.

(*Amended by Act 9 of 2011*)

(8) Where a member, appointed under subsection (1) is unable to act by reason of illness or other cause, the Governor acting on the advice of Cabinet may appoint a person to act as a Board member in his stead for that occasion or until termination of the disability. (*Amended by Act 9 of 2011*)

(9) A person appointed pursuant to subsection (8), may complete any unfinished business of the Authority in which the person has taken part, notwithstanding the resumption of duty of the Board member in whose place the person was appointed under this subsection.

(10) Section 15 applies *mutatis mutandis* to a person appointed under subsection (8).

Corporate Secretary

7. (1) The Board shall appoint a Corporate Secretary (hereinafter referred to as “**the Secretary**”) for a period of not less than three years on such terms and conditions as it shall determine.

(2) The Secretary shall be responsible for such matters as the Board may determine.

(3) Service upon the Authority of any document shall be effected by delivering or sending the same by registered post or by facsimile or other electronic means, addressed to the Secretary, at the office of the Authority.

(4) Service upon the Authority of any document, by facsimile or other electronic means, shall be supported by hard copy as soon as possible thereafter.

(5) The Board may terminate the appointment of the Secretary where the person—

- (a) becomes of unsound mind or is incapable of carrying out his duties;
- (b) is convicted of any offence which brings the Authority into disrepute;
- (c) is found guilty of misconduct or inefficiency in relation to his duties or under section 15, subject to a process consistent with good industrial relations practices.

Executive manager

8. (1) The Board shall appoint an Executive Manager, who shall be the Chief Executive Officer of the Authority, for a first term of five years on such terms and conditions as are agreed upon between the Board and the Executive Manager.

(2) Any subsequent renewal or extension of the term of office of the Executive Manager shall not exceed three years.

(3) The Executive Manager shall—

- (a) manage the affairs of the Authority subject to the directions of the Board;
- (b) attend all meetings of the Board and take part in its deliberations but he shall have no right to vote.

(4) The Board may terminate the appointment of the Executive Manager where the person—

- (a) becomes of unsound mind or is incapable of carrying out his duties;

(b) is convicted of any offence which brings the Authority into disrepute;

(c) has been declared bankrupt,

is found guilty of misconduct or inefficiency in relation to his duties or under section 15, subject to a process consistent with good industrial relations practices.

(5) The appointment of the Executive Manager and the termination of his appointment, whether by death, resignation or otherwise, shall be published in the *Gazette*.

Absence from office of Executive Manager

9. (1) Where a vacancy arises in the office of the Executive Manager either—

(a) by a resignation, termination of appointment; or

(b) by absence approved by the Board, the Board shall appoint a person to act as Executive Manager.

(2) Where a person acts in accordance with this section he—

(a) shall have and may exercise all the powers and perform all the functions of the Executive Manager;

(b) shall receive the same remuneration as the Executive Manager during the period of his acting; and

(c) shall, where the vacancy arose as a result of a resignation or termination, continue to act until such time as an Executive Manager is appointed, such appointment to be no later than six months from the date of the acting appointment.

Seal

10. (1) The Authority shall have an official seal that is to be kept in the custody of the Secretary.

(2) The seal shall be used with the permission of the Board and every instrument to which it is affixed shall be signed by the Secretary and Chairman or the Secretary and the Board member acting instead of the Chairman.

(3) All documents other than those required by law to be under seal shall be signed by the Chairman or a member so authorised by resolution of the Board.

Ordinary Meetings

11. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business and in any case at least once every two months at such place and time and on such days as the Board may determine.

(2) The Chairman or, in his absence, the member of the Board acting in his stead shall preside at all meetings of the Board.

(3) Where, for any reason, the Chairman is absent, the members present may choose one among their number to preside at that meeting.

(4) Notwithstanding subsections (2) and (3), no person shall preside at any meeting when the provisions of section 15(2) apply to him.

(5) The Board may, by way of rules or resolutions, regulate its own procedure for the conduct of its business.

(6) Minutes of each meeting shall be kept in the proper form by the Secretary and confirmed at a subsequent meeting of the Board.

(7) Copies of the confirmed Minutes referred to in subsection (6), shall be made available to the Minister.

Special meetings

12. (1) The Chairman may at any time call a special meeting of the Board.

(2) The Chairman shall call a special meeting within seven days of receiving a request, in writing so to do, signed by any two members of the Board and shall cause notices to be issued to all members in respect of every special meeting.

(3) Every request for a special meeting shall include sufficient indication of the purpose of the meeting.

Quorum

13. At any meeting of the Board, two of its members shall constitute a quorum where the number of persons appointed to the Board is three or three where the number of persons appointed to the Board is greater than three.

Decisions of the Board

14. A decision of the Board, by a majority of members present and voting, shall be final and conclusive except overturned by a court of law.

Disclosure of interest

15. (1) Every member of the Board shall, on appointment and annually thereafter, submit to the Governor acting on the advice of Cabinet through the Minister a declaration stating whether or not he has an actual or contingent pecuniary interest—

(a) in any network or service regulated by the Authority; and

(b) in any business or any business entity carrying on any business with the Authority in the exercise of its functions.

(Amended by Act 9 of 2011)

(2) A member of the Board whose actual or contingent pecuniary interest is likely to be affected in any way by a decision of the Board on any matter specified in subsection (1) shall, as soon as possible after the relevant facts come to his knowledge, disclose to the Governor acting on the advice of Cabinet through the Minister the nature of that interest.
(Amended by Act 9 of 2011)

(3) In respect of any matter which, pursuant to the provisions of this Act, requires the Board to seek the approval of any office a disclosure by the office holder pursuant to subsection (2) shall preclude such person from withholding that approval.

(4) A disclosure under subsection (2) shall be recorded in the minutes of a meeting of the Board and the member shall—

- (a) not take part after disclosure in any deliberation or decision of the Board with respect to that matter; and
- (b) be disregarded for the purpose of constituting a quorum of the Board.

(5) For the purposes of this section, a person who, or a nominee or relative of whom, is a shareholder who owns shares in excess of 5%, or is a partner in a company or other body of persons other than a Government related body or who is an employee thereof, shall be treated as having an actual or contingent pecuniary interest.

(6) In this section, “**relative**” means spouse, cohabitant within the meaning of the relevant legislation, father, mother, brother, sister, son or daughter of a person.

(7) Any person to whom this section applies who fails to comply with the provisions of this section commits an offence and is liable on summary conviction to a fine of \$250,000.

Inducement, collusion, concealment or connivance

16. The provisions of any existing legislation apply where a member of the Board or an employee of the Authority demands or accepts any fee, perquisite, bribe, gratuity, recompense or reward, whether pecuniary or otherwise, from any person, on account of anything done or to be done, omitted or to be omitted by such person, in any way relating to his office or employment, or if such a person attempts to make any collusive agreement to neglect his duty or to conceal or connive at any act whereby any provision of this Act or any other law may be evaded or violated, such person commits an offence and is liable, on summary conviction, to a fine of not less than \$250,000 and imprisonment for two years.

Personal liability of members

17. (1) No personal liability shall attach to any member for—

- (a) any act or omission of the Board; or

- (b) anything done or permitted in good faith in the course of the operations of the Authority under this Act.
- (2) Any sums of money, damages or costs recovered against the Authority or any member of the Board for anything done, omitted or permitted in good faith in the course of the operations of the Authority shall be paid out of such amounts as may be appropriated by the Legislative Assembly. (*Amended by Act 9 of 2011*)

Functions of the Authority

18. (1) Subject to the provisions of this Act, the Authority may exercise such functions and powers as are imposed on it by this Act and in particular to—

- (a) promote the efficiency and regional and international competitiveness of the info-communications industry in Montserrat;
- (b) ensure that info-communications services are reasonably accessible to all people in Montserrat and are provided as economically as practicable and at performance and standards that meet the social, industrial and commercial needs of Montserrat;
- (c) promote effective participation of all segments of the info-communications industry on the Island in the domestic, regional and international markets;
- (d) serve as the national, regional and international representative body of Montserrat in respect of info-communications matters;
- (e) advise the Government on national needs and policies in respect of all info-communications technology matters and those pertaining to the Authority in general;
- (f) make recommendations to the Governor acting on the advice of Cabinet through the Minister on the granting of concessions and monitor and ensure compliance with the conditions set out therein; (*Amended by Act 9 of 2011*)
- (g) exercise licensing functions, and regulatory functions in respect of info-communications systems and services in Montserrat, including establishment of standards and codes relating to equipment attached to info-communications systems, and any software or software used as an adjunct to or in conjunction with such systems and the monitoring of access to such equipment and software;
- (h) exercise licensing and regulatory functions in respect of the allocation and use of satellite orbits and allocation, reallocation and monitoring of radio frequency spectrum in Montserrat for all purposes, including the establishment of

standards and codes relating to any matter connecting therewith;

- (i) to regulate the importation, exportation, sale, installation, use, and trading of terminal equipment, including the authorisation and registration of terminal equipment dealers;
(Inserted by Act 15 of 2011)
- (j) exercise licensing and regulatory functions in respect of installation, use and provision of undersea cable, cable frontier stations and satellite stations, receivers and transmitters in Montserrat and all equipment used in connection therewith;
- (k) where required by the Minister, use its facilities to provide training for the purpose of advancing the skill and knowledge of persons in Montserrat in any area of the info-communications industry where the Authority has developed the requisite skill and knowledge to undertake such training;
- (l) promote, develop, facilitate and implement info-communications systems and services for Government, ministries, departments and agencies;
- (m) advise on, establish and maintain standards of education and training in info-communications technology in Montserrat;
- (n) establish and maintain, to the extent permitted by any law, standards and codes for monitoring and regulating of such aspects of info-communications technology, data privacy and protection as the Authority thinks fit;
- (o) promote the use of internet and electronic commerce, the acceptance of info-communications technology in Montserrat and establish a regulatory framework for that purpose;
- (p) provide consultancy and advisory services concerning info-communications technology;
- (q) determine universal service obligations throughout the Island, pursuant to section 27, and ensure that such obligations are realised;
- (r) ensure compliance with the Convention;
- (s) determine and approve prices, charges and tariffs for provision of info-communication services and facilities and bill and collect all fees, including concession and license fees, numbering fees and any other charges levied under this Act;
- (t) investigate and resolve all allegations of harmful interference;
- (u) investigate complaints by users, operators of info-communications services or other persons arising out of the operation of a public info-communications network, or the

provision of public info-communications networks, providers of info-communications services, in respect of rates, billings and services provided generally and to facilitate relief where necessary; and

- (v) implement and enforce the provisions of the Act and the policies, regulation and rules made hereunder.

(2) In the performance of its functions the Authority shall have regard to—

- (a) efficiency and economy;
- (b) the social, industrial and commercial needs of Montserrat for info-communications services;
- (c) the state and trends in the development of info-communications technology and the evolution of international standards and protocols in the info-communications industry;
- (d) ongoing convergence among broadcasting, telecommunication and computing platforms and the need to accommodate technology applications which are driving such change;
- (e) improvement in the effective and efficient use of radio frequency spectrum;
- (f) fair treatment of consumers and service providers similarly situated;
- (g) respect of consumers similarly placed, to non-discrimination in relation to access, pricing and quality of service; and
- (h) national environmental policy.

(3) In the performance of its functions under subsections (1)(b), (c), (e), (h) and (s) and any other provisions of this Act the Authority shall have discretion to adopt procedures which would—

- (a) afford interested parties and the public opportunities for consultation; and
- (b) permit affected persons and the public to make appropriate submissions to the Authority.

(4) At all times, the Authority shall, in the performance of its functions and duties and exercise of its powers, act in an objective, transparent and non-discriminatory manner.

(Amended by Acts 9 and 15 of 2011)

Directions by the Minister

19. Subject to the provisions of this Act or any other written law, the Minister may give written directions to the Authority on matters of general public policy and the Authority shall give effect to such directions.

Assets transferred to the Authority

20. (1) The Government shall transfer assets to the Authority to assist with commencement of its operation and/or thereafter.

(2) Where the Government transfers assets under subsection (1) the Auditor General shall within thirty days of the date of transfer cause an audit of the assets vested in the Authority.

(3) The Auditor General shall within thirty days of completion of the audit cause a copy of the audited statement together with an inventory to be laid in the Legislative Assembly or if the Legislative Assembly is not then in session, within thirty days after commencement of its next session.
(Amended by Act 9 of 2011)

(4) The audited statement shall indicate among other things, the value of the inventory, as of the date of the audit.

PART 3**CONCESSIONS****Requirement for a concession**

21. (1) No person shall operate a public info-communications network, provide a public info-communications service without a concession granted by the Governor acting on the advice of Cabinet and issued by the Authority. (Amended by Act 9 of 2011)

(2) A person who wishes to operate a network or provide a service described in subsection (1), shall apply to the Authority in accordance with procedures set out in the rules established by the Authority for that purpose.

Conditions applicable to all concessions

22. (1) All concessions shall conform to the regulations and rules made under this Act and provisions of the concession.

(2) The approval of the concession as required under section 21 shall not be unreasonably withheld.

Conditions applicable to a concession for a broadcasting service

23. In addition to the conditions stipulated in section 22, a concession specific to broadcasting service shall require the concessionaire to adhere to broadcasting principles which do not violate the Constitution.

Interconnection

24. (1) A concession for a public info-communications network or a public info-communications service shall also include conditions obliging the concessionaire to provide for—

- (a) direct interconnection with the public info-communications network or public info-communications service of another concessionaire;
 - (b) indirect interconnection with such network or service referred to in paragraph (a), through the public info-communications networks or public info-communications services of other concessionaires; and
 - (c) the transmission and routing of the services of other concessionaires, at any technically feasible point in the concessionaire's network.
- (2) A concession shall also require the concessionaire to—
- (a) comply with the relevant regulations and rules made under this Act and terms and conditions of the concession to facilitate interconnection;
 - (b) provide, upon request, a point or points of interconnection in addition to those offered generally to other concessionaires and which are technology neutral, subject to rates that reflect the concessionaire's economic cost of constructing additional facilities necessary to satisfy such request;
 - (c) publish, in such manner as the Authority may decide, the prices and the technical and other terms and conditions pertaining to its offer for the elements of interconnection;
 - (d) provide the elements of interconnection, to other concessionaires of public info-communications networks and public info-communications services, in a manner that is technology neutral and at least equal in both quality and rates to that provided by the concessionaire to a subsidiary, affiliate or any other party to which the concessionaire provides interconnection;
 - (e) promptly negotiate, upon the request of another concessionaire of a public info-communications network or a public info-communications service, and endeavour to conclude an agreement with regard to the prices and the technical and other terms and conditions to effect interconnection within a period set forth in the concession or the interconnection regulations;
 - (f) deposit with the Authority a copy of any agreement concluded pursuant to subsection (2)(e) within twenty eight days of its making;
 - (g) offer the terms and conditions of an agreement concluded pursuant to subsection (2)(e) to any other concessionaire of a public info-communications network or public info-communications service on a non-discriminatory basis;
 - (h) submit to the Authority for prompt resolution, in accordance with the Dispute Resolution Rules made under this Act any

disputes that may arise with another concessionaire relating to any aspect of interconnection, including the failure to conclude an agreement made pursuant to subsection (2)(e) or disputes as to price and any technical or other term and condition for any element of interconnection;

- (i) provide, to the extent technically feasible, number portability when required to do so and in accordance with the rule of the Authority;
- (j) provide, to the extent feasible, dialing parity to other concessionaires of public info-communications networks and public info-communications services in accordance with the rule made by the Authority;
- (k) permit other concessionaires of public info-communications networks and public info-communications services to have equal access to numbers, operator services, directory assistance and directory listing without unreasonable delay, in accordance with rule made by the Authority; and
- (l) offer cost-based prices for a bundle or individual network elements to other concessionaires as they require.

Access to facilities

25. (1) Subject to the provisions of section 18 and of this section, it shall be a further condition of a concession for a public info-communications network or service that the concessionaire be required to provide other concessionaires with access to the facilities that it owns or controls and such access not be unreasonably withheld.

(2) Access to facilities shall be negotiated as between concessionaires on a non-discriminatory and equitable basis and, at the request of either party the Authority may assist in negotiating a settlement between such parties.

(3) A concessionaire may deny access only where the Authority determined that there is insufficient capacity in the facility, taking into account its reasonably anticipated requirements and its obligations pursuant to section 26, or, for reasons of safety, security, reliability or difficulty of a technical or engineering nature.

(4) Pursuant to its powers under section 18(1)(s) the Authority may regulate the rates, terms and conditions for access to any facility, such rates, terms and conditions should be just and reasonable and shall be negotiated between the parties unless a situation arises which necessitates the Authority's intervention to determine such rates, terms and conditions.

(5) For purposes of this section, access to facilities does not include interconnection.

Government essential services

26. A concessionaire shall permit the Minister to place, at his request, one cross-arm on any or all of its poles in Montserrat free of all rental charges for the purpose of providing essential fire-alarm, police signaling or other services of the Government, but any cross-arm so placed shall be provided, placed and maintained at the expense of the Government, and any damage caused to the property of such concessionaire or any expense, cost, damage or claim incurred by such concessionaire by the exercise by the Minister of the powers conferred by this subsection shall be made good and paid to such concessionaire by the Government.

Universal service

27. (1) In the exercise of its powers under section 18(1)(b) and (q), the Authority shall in accordance with the policy set by the Minister determine the public info-communications services to which universal service shall apply.

(2) In accordance with the policy established by the Minister, the Authority shall periodically determine the manner in which a public info-communications service shall be provided and funded in order to meet the requirements of universal service for that service, including the obligations, if any, of the providers and users of the service.

(3) The policy in reference at subsections (1) and (2) may require that closed user group services, private info-communications services and value added services as well as the users of such services and all info-communications services generally, contribute to the funding of universal service.

(4) Obligations to provide and contribute to the funding of the services referred to in subsection (1) shall be applied on a non-discriminatory basis as between all similarly situated info-communications service providers and users.

Prices

28. (1) Prices for info-communications services, except those regulated by the Authority in accordance with this section, shall be determined by market conditions.

(2) In the exercise of its powers under section 18(1)(s), the Authority in making pricing rules for info-communications services, may take into consideration any case where—

- (a) a concessionaire operating a public info-communications network or providing a public info-communications service elects to bundle services.
- (b) evidence indicate anti-competitive pricing or acts of unfair competition; or

- (c) prices for outgoing international info-communications services are significantly above the costs of providing such services.

(3) Such rules made pursuant to subsection (2), shall require rates to be fair and reasonable and shall prohibit unreasonable discrimination among similarly situated persons.

(4) Prices and related terms and conditions for public info-communications services shall be published by concessionaires at such times and in such manner as the Authority shall set forth in its pricing rules and shall thereafter, subject to this Act and the conditions of any concession, be the lawful prices and related terms and conditions for such services.

Termination, suspension or amendment of concession

29. (1) Subject to this section, the Governor acting on the advice of Cabinet, on the recommendation of the Authority, may suspend a concession where—

- (a) the concessionaire has failed to comply with any of the provisions of this Act, regulations or rules made hereunder or the terms and conditions of his concession; or
- (b) the concessionaire has failed to comply materially with any lawful direction of the Authority.

(Amended by Act 9 of 2011)

(2) Where the Authority is satisfied that a concessionaire whose operation has been suspended under this subsection has taken the necessary measures and has given a written promise to comply as required by this subsection the Authority shall recommend to the Governor acting on the advice of Cabinet that such operation be resumed and the Governor acting on the advice of Cabinet shall issue an order of resumption on terms and conditions he may determine. *(Amended by Act 9 of 2011)*

(3) The Governor acting on the advice of Cabinet, on the recommendation of the Authority may terminate a concession where a concessionaire whose operation was resumed under subsection (1) consequent upon—

- (i) any further non-compliance under subsection (1)(a) and/or (1)(b); or
- (ii) any breach of the terms and conditions that attend the order of resumption.

(4) A concession may be amended by the Governor acting on the advice of Cabinet, where *force majeure*, national security considerations, changes in national legislation or the implementation of international obligations requires amendment to a concession. *(Amended by Act 9 of 2011)*

(5) Where a concession is amended pursuant to subsection (4), on grounds of national security, the rights of the concessionaire to compensation shall not be prejudiced.

(6) The Governor acting on the advice of Cabinet shall, before exercising the power of suspension or termination conferred by this section serve on the concessionaire through the Authority, a written notice to the effect that he is considering exercising the power and setting out the ground on which it may be exercised. *(Amended by Act 9 of 2011)*

(7) During the period that the Governor acting on the advice of Cabinet is considering exercising his power to suspend or terminate the concession, the concessionaire shall continue to operate until such time as the Governor acting on the advice of Cabinet makes a determination and in the event that the period of the concession comes to an end before the determination by the Governor acting on the advice of Cabinet is made, an interim renewal of the concession on the same terms shall be granted. *(Amended by Act 9 of 2011)*

(8) Before amending a concession, the Governor acting on the advice of Cabinet shall serve on the concessionaire written notice of the proposed amendment, giving reasons for the amendment and the date by which the amendment shall take effect. *(Amended by Act 9 of 2011)*

(9) A decision of the Governor acting on the advice of Cabinet pursuant to this section may be reviewed by the High Court. *(Amended by Act 9 of 2011)*

Renewal of concession

30. A concession granted under this Act shall, upon application to the Authority for renewal by the concessionaire to whom the concession was issued, be renewed by the Governor acting on the advice of Cabinet for a period equivalent to the period for which the first concession was granted subject to the provisions of section 29 or where the period for that type of concession has been revised by the Governor acting on the advice of Cabinet on the recommendation of the Authority. *(Amended by Act 9 of 2011)*

PART 4

LICENCES, SPECTRUM MANAGEMENT AND NUMBERING

Licensing requirements

31. (1) No person shall—

- (a) establish, operate or use a radio-communication service; or
- (b) install, operate or use any radio-transmitting equipment; or
- (c) establish, operate or use any radio-communication service on board any ship, aircraft, or other vessel in the territorial waters or territorial airspace of Montserrat other than a ship of war or a military aircraft or satellite registered in Montserrat,

without a licence issued by the Authority.

(2) Where a licence is required pursuant to subsection (1), the applicant shall apply to the Authority in accordance with the procedure set forth by the Authority in a document available to the public at its office or on its website.

(3) Where the Authority approves an application or modifies or rejects it, it shall give reasons in writing for so doing no later than seven days after the day of the decision was taken and which shall be no later than thirty five days after the application was submitted to the Authority.

(4) On the issuance of a licence, the Authority shall cause such to be published in the *Gazette* and on its website or other media as it deems necessary.

(5) The terms of a licence shall be made available for public scrutiny at the office of the Authority and may be reproduced by the Authority at the request of any member of the public, on payment of fee determined by the Authority in accordance with this Act.

(6) Where it appears to the Authority that the terms of a licence requested by any member of public contain information which compromises national security or other international obligations, the Authority shall withhold that information from public scrutiny.

(7) A licence shall be consistent with the spectrum plan established pursuant to section 36 and the relevant rules made pursuant to this Act and shall confer the right on the licensee to use a certain frequency band or bands subject to such conditions as may be set out in the licence.

(8) A person seeking to operate an info-communications network or provide an info-communications service which requires both a concession and a licence must first qualify for a licence before his application for a concession is considered.

Conditions of licence

32. (1) Every licence shall—

- (a) require the licensee to pay fees annually to the Authority;
- (b) require strict adherence to the allotted frequency band;
- (c) prohibit the transfer of control of the license without the prior written approval of the Authority;
- (d) prohibit the assignment of the licence, without the prior written approval of the Authority;
- (e) require the licensee, upon request made by the Governor subject to any written law, to collaborate with the Governor in matters of national security; and
- (f) require the observance of rules and regulations made pursuant to this Act.

(2) The approval of the Authority required under subsections (1)(c) and (d) shall not be unreasonably withheld.

(3) Every licence shall contain conditions regarding—

- (a) the use of the frequency or frequencies so licensed;
- (b) the expiration, renewal, suspension and termination of a licence;
- (c) the circumstances under which the licence may be amended, e.g., *force majeure*, national security, changes in national legislation, implementation of international obligations;
- (d) type of emission, power and other technical requirements for the radio-communication service; and
- (e) any other matter as may be agreed between the Authority and the licensee.

Authorisation to operate in territorial waters or airspace

33. Notwithstanding section 31(1), a ship or aircraft being a ship or aircraft not registered in Montserrat while operating in the territorial waters or airspace of Montserrat is not required to have authorisation from the Authority for the establishment, operation or use of any info-communications network or service or radio-communication equipment as long as the service or equipment is operated or used under a valid authority or licence issued elsewhere other than in Montserrat in accordance with international agreements relating to radio-communication in respect of ships or aircraft.

Termination, suspension, amendment or renewal of licence

34. (1) The Authority may, suspend a licence of a person who is not a concessionaire where—

- (a) such licensee has failed to comply materially with any of the applicable provisions of this Act, regulations or rules made hereunder or the terms and conditions of the licence; or
- (b) such licensee has failed to comply materially with any lawful direction of the Authority which apply to such licence.

(2) Where the Authority is satisfied that such person whose operation has been suspended under subsection (1) has taken the necessary measures and/or has given a written promise to comply pursuant to subsection (1) the Authority shall issue an order of resumption of operation on terms and conditions it may determine.

(3) The Authority may terminate the licence of a person who is not a concessionaire whose operation was resumed under subsection (2) consequent upon—

- (i) any further non-compliance under subsection (1)(a) and/or (1)(b); or
- (ii) any breach of the terms and conditions that attend an order of resumption issued under subsection (2).

(4) A licence may be amended by the Authority at the request of the Governor, where *force majeure*, national security considerations, changes in national legislation or the implementation of international obligations requires amendment to the licence.

(5) Where a licence is amended pursuant to subsection (4), on grounds of national security, the rights of the licensee to compensation shall not be prejudiced.

(6) The Authority, before exercising the power of suspension or termination conferred by this section shall—

- (a) serve on the licensee, a written notice to the effect that he is considering exercising the power and setting out the ground on which it shall be exercised;
- (b) where the license is accompanied by a concession, obtain the approval of the Governor before exercising its powers under paragraph (a);
- (c) permit the licensee a moratorium of thirty days of the date on which the notice was served to make written representations to the Authority;
- (d) take into consideration any representation made to the Authority under paragraph (c).

(7) During the period that the Authority is considering exercising its power to suspend or terminate the licence, the licensee shall continue to operate in accordance with the terms of the licence until such time as the Authority makes a determination and in the event that the period of the licence comes to an end before the determination by the Authority is made, an interim renewal of the licence on the same terms shall be granted.

(8) Before amending a licence, the Authority shall serve on the licensee written notice of the proposed amendment, giving reasons for the amendment and the date by which the amendment shall take effect.

(9) A decision of the Authority pursuant to this section may be reviewed by the High Court.

(10) A licence granted under this Act shall, upon application to the Authority for renewal by the licensee to whom the licence was issued, be renewed by the Authority for a period equivalent to the period for which the first licence was issued subject to the provisions of this section or where the period for that type of licence has been revised by the Authority.

(11) For any renewal after the renewal of the first licence, the period of renewal shall be determined by the Authority.

Operation of equipment

35. Radio-communication equipment shall not be operated in a manner likely to cause harmful interference to any other means of info-communication.

Spectrum plan

36. (1) In exercising its powers under section 18(1)(h), the Authority shall develop a spectrum plan to regulate the use of the spectrum.

(2) The spectrum plan shall be made available to the public on the payment of a fee set and published by the Authority for that purpose.

(3) The spectrum plan shall state the manner in which the spectrum shall be used and the procedures and criteria for licensing frequency bands.

Allocation of frequency bands

37. (1) Subject to subsection (2), the Authority may, in accordance with the spectrum plan allocate, assign, reallocate and reassign frequency bands.

(2) In the allocation assignment, reallocation or reassignment of frequency bands by the Authority priority shall be given to the needs of the Government in respect of matters of national security.

Numbering plan

38. (1) The Authority shall develop a plan for the numbering of info-communications services and shall administer and manage such numbers.

(2) Subject to subsection (5), numbers shall be made available to providers of info-communications services on an equitable basis.

(3) The numbering plan may establish procedures by which providers of info-communications services may assign or re-assign appropriate numbers to users.

(4) The numbering plan shall be made available to the public on payment of a fee set by the Authority for that purpose.

(5) In developing the numbering plan referred to in subsection (1), the Authority shall preserve, to the extent feasible, the assignment of numbers made before the commencement of this Act.

(6) The Authority shall notify all service providers of any new numbering assignments made.

PART 5

TECHNICAL STANDARDS AND TECHNOLOGY

Technology neutrality and international standards

39. Subject to section 18(1)(g) and the other provisions of this Act, concessionaires and licensees may implement such technical standards as they deem appropriate on a technology neutral basis which are in conformity with accepted international standards.

PART 6

TESTING AND INSPECTION

Inspectors

40. The Authority may, for the purpose of this Act, appoint suitably qualified and experienced persons as inspectors, (hereinafter referred to as “inspectors”).

Power to request information

41. (1) In order to ensure compliance with the conditions of a concession or licence, or for any other purpose authorised pursuant to this Act, an inspector may require a concessionaire or licensee to supply information, including specific answers to questions submitted to such concessionaire or licensee, concerning any info-communications network or info-communications service for which the concession was granted or the licence issued, the operation of any equipment or any works carried out in relation to such network or service.

(2) In the exercise of his powers under this Part, an inspector shall at all times act reasonably.

Pre-installation and testing

42. (1) In exercising its functions as regards to certifying or approving terminal equipment and other equipment to be installed or used for a public info-communications network or service the Authority shall determine whether such equipment fulfils the criteria stipulated in section 32 and such other requirements as the Authority may determine.

(2) For the purpose of a determination made pursuant to subsection (1), the Authority may require that such equipment be submitted for testing by the Authority.

(3) In establishing or varying the requirement for testing the Authority shall consult licensee, and where the Authority is satisfied that the equipment has been certified in accordance with international standards it may vary any testing requirement.

Entry and search

43. An inspector may, at all reasonable times, enter any place, vehicle, ship, aircraft, vessel or other contrivance from which any info-communications network is operated or info-communications service is provided, or in which any info-communications equipment, excluding broadcast receivers, is located, and—

- (a)** test any equipment or article found therein which is used or intended to be used for the purpose of operating an info-communications network or of providing an info-communications service;

- (b) examine records or other documents relating to the operation of the info-communications network or the provision of the info-communications service;
- (c) search, where necessary with the assistance of any other person authorised for the purpose by the Authority, for any equipment, articles, books, records or documents that may afford evidence of contravention of this Act or of any regulation or rule made hereunder, or of any breach of any condition of any concession or licence;
- (d) require the owner or person in charge of the place, vehicle, ship, aircraft, vessel or other contrivance to give him all reasonable assistance in the examination or search; and
- (e) seize and take away any equipment, articles, books, records or documents if it appears that there has been a contravention of this Act or of any regulation or rule made hereunder, or of any breach of any condition of any concession or licence, and such items so seized shall be lodged with the Authority.

Magistrate may issue warrant

44. (1) An inspector appointed under section 40 shall not exercise the powers vested in him under section 43 except upon a warrant of a magistrate issued to him for that purpose and, in the execution of the warrant, the inspector shall be accompanied by a police officer.

(2) A warrant issued under this section remains in force until the purpose for which the warrant is required has been satisfied or for one month, whichever is sooner.

PART 7

FINANCIAL PROVISIONS

Funds of the Authority

45. (1) The funds of the Authority shall consist of—

- (a) such amounts as may be appropriated by the Legislative Assembly for the purposes specified in subsection (2);
(Amended by Act 9 of 2011)
- (b) special grants of funds as may from time to time be provided for the financing of any special project;
- (c) fees collected pursuant to section 18(1)(s);
- (d) sums collected in respect of universal service obligations;
- (e) all sums from time to time received by or falling due to the Authority as fees or payments for services rendered;

- (f) all other sums that may in any manner become lawfully payable to the Authority in respect of any matters incidental to its functions.

(2) The funds of the Authority received under subsection (1)(a), in any financial year, shall be applied in defraying the following expenditure—

- (a) remuneration to members of the Board;
- (b) the remunerations, gratuities, pensions and other payments to the members of staff of the Authority;
- (c) research and development projects, training and certification and other related matters; and
- (d) any other expenditure authorised by the Authority in the discharge of its duties, functions and contractual obligations.

(Amended by Act 15 of 2011)

(3) The funds received under subsection (1)(b) shall be spent in accordance with the project proposal or agreement. *(Amended by Act 15 of 2011)*

(4) Funds arising in respect of subsection (1)(d) shall only be applied to facilitate the provision of universal service in accordance with the provisions of section 27. *(Amended by Act 15 of 2011)*

(5) The amounts appropriated by the Legislative Assembly under subsection (1)(a) or a special grant of funds under subsection (1)(b) shall be deposited into a bank account opened with the approval of the Minister with responsibility for Finance. *(Amended by Act 9 of 2011)*

(6) The Authority shall keep and maintain a separate account opened with the approval of the Minister with responsibility for Finance for the purpose of depositing funds collected in respect of the funding of the services referred to in section 27 and such funds shall not be used for any other purpose.

(7) Funds collected under subsections (1)(c),(e) and (f) shall be deposited into the Consolidated Fund. *(Amended by Act 15 of 2011)*

(8) At the end of each financial year, any surplus of funds remaining in the account opened under subsection (5)—

- (a) which was appropriated by the Legislative Assembly under subsection (1)(a) shall, after defraying the expenditure referred to in subsection (2), be debited from the Authority's allocation for the ensuing year; and
- (b) which was provided by a special grant of funds under subsection (1)(b) shall be spent in accordance with the project proposal or agreement.

(Amended by Act 15 of 2011).

Exemption from tax, provisions

46. (1) The Authority is exempt from stamp duty, corporation tax, customs duty, motor vehicle tax and all other taxes, fees, charges, provisions of assessments, levies and imposts on its income or on assets which it acquires for its own use.

(2) the Authority shall, in the performance of its functions relating to tenders be subject to the provisions of the Public Finance (Management and Accountability) Act until such time as the Authority develops its own tender rules, approved by the Minister with responsibility for Finance.

(3) Rules made pursuant to subsection (2) shall govern the award of tenders and related matters.

(4) Every tender shall be opened in public and shall indicate the parties to and the content of each tender.

Accounting practice

47. For the purpose of this Part, “GAAP” means Generally Accepted Accounting Practice which includes the International Accounting Standards adopted by the Government.

Budget

48. (1) Within three months prior to the commencement of the financial year the Authority shall submit a budget prepared in accordance with GAAP or such other form as the Minister, with responsibility for Finance, may direct for each financial year to be laid in the Legislative Assembly by the Minister no later than one month prior to the commencement of the financial year. *(Amended by Act 9 of 2011)*

(2) The Authority shall, at such time as the Minister directs, furnish him with any further information in relation to the Estimates of Expenditure as he may require and such estimates as approved by the Minister shall be laid in the Legislative Assembly in a timely manner. *(Amended by Act 9 of 2011)*

(3) The estimates of expenditure as approved by the Legislative Assembly shall be the expenditure budget of the Authority for the financial year to which it relates. *(Amended by Act 9 of 2011)*

Preparation of annual reports and accounts by Authority

49. (1) The Authority shall keep proper books of accounts and records of all sums received and expended by the Authority and shall record the matters in respect of which such sums were received and expended.

(2) Within three months after the end of each financial year the Authority shall cause to be prepared, in respect of that year—

(a) a report setting out the activities of the Authority; and

(b) financial statements prepared in accordance with GAAP, and a copy of such report and financial statements shall be

forwarded to the Minister and the Minister with responsibility for Finance and shall be laid in the Legislative Assembly, by the Minister as soon as possible thereafter.

(Amended by Act 9 of 2011)

(3) Where the standards included in GAAP are inappropriate or inadequate for any type of accounting method the Comptroller of Accounts may provide such instructions as may be necessary.

Audit of accounts

50. (1) The accounts of the Authority are public accounts of Montserrat pursuant to the Public Finance (Management and Accountability) Act.

(2) On completion of an audit of the Authority, the Auditor General or an auditor authorised by him to undertake the audit, as the case may be, shall immediately draw to the attention of the Minister with responsibility for Finance and the Board any irregularity disclosed by the audit which in the opinion of the Auditor General or the auditor is of sufficient importance to justify so doing.

(3) For the purpose of an audit conducted pursuant to this Act, the Audit Act shall apply as if an audit referred to in this Part is one to which that Act applies.

(4) As soon as the accounts of the Authority have been audited, the Auditor General shall submit his report to the Minister with responsibility for Finance and shall simultaneously forward a copy of the said report to the Minister.

(5) Nothing in this section precludes the Auditor General or an auditor engaged by the Board from performing a management audit or comprehensive audit of the activities of the Authority.

Financial year

51. The financial year of the Authority shall correspond with that of the Government.

Financial rules

52. The Authority may subject to the approval, in writing, of the Minister with responsibility for Finance, make rules for the proper control of the system of accounting and the finances of the Authority.

PART 8

STAFF AND RELATED MATTERS

Employment of staff

53. The authority may employ such persons as it considers necessary for the due and efficient performance of its functions and exercise of its powers under this Act on such terms and conditions as are agreed between the

Authority and the person and subject to such maximum limit of remuneration as the Board, in consultation with the Minister, determines.

Secondment

54. (1) Subject to the approval of the Authority, the Governor with the consent of the officer, any officer in the public service or a statutory authority may be seconded to the service of the Authority.

(2) Where a secondment referred to in subsection (1) is effected, arrangements shall be made to preserve the rights of the officer so seconded to any pension, gratuity or other allowance for which he would have been eligible had he not been seconded to the service of the Authority.

(3) A period of secondment shall not, in any case, exceed three years.

Pension fund plan

55. (1) The Authority at its discretion may establish a contributory pension fund plan or may join an existing plan.

(2) All employees of the Authority shall be eligible to become members of the contributory pension fund plan.

Employment of persons for specific tasks

56. The Authority may employ persons to perform specific tasks that it considers necessary for the due performance of its functions and exercise of its powers under this Act, on such terms and conditions as are agreed between the Authority and the person and subject to such maximum limit of remuneration as the Board, in consultation with the Minister, determines.

PART 9

CONTRAVENTION OF CONCESSION AND LICENCE

Offences and penalties

57. A person who—

- (a) fails to comply with or acts in contravention of section 21(1) or 31(1);
- (b) breaches any condition contained in a concession or licence issued under this Act;
- (c) wilfully operates a station or uses any equipment in such a manner as to cause harmful interference to any info-communications network or info-communications or radio-communication service;
- (d) wilfully obstructs or interferes with the sending, transmission, delivery or reception of any communication;

- (e) manufactures or sells any system, equipment, card, plate or other device whatsoever, or produces, sells, offers for sale or otherwise provides any account number, mobile identification number or personal identification number, for the purpose of fraudulent use of or access to any info-communications service;
- (f) aids or abets any info-communications network provider or info-communications service provider to operate contrary to its concession or licence, as the case may be;
- (g) fails to contribute to the funding of the services referred to in section 27 in accordance with the directions of the Authority;
- (h) refuses to give access to, or assaults, obstructs, hinders or delays an officer, inspector or employee of the Authority in the discharge of his duties under sections 43 and 58;
- (i) wilfully mis-states or without lawful excuse refuses to give any information, produce books, documents or a copy thereof required of him by an inspector, officer or employee of the Authority under sections 43 and 58; or
- (j) fails to comply with the lawful demand of an inspector, officer or employee of the Authority in the discharge of his duties pursuant to sections 43 and 58, commits an offence and shall be liable on summary conviction to a fine of \$150,000.

Powers of enforcement

58. In addition to the powers conferred on him by any written law, an officer or employee of the Authority may, on declaration of his office and presentation to the person against whom he is acting, such identification as the Executive Manager may direct to be carried by officers or employees of the Authority, when conducting an investigation under this Act has the power to require—

- (a) any person who he reasonable believes to have committed an offence under this Act to furnish evidence of the person's identity;
- (b) any person, for the purposes of this Act, to furnish any information or produce any book, document or copy thereof in the possession of that person, and may, without fee or reward inspect, copy or make extracts from such book or document; and
- (c) by order in writing, the attendance before the officer or employee of any person being within the limits of Montserrat who from information given or otherwise to be acquainted with the case, and the person so ordered shall attend as so required.

Powers of Executive Manager

59. The exercise of all powers entrusted to officers and employees of the Authority under section 58 shall be subject to approval by the Executive Manager.

False signals

60. A person who knowingly transmits or circulates false or deceptive distress, safety or identification signals commits an offence and is liable on summary conviction to a fine of \$100,000 and to imprisonment for a period of two years.

False communications

61. (1) A person who by means of any info-communications service sends any communication that to his knowledge is false or misleading and likely to prejudice the efficiency of any life-safety service or endanger the safety of any person, ship, aircraft, vessel or vehicle commits an offence and is liable on summary conviction to a fine of \$300,000 and to imprisonment for a period of three years.

(2) For the purposes of subsection (1), a person is taken to know that a communication is false or misleading if he did not take reasonable steps to ensure that it was not false or misleading.

Damage to equipment

62. (1) A person who maliciously damages, removes or destroys any facility, works or other installation of a public info-communications network or a public info-communications service or of any info-communications service operated by the Police Service, the Fire Service, the Prison Service commits an offence and is liable on summary conviction to a fine no less than \$250,000 and to imprisonment for three years.

(2) A person who negligently damages, removes or destroys any facility, works or other installation described in subsection (1) commits an offence and is liable on conviction to a fine of \$50,000.

Recovery of civil debt

63. A person convicted under section 62 is liable for all expenses reasonably incurred in the repairing, restoration or replacement of any facility, works or other installation damaged, removed or destroyed by him and the expenses are recoverable summarily by the Authority as a civil debt.

General penalty

64. A person who contravenes or fails to comply with any of the regulations and or rules made under this Act commits an offence and except where the provision by or under which the offence is created provides the penalty to be imposed, is liable on summary conviction to a

fine of \$25,000, and in the case of a continuing offence to a further fine of \$1,000 for each day that the offence continues after conviction.

Illegal operation

65. Where the Authority has reasonable grounds for believing that a person is operating an info-communications network or providing an info-communications service—

- (a) that is dangerous to the security of the Island;
- (b) that disrupts an info-communications network or an info-communications or radio-communication service on land or on board any ship, aircraft, vessel or other floating or airborne contrivance;
- (c) that causes harmful interference to any info-communications network or service established in respect of natural disasters and emergencies,

the Executive Manager shall immediately notify the Governor acting on the advice of Cabinet through the Minister, in writing.

(Amended by Act 9 of 2011)

PART 10

GENERAL

Directions of the Governor acting on the advice of Cabinet

66. (1) On receipt a notification in accordance with section 65, the Governor acting on the advice of Cabinet shall cause such person to be directed, in writing, to cease operating such info-communications network or providing such info-communications service. *(Amended by Act 9 of 2011)*

(2) Where a person fails to comply immediately with a direction given under subsection (1), the Governor acting on the advice of Cabinet may direct the Authority to invoke its powers under section 43 to discontinue such operation and initiate prosecution under the Act. *(Amended by Act 9 of 2011)*

(3) Where the offence committed under section 65 concerns the operation of a network or service which only requires a licence the Authority has the right to unilaterally exercise its powers pursuant to section 43 to discontinue such operation and initiate prosecution in accordance with the provisions of the Act.

(4) A person aggrieved by the decision taken under this section may apply to the High Court for relief.

Conditional resumption

67. (1) A person who has complied with an order to cease operation pursuant to section 66 may apply for and be authorised by the Governor

acting on the advice of Cabinet or the Authority in accordance with their powers under the Act to resume operations subject to—

- (i) provision of evidence that corrective measures as determined by the Authority have been taken;
- (ii) a written promise of future compliance with the provisions of the Act, the terms and conditions of his concession and any applicable rules and regulations made under the Act; and
- (iii) any other terms and conditions that the Governor acting on the advice of Cabinet or the Authority may determine.

(Amended by Act 9 of 2011)

(2) Without prejudice to any other applicable penalty under this Act where a person to whom subsection (1) applies repeats a similar offence under section 66 his concession or licence shall be revoked and he shall be permanently disqualified from obtaining any other concession or licence under this Act.

Monitoring stations

68. (1) The Authority may operate frequency monitoring stations for—

- (a) ascertaining whether radio-communication services are operated in accordance with this Act;
- (b) planning, supervising and regulating the use of the frequency spectrum; and
- (c) carrying out any technical function necessary for fulfilling the requirements of the Radio Regulations of the International Telecommunication Union for the time being in force.

(2) The Governor acting on the advice of Cabinet may, by Order, exempt a frequency monitoring station operated by the Authority from any of the provisions of this Act. *(Amended by Acts 9 of 2011)*

Harmful interference

69. Where the Executive Manager is of the opinion that the use of any facility or terminal equipment is likely to cause or has caused or is causing harmful interference, whether or not all reasonable steps to minimize interference have been taken, the discretionary powers to—

- (a) serve notice on the person, in possession of the facility or terminal equipment, requiring him to cease such use within seven days from the date of service of the notice; or
- (b) impose limits as to when the facility or terminal equipment may be used;
- (c) order resumption of use of the facility or terminal equipment within seven days of correction of the interference.

Review of decision

70. (1) A person aggrieved by a notice of the Executive Manager under subsection (1) may make representation to the Board who, having regard to the representation made, may vary the decision made under this subsection.

(2) A person aggrieved by the decision of the Board made pursuant to subsection (1) may apply to the High Court for relief.

Obligations under international agreements

71. The obligations of a concessionaire or a licensee operating an info-communications network or providing an info-communications service, shall not be abrogated by reason of any international agreement to which Montserrat is a direct or indirect party which is not prescribed in law.

Rules

72. (1) The Authority may, with the approval of the Governor acting on the advice of Cabinet, make rules for carrying out the purposes and provisions of this Act. (*Amended by Act 9 of 2011*)

(2) Without prejudice to the generality of subsection (1), the Authority may, with the approval of the Governor acting on the advice of Cabinet, make rules for or with respect to all or any of the following matters—

- (a) fees payable to the Authority for or in relation to applications, concessions, licences or the provision of services provided by the Authority to any person;
 - (b) the management of the spectrum;
 - (c) the authorisation and registration of terminal equipment dealers;
 - (d) approvals and certification of terminal equipment;
 - (e) price regulation;
 - (f) universal service;
 - (g) numbering;
 - (h) investigating and resolving complaints by users with regard to public info-communications services;
 - (i) investigating alleged breaches of any term or condition of a concession or licence or alleged violations of any provision of this Act or regulations made pursuant thereto; and
 - (j) management of the Island's top level domain name.
- (*Amended by Acts 9 and 15 of 2011*)

(3) Rules made pursuant to this Act shall apply equally to all similarly situated persons.

Regulations

73. (1) The Governor acting on the advice of Cabinet, on the recommendation of the Authority, shall make regulations as may be required for the purposes of this Act, including regulations prescribing—

- (a) Interconnection;
- (b) Access to facilities; and
- (c) any other matter the Minister deems necessary under this Act.

(Amended by Act 9 of 2011)

(2) Regulations made pursuant to this Act shall apply equally to all similarly situated persons.

Confidentiality

74. (1) Except for the purpose of the performance of his duties or exercise of his functions or when lawfully required to do so by any court or under the provisions of any written law, no person who is or has been a member of the Board, an officer, an employee or an agent of the Authority or a member of a committee of the Authority shall disclose any information relating to the affairs of the Authority or of any person which has been obtained by him in the performance of his duties or functions or in the exercise of his powers conferred under this Act.

(2) Subject to subsection (1), any person has the right to request that any proprietary or confidential documents, information or matters provided or submitted to the Authority be maintained secret and confidential.

Penalty for breach of confidence

75. Any person who contravenes section 74(1) commits an offence and shall be liable on conviction to a fine of \$225,000 or imprisonment for a term as determined by the court or both.

Forbearance

76. The Authority shall refrain, in whole or in part and conditionally or unconditionally, from the exercise of any power or the performance of any duty in relation to an info-communications network, info-communications service or a class of info-communications service provided by a concessionaire or a licensee, where the Authority finds that to refrain would be consistent with its policy objectives.

Dispute resolution

77. (1) Subject to approval by the Governor acting on the advice of Cabinet the Authority shall make Dispute Resolution Rules for establishing the process to resolve disputes arising between parties in respect of any matter submitted as a dispute pursuant to the provisions of the Act.

(Amended by Act 9 of 2011)

(2) The Dispute Resolution Rules shall provide for a process which ensures open, non-discriminatory and unbiased adjudication procedures.

(3) The Dispute Resolution Rules shall require the parties to any dispute to deposit with the Authority, prior to the commencement of the hearing of or during the dispute, a quantum of funds, as determined by the Authority to defray the cost of the dispute resolution process.

(4) The Dispute Resolution Rules shall mandate that where a party loses a dispute whether as the complainant or the defendant, it shall bear the full cost of the dispute resolution process.

(5) The Authority shall within seven days of the final ruling on the dispute prepare a detailed financial account as regards to the expenditure incurred by the dispute resolution procedure and return all surplus funds to the losing party or request same party to make good the deficit.

(6) The Dispute Resolution Rules may establish penalties for referral of frivolous disputes to the Authority for arbitration.

(7) Any party to a dispute has the right to object, on the grounds of perceived bias, to the participation of any member of an arbitration panel appointed by the Authority to hear and adjudicate a dispute in which the objector is a direct party.

(8) Where such objection is made the Authority is obliged to hear and determine the validity of the objection and rule accordingly before proceeding further with the dispute resolution procedure.

(9) Any decision by the Authority or an arbitration panel established by the Authority shall be binding on the parties and can only be contested in accordance with the appeal process provided in the Dispute Resolution Rules and thereafter in a court of law.

Reconsideration and appeal

78. A person aggrieved by a decision of the Authority or a dispute resolution panel may—

- (i) request that such decision be reconsidered by the Authority based upon information not previously considered, and the Authority shall consider the request and exercise its discretion in its own deliberate judgment; or
- (ii) appeal process decision of the dispute resolution panel pursuant to the provisions of the Dispute Resolution Rules.

Info-communications during a state of emergency

79. (1) Where a state of emergency has been declared, the Governor may, after consultation with the Cabinet—

- (a) authorise the taking of possession and control by the Government of any info-communications equipment, installation, service, apparatus or station to be used—
 - (i) for Government service;
 - (ii) for such ordinary service as the Governor may determine; or
- (b) direct or authorise the control of the transmission and reception of messages in any manner as he may direct.
(Amended by Act 9 of 2011)

(2) The Government shall in accordance with the relevant legislation, excluding loss of profit, compensate reasonably the owner or controller of any installation, service, apparatus or station, the possession or control of which was assumed under subsection (1).

(3) Where an agreement cannot be reached between the parties concerned with respect to the amount of the compensation paid, the matter shall be referred to an arbitrator agreed to by both parties whose decision shall be binding on all the parties except where a court of law determines otherwise.

(4) Each service provider may, during a period of emergency in which normal info-communication installations are disrupted as a result of a volcanic eruption, hurricane, flood, earthquake or any other disaster, use his service, apparatus or station for emergency communications in a manner other than that specified in the concession or in the regulations or rules governing the relevant service, apparatus or station.

(5) Emergency use permitted under this section shall be discontinued when normal info-communication facilities are again available or when such special use of the installation, service, apparatus or station is terminated by the Governor.

Repeal and transitional provisions

80. (1) Subject to this section the following legislations are repealed—

- (i) Telecommunication Act, (Cap. 18.08);
- (ii) Cable and Wireless (West Indies) Ltd (Telephone & Telex System) Act (Cap. 18.08); and
- (iii) Telephone Act and Regulations (Cap. 18.07).

(2) Regulations made under the Telecommunication Act shall remain in force until replaced by corresponding rules or regulations made pursuant to this Act.

(3) Licences issued under the Telecommunication Act and in force at the commencement of this Act remain in force for no more than one year or a period thereafter as the Authority may determine.

(4) During the period referred to in subsection (3), any person licensed under the Telecommunication Act to provide a

telecommunications service or radio-communication service shall apply to the Authority for a concession and/or a licence, as the case may be, to provide such service under this Act.

(5) The Authority shall approve any application submitted pursuant to subsection (4) in accordance with this Act and any concession granted or licence issued shall be subject to the provisions of this Act.

(6) Any exclusive provision in any licence granted under the Telecommunication Act or other legislation referred to at section 80(1) herein is no longer valid.

(7) Any licence issued in accordance with subsection (5) shall expire on the date that the licence issued under the Telecommunication Act or any other legislation referred to at section 80(1) herein would have expired.

(8) The holder of a license issued under the Telecommunication Act shall enjoy no new benefit or right conferred by this Act unless such benefit or right was conferred under Telecommunication Act.

(9) Any agreements in respect to the management of the top level domain name of Montserrat shall be reviewed under this Act and the Minister, on the recommendation of the Authority shall, where necessary amend such agreement accordingly.

INFO-COMMUNICATIONS (FEES) RULES

ARRANGEMENT OF RULES

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PRELIMINARY

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3. Purpose

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4. Concession fees
5. Licence fees
6. Frequency authorisation fees
7. Special licence
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9. Other licences

SCHEDULE 1: Concession Fees

SCHEDULE 2: Licence Fees

SCHEDULE 3: Frequency Authorisation Fees

SCHEDULE 4: Miscellaneous Fees

INFO-COMMUNICATIONS (FEES) RULES— SECTION 72

(S.R.O. 37/2011 and Act 9 of 2011)

Commencement

[11 August 2011]

PART 1

PRELIMINARY

Short title

1. These Rules may be cited as the Info-Communications (Fees) Rules.

Interpretation

2. In these Rules—

“**Act**” means the Info-Communications Development Act;

“**annual fee**” means the concession fee or licence fee payable on the date of issue of a concession or licence and on the same date every subsequent year;

“**audiotext**” or “**audiotex**” means a simple voice processing technology that is essentially a voice bulletin board, which allows callers to select pre-recorded messages from a menu and is used to provide information that seldom changes or that must be available to large numbers of callers such as time and temperature, hours of operation and travel directions;

“**concession fee**” means a fee prescribed under rule 5 and payable in accordance with that rule;

“**direct sequencing spread spectrum (DSSS)**” means a transmission technology where a data signal at the sender station is combined with a higher data rate bit sequence or chipping code, that divides the user data according to a spreading ratio;

“**family radio service (FRS)**” means a radio service used by family, friends and associates to communicate within a limited geographical area of less than a mile radius;

“**frequency authorisation**” means an authorisation granted by the Authority to use radio frequencies in accordance with the Act;

“**frequency hopping spread spectrum (FHSS)**” means a transmission technology where the data signal is modulated with a narrow band carrier signal which “**hops**” in a random but predictable sequence from one frequency to another as a function of time over a wide band of frequencies;

“**frequency pair**” means a pair of transmit and receive frequencies used in semi-duplex, duplex or semi-duplex and duplex operation;

“gross annual revenue” means the gross revenue earned in the provision of telecommunication services for the reporting year, received by, or due to the licensee and its affiliates, from whatever source derived before any deductions for expenses, discounts, returns, or offsets of any kind, save and except domestic interconnection payments and taxes and charges collected for and on behalf of the Government;

“initial fee” means the fee chargeable in respect of a licence or concession issued for the first time;

“licence fee” means a fee prescribed under rule 6 and payable on the date of issue of a licence and on the same date of every subsequent year;

“local multipoint distribution service (LMDS)” means the use of microwave signals to transmit voice, video and data signals for short distances;

“microwave backhaul” means point-to-point microwave radio relay transmission, whether terrestrial or by satellite, and usually comprises the intermediate links between the core, or backbone, of the network and the small sub networks at the edge of the entire hierarchical network;

“multi-channel multi-point distribution service (MMDS)” means a wireless telecommunications technology used for general-purpose broadband networking or, more commonly as an alternative method of cable television;

“repeater” means a device that amplifies, reshapes or retimes an input signal;

“reporting year” means any annual period for which financial reports are accepted or agreed to be accepted by the Authority;

“spread spectrum” means a modulation technique used in wireless systems employing direct sequence, frequency hopping or a hybrid of these, which can be used for multiple access, multiple functions or both multiple access and multiple functions;

“studio to transmitter link (STL)” means communications link used for the transmission of broadcast material from a studio to the transmitter using a single transmit frequency;

“terminal equipment dealer” means any person who imports, exports, repairs, maintains, sells or in any way trades in any telecommunications equipment that is specific for a licenced info-communications service;

“type approval” means where a design is approved by the Authority and all devices subsequently manufactured according to that design are automatically approved;

“value added services” means a communications facility using networks of individual licensees for transmission and providing extra data features with separate equipment;

“videotext” is another name for teletext which is a broadcast (one-way) information service.

Purpose

3. The purpose of these Rules is to prescribe the fees payable to the Authority for or in relation to a concession, licence or other authorisation for—

- (i) the provision of info-communications network or info-communication service;
- (ii) or the use of spectrum resources.

PART 2

FEES

Concession fees

4. (1) A person who applies for a concession pursuant to section 21 of the Act shall pay the non-refundable application fee set out in Column 3 of Schedule 1 for the relevant type of concession.

(2) When the Governor acting on the advice of Cabinet grants a concession to a person who applies in accordance with subrule (1), that person shall pay the appropriate initial fee set out in Column 4 of Schedule 1 before the Authority issues the concession. (*Amended by Act 9 of 2011*)

(3) A person to whom a concession is issued shall pay the appropriate annual fee specified in Column 5 of Schedule 1—

- (a) every year from the date of issue of the concession throughout the duration of the concession; or
- (b) every year, within forty five days of the reporting year, and shall submit a gross annual revenue report.

Licence fees

5. (1) A person who applies for a licence pursuant to section 31 of the Act shall pay the non-refundable application fee set out in Column 3 of Schedule 2 which relates to the relevant type of licence for which he is applying.

(2) If the Authority approves an application, the applicant shall pay the relevant annual fee for the licence set out in Column 4 of the Schedule 2 every year from the date of issue of the licence throughout the duration of the licence.

Frequency authorisation fees

6. A person who applies for frequency authorisation shall pay—

- (a) the appropriate non-refundable application fee as set out in Column 3 of Schedule 3; and
- (b) the appropriate annual fee set out in Column 4 of Schedule 3, on the grant of a frequency authorisation, and every year from the date on which the frequency authorisation is granted until the authorisation expires, for all assigned frequencies.

Special licence

7. (1) A person may apply to the Authority for a special licence, concession or frequency authorisation in situation of emergency or if other exigent circumstance exists.

(2) A special licence may be issued for a period of ten days is not renewable.

(3) A person who applies for a special licence concession or frequency authorisation shall pay an application fee of \$200 unless the Authority decides that the circumstances justify an exemption from payment of the application fee.

Miscellaneous fees

8. The fees set out in Columns 3 and 4 of Schedule 4 are payable in respect of the other matters related to info-communications set out in Column 2 of that Schedule.

Other licences

9. (1) A person who applies pursuant to the Act for any info-communications related matter for which no specific provision is made in these Rules shall pay the appropriate fee as determined on a case by case basis by the Authority.

(2) The Authority in determining the appropriate fee shall take into account all relevant factors including the following—

- (a) the views expressed by the applicant and other consultants;
- (b) the other fees set out in the Schedules;
- (c) the commercial value of the service;
- (d) the value of any resource involved; and
- (e) any reasonably incurred administrative costs.

SCHEDULE 1*(Rule 4)***CONCESSION FEES**

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
CONCESSION CODE	TYPE OF CONCESSION	APPLICATION FEE	INITIAL FEE	ANNUAL FEE
PFT	WIRED INFO-COM NETWORK & SERVICES			
	(1) Domestic Voice	\$500	\$10,000	3% of Gross Revenue
	(2) International Voice	\$500	\$10,000	3% of Gross Revenue

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
CONCESSION CODE	TYPE OF CONCESSION	APPLICATION FEE	INITIAL FEE	ANNUAL FEE
	(3) Internet Network/ Services	\$500	\$10,000	3% of Gross Revenue
	(4) Service Resale	\$500	\$10,000	3% of Gross Revenue
PMT	WIRELESS INFO-COM NETWORK & SERVICES			
	(1) Domestic Voice	\$500	\$10,000	3% of Gross Revenue
	(2) International Voice	\$500	\$10,000	3% of Gross Revenue
	(3) Internet Network/ Services	\$500	\$10,000	3% of Gross Revenue
	(4) Service Resale	\$500	\$10,000	3% of Gross Revenue
	(5) Public Radio Paging	\$500	\$10,000	3% of Gross Revenue
SCL	Submarine Cable Landing	\$500	\$40,000	\$40,000
BAM	Broadcast AM Radio Station	\$250	\$7,000	\$7,000
	Broadcast FM Radio			
BFM1	Commercial (>1KW)	\$250	\$5,000	\$5,000
BFM2	Commercial (<1KW)	\$250	\$2,000	\$2,000
BFM3	Community Radio – Non-commercial (<100W)	\$100	\$200	\$200
BTv	Broadcast Television Station	\$250	\$3,500	\$7,000
SUBTV1	Subscriber Television Wired	\$250	\$10,000	3% of Gross Revenue
SUBTV2	Subscriber Television Wireless	\$250	\$10,000	3% of Gross Revenue
ISP1	Internet Services Provision (≤ 20 Units)	\$50	\$100	\$200
ISP2	Internet Services Provision (> 20 Units)	\$250	\$2,500	3% of Gross Revenue

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
CONCESSION CODE	TYPE OF CONCESSION	APPLICATION FEE	INITIAL FEE	ANNUAL FEE
VAS	Value Added Services	\$250	\$2,500	3% of Gross Revenue
AVT	Audio Text/ Video Text	\$250	\$2,500	3% of Gross Revenue
ISR	International Simple Voice Resale	\$250	\$1,000	3% of Gross Revenue

SCHEDULE 2

(Rule 5)

LICENCE FEES

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
CODE	TYPE OF LICENCE	APPLICATION FEE	ANNUAL FEE
Radio-Communications Licences	Amateur Radio	\$20	
ARN	-Novice		\$50
ARG	-General		\$50
ARA	-Advanced		\$50
CBR	Citizen Band Radio	\$20	\$50
FRN	Family Radio Service	\$20	\$50
LM	Land Mobile Radio	\$100	
LMB	-Base Station		\$50/ unit
LMR	-Repeater		250/ unit
LMM	-Mobile		\$50/ unit
LMP	-Handheld		\$50/ unit
MM	Maritime Mobile Radio	\$100	
MMB	-Base Station		\$50/ unit
MMR	-Repeater		\$250/ unit
MMM	-Mobile		\$50/ unit
MMP	-Handheld		\$50/ unit
MMS1	-Ships Station (<1600 gross tons)		\$200/ ship
MMS2	-Ships Station (>1600 gross tons)		\$400/ ship

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
AM	Aeronautical Mobile Radio	\$100	
AMB	-Base Station		\$50/ unit
AMR	-Repeater		200/ unit
AMM	-Mobile		\$50/ unit
AMP	-Handheld		\$50/ unit
AMA	-Aircraft Station		\$500/aircraft
PNS	Private Network/Services	\$250	\$1,000

SCHEDULE 3

(Rule 6)

FREQUENCY AUTHORISATION FEES

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
CODE	DESCRIPTION	APPLICATION FEE	ANNUAL FEE
PMS	800 MHz Band	\$500	\$10,000/ 1MHz
	900 MHz Band	\$500	\$10,000/ 1MHz
	1800 MHz Band	\$500	\$10,000/ 1MHz
	1900 MHz Band	\$500	\$10,000/ 1MHz
	Above 1900 MHz Band	\$500	\$10,000/ 1MHz
PRC	Public Radio Paging - Commercial	\$500	\$300
PRN	Public Radio Paging – Non-Commercial	\$25	\$100
	Broadcast Systems		
BAM	Broadcast AM Radio Station	\$250	\$1,000/ frequency
	Broadcast FM Radio Station		
BFM1	- Commercial (>1KW)	\$250	\$1,000/ frequency

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
CODE	DESCRIPTION	APPLICATION FEE	ANNUAL FEE
BFM2	- Commercial (< 1 KW)	\$250	\$1,000/ frequency
BFM3	- FM Community Radio – Non-commercial (<100W)	\$20	\$100/ frequency
BTV	Broadcast Television Station	\$250	\$1,500/ frequency
STL1	Television STL Microwave (6MHz link)	\$125	\$250/ link
STL2	Radio STL Microwave (15KHz)	\$50	\$100/ link
LMF	Land Mobile Radio (12.5KHz bandwidth)		\$50/ frequency
MMF	Maritime Mobile Radio (12.5KHz bandwidth)		\$50/ frequency
AMF	Aeronautical Mobile Radio (12.5KHz bandwidth)		\$50/ frequency
VST	VSAT >55dBW EIRP	\$500	\$10,000/ frequency pair
SES	Satellite Earth Station (C /Ku Band)	\$500	\$25,000/ frequency pair
MMDS	MMDS	\$500	\$250
LMDS	LMDS	\$500	
	<125 MHz bandwidth		\$250
	125-250 MHz bandwidth		\$375

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
CODE	DESCRIPTION	APPLICATION FEE	ANNUAL FEE
	250-500 MHz bandwidth		\$500
	>500MHz bandwidth		\$750
MBL	Microwave Backhaul	\$500	
	<10 MHz bandwidth		\$3,500
	10-20 MHz bandwidth		\$5,000
	20-30 MHz bandwidth		\$6,000
	>30MHz bandwidth		\$9,000
MCL	Microwave - Cellular Inter-site	\$500	
	<10 MHz bandwidth		\$2,500
	10-20 MHz bandwidth		\$3,000
	20-30 MHz bandwidth		\$3,250
	>30MHz bandwidth		\$9,000
MCO	Microwave - Other	\$500	
	<10 MHz bandwidth		\$2,225
	10-20 MHz bandwidth		\$3,000
	20-30 MHz bandwidth		\$3,250
	>30MHz bandwidth		\$9,000
FWA	Fixed Wireless Access	\$500	
	<5 MHz bandwidth		\$250
	5-10 MHz bandwidth		\$350
	10-15 MHz		\$500

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
CODE	DESCRIPTION	APPLICATION FEE	ANNUAL FEE
	bandwidth		
	>15MHz bandwidth		\$750
	Spread Spectrum Application	\$500	
SSA	900 MHz Spread Spectrum		
	FHSS Commercial		\$10,000
	FHSS Non-commercial		\$2,500
SSB	2.4 GHz Spread Spectrum	\$500	
	FHSS Commercial		\$10,000
	FHSS Non-commercial		\$2,500
	DSSS Commercial <10 MHz Bandwidth		\$3,500
	DSSS Commercial 10-20 MHz Bandwidth		\$5,000
	DSSS Commercial 20-50 MHz Bandwidth		\$7,500
	DSSS Commercial >50 MHz Bandwidth		\$12,500
SSC	5.8 GHz Spread Spectrum	\$500	
	FHSS Commercial		\$10,000
	FHSS Non-commercial		\$3,000
	DSSS Commercial <10 MHz Bandwidth		\$3,500
	DSSS Commercial 10-20 MHz Bandwidth		\$5,000
	DSSS Commercial		\$7,500

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
CODE	DESCRIPTION	APPLICATION FEE	ANNUAL FEE
	20-50 MHz Bandwidth		
	DSSS Commercial >50 MHz Bandwidth		\$12,500
	DSSS Non-Commercial		\$5,000

SCHEDULE 4

(Rule 8)

MISCELLANEOUS FEES

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
CODE	DESCRIPTION	APPLICATION FEE	ANNUAL FEE
TED	Terminal Equipment Dealer	\$25	\$125
TYP1	Type Approval Certification – Items Already Approved Approval and Certification of Terminal Equipment – Equipment already approved	\$50	N/A
TYP2	Type Approval Certification – New Approval and Certification of Terminal Equipment – New Equipment	\$400	N/A
EXM	Examination Fee for Radio Operators	\$20	N/A
MMRO	Marine Radio Operator's Licence	\$20	\$75
SEF	Inspection Fee	\$10	N/A

INFO-COMMUNICATIONS (APPLICATIONS AND FORMS) RULES

ARRANGEMENT OF RULES

RULES

1. Short title
2. Interpretation
3. Application for a concession
4. Application for a licence
5. Approval and Certification of Terminal Equipment
6. Registration of Terminal Equipment Dealer
7. Confidentiality
8. Summary sheet
9. Acknowledgement of receipt
10. Renewal of licence

SCHEDULE

INFO-COMMUNICATIONS (APPLICATIONS AND FORMS) RULES— SECTION 73

(S.R.O. 38/2011)

Commencement

[11 August 2011]

Short title

1. These Rules may be cited as the Info-Communications (Applications and Forms) Rules.

Interpretation

2. In these Rules—

“**Act**” means the Info-Communications Development Act;

“**application**” includes an application for the first time, an amendment of a previous application and an application for a renewal of an expired licence, concession or approvals and certification of terminal equipment;

“**application fee**” means the fee prescribed in the Info-Communications (Fees) Rules, in respect of an application for a licence, concession, frequency authorisation or approvals and certification of terminal equipment;

“**Corporate Secretary**” means the Corporate Secretary appointed by the Board of Directors under section 7 of the Act;

“**financial institution**” has the meaning assigned in section 2 of the Financial Services Commissions Act;

“**terminal equipment**” means equipment on the user’s side of the network termination point that is connected to an info-communications network and

with which a user can originate, process or terminate info-communications services; and

“terminal equipment dealer” means any person who imports, exports, repairs, maintains, sells or trades in terminal equipment in any manner.

Application for a concession

3. (1) An application for a concession under section 21 of the Act shall be made to the Authority in the application form set out as Form A in the Schedule.

(2) The applicant shall complete the application form in triplicate and submit the completed application forms to the Corporate Secretary of the Authority together with—

- (a) a copy of the payment receipt for the relevant application fee or other proof of payment; and
- (b) any document and information specified on the application form, including:
 - (i) the business or corporate information and a copy of the supporting documents listed in Part 4 of the application form;
 - (ii) any information regarding its history and experience in the operation of an info-communications network or the provision of info-communications service including the information listed in Part 5 of the application form;
 - (iii) audited financial statements for the three years preceding the submission of this application as well as a reference from a financial institution;
 - (iv) the applicant’s business or corporate model information including the information about its financial and marketing plan, technical plan and human resource plan specified in Part 7 of the application form; and
 - (v) where applicable, information on its wireless and technical resources including the information listed in Part 8 of the application form.

Application for a licence

4. (1) An application for a licence under section 31 of the Act to establish, operate, use or install a radio-communicating service or radio-transmitting equipment—

- (a) for a private info-communications service;
- (b) on board any ship, aircraft, or other vessel in the territorial waters or territorial airspace of Montserrat;
- (c) for an amateur radio service, citizen band radio service or family radio service; or

(d) for aeronautical mobile radio, maritime mobile radio or land mobile radio purposes,

shall be made to the Authority using the application form set out as Form B, C, D and E in the Schedule, respectively.

(2) An applicant shall complete an application form identified in subrule (1) in triplicate and submit the completed application forms to the Corporate Secretary of the Authority together with—

- (a) a copy of the payment receipt for the relevant application fee or other proof of payment;
- (b) a copy of any present or expired licence; and
- (c) any other document and information specified on the relevant application form or requested by the Authority.

(3) When an applicant applies for a licence referred to in subrule (1)(c), he shall attach the following to the application, if applicable—

- (a) one passport-sized photograph;
- (b) copies of the technical specification of relevant equipment;
- (c) proof of a radio amateur qualification; and
- (d) a copy of any existing licence of a similar nature from any country.

(4) In addition to the items referred to in subrule (3), an applicant who applies for a licence to operate, use or install a radio-communicating service or radio-transmitting equipment for a citizen band radio service or family radio service shall attach to the application a reference, from a person with at least five years experience in radio communications, certifying that the applicant is competent to operate or maintain a radio station.

(5) When an applicant applies for a licence referred to in subrule (1)(d), he shall attach the following to the application—

- (a) the schematic of the network; and
- (b) copies of the technical specifications of relevant equipment.

Approval and Certification of Terminal Equipment

5. (1) A licensee or concessionaire shall apply for approval and certification of terminal equipment to be installed or used for an info-communications network or info-communication service using the application form set out as Form F in the Schedule.

(2) A manufacturer or user of terminal equipment may also apply for approval and certification of terminal equipment to be imported, used or sold in Montserrat using the form set out as Form F in the Schedule.

(3) An applicant shall complete the application form identified in subrule (1) for each type of terminal equipment in triplicate and submit the completed application forms to the Corporate Secretary of the Authority together with—

- (a) a copy of the payment receipt for the relevant application fee or other proof of payment;
- (b) a letter of authorisation, if the applicant is an authorised agent;
- (c) a copy of the technical specification for the relevant equipment;
- (d) a copy of any approval or certificate received for the equipment from a foreign or international body;
- (e) a copy of any test report or certification of the technical specifications of the equipment issued by a test or certification body;
- (f) a copy of any electromagnetic compatibility (EMC) report;
- (g) a copy of any safety report on the terminal equipment that the applicant opts to submit;
- (h) a sample of the terminal equipment, if requested by the Authority;
- (i) a copy of the user manual, if requested by the Authority; and
- (j) any other document, information or item specified on the relevant application form or requested by the Authority.

(4) Notwithstanding subrule (1), the Authority exempts a licensee or concessionaire from the requirement to obtain approval and certification for the following terminal equipment—

- (a) Advanced Mobile Phone Service (AMPS), Time Division Multiple Access (TDMA) and Global System for Mobile Communication (GSM) cellular equipment certified by the Federal Communications Commission (FCC) under Title 47, Part 68 of the United States Code of Federal Regulations;
- (b) equipment certified by the European Telecommunications Standards Institute (ETSI);
- (c) facsimile machines certified by the Federal Communications Commission (FCC) under Title 47, Parts 15 and 68 and related radiation performance standards in Title 21, Chapter 1 of the United States Code of Federal Regulations;
- (d) Private Automated Branch Exchange (PABX) and related equipment certified by the Federal Communications Commission (FCC) under Title 47, Parts 15 and 68 of the United States Code of Federal Regulations and related technical standards for electromagnetic transference including ICES-003 Class B;
- (e) terminal equipment previously approved or certified by the Authority;
- (f) cable and other forms of wiring; and
- (g) household appliances.

Registration of Terminal Equipment Dealer

6. (1) A person who intends to import, export, repair, maintain, sell or trade in terminal equipment in any way shall apply to the Authority to be registered as a terminal equipment dealer using the application form set out as Form G in the Schedule.

(2) An applicant shall complete the form identified in subrule (1) in triplicate and submit the completed form in triplicate to the Corporate Secretary of the Authority together with—

- (a) a copy of the payment receipt for the relevant application fee or other proof of payment; and
- (b) any other document and information specified on the relevant application form or requested by the Authority.

Confidentiality

7. An applicant for a concession, licence or approvals and certification of terminal equipment and registration as a terminal equipment dealer under rule 3, 4, 5 and 6 may indicate, in accordance with section 74 of the Act, the documents or information provided in the application which it wants to be treated as secret and confidential.

Summary sheet

8. An applicant for a concession, licence, approvals and certification of terminal equipment and registration as a terminal equipment dealer under rule 3, 4, 5 and 6 may list the documents that are attached to the application form and where applicable, indicate whether documents are originals in a summary sheet.

Acknowledgement of receipt

9. (1) The Corporate Secretary shall, within seven days of receipt of an application under rules 3, 4, 5 and 6, issue a receipt to the applicant acknowledging receipt of the application.

(2) If a summary sheet was submitted, the Corporate Secretary shall indicate whether the documents as listed in the summary sheet were received.

(3) If the application form received is incomplete or required information is missing, the Corporate Secretary shall inform the applicant of this and inform him that the application would not be processed until these requirements are satisfied.

Renewal of licence

10. An applicant for the renewal of a licence referred to in rule 4(1)(b) shall attach a certified copy of any expired or current ship or aircraft radio licence, equipment installation certificate, ship or aircraft radio operator certificate and ship or aircraft registration certificate.

SCHEDULE**FORM A***(Rule 3)***APPLICATION FOR A CONCESSION
UNDER SECTION 21 OF INFO-COMMUNICATIONS DEVELOPMENT ACT*****Type of Application***

- ☐ New Application
- ☐ Amendment
- ☐ Renewal

Name of Applicant: _____

Info-Communications Authority of Montserrat
P.O Box 165, St. Peters
Montserrat

Telephone Number: 1 (664) 491-3789 Fax Number: 1 (664) 491-3789
Email: Website:

NOTE: Applicants for concession to provide info-communications network and/or services that require a licence for use of spectrum must submit information as required at sections 7 and 8

1. BASIS OF APPLICATION	
<i>Indicate all applicable info-communications networks, public info-communications services relevant to this application</i>	
Operate a Public Info-Communication Network ☐ Domestic Fixed ☐ Domestic Mobile ☐ International ☐ Free to Air Radio ☐ Free to Air Television ☐ Subscription Television	Provide a Public Info-Communications Service ☐ Domestic Voice ☐ Int'l Voice Origination ☐ Int'l Voice Termination ☐ Internet Services ☐ Other Geographic Area of Coverage ☐ National
2. CONTACT INFORMATION	
Applicant: (i.e. Name of Business or Company):	
Name of Signatory of Application:	
Position of Signatory in the Business or Company:	
Designated Contact Person	
Mailing Address	
Telephone:	Fax:
Email:	Website:
Licence Number:	

3. BUSINESS OR CORPORATE INFORMATION**Classification of Organization:**

- ☐ Sole Trader ☐ Partnership ☐ Limited Liability Company
☐ Private Company ☐ Other

If other, please specify

Registration No.:

Registration
Date:

BIR Number:

Registered Name:

Place of Incorporation:

Registered address of principal place of business

Registered address of principal place of business *(if different from above)*

Trading or business name (if different from registered name)

4. ADDITIONAL BUSINESS OR CORPORATE INFORMATION**Please submit the following information:**

- a. Any certificate of incorporation or corporate registration.
- b. A copy of the company's Articles of Association.
- c. Brief description of principal business activity of the company.
- d. Name and address of each director, identifying executive and non-executive positions.
- e. Disclosure of any criminal record or personal bankruptcy of any person listed at (d).
- f. If private company, identify all shareholders of the company.
- g. If public company, identify all shareholders owning more than 5% of the outstanding and registered shares, including their names,

addresses and shareholding (by quantum and class of shares).

h. If a subsidy, indicate parent company:

- i. *The following additional information is required where an applicant is part of a consortium or joint venture:*
- ii. *The role and contribution of each consortium or joint venture:*
- iii. *A bona fide copy of any joint venture agreement, memorandum of understanding or shareholder agreement.*

5. INFO-COMMUNICATIONS NETWORK/SERVICE PROFILE

Applicants should provide information regarding experience in the operation of the relevant network(s) or provision of the relevant service(s). The information supporting the applicant's sector experience should also be provided in relation to each market in which the applicant operates or has operated, either independently or otherwise and should include:

- (i) A brief history of the applicant's info-communications experience in the Caribbean and/or any other area;
- (ii) Type(s) of info-communications network and/or services offered in each country;
- (iii) Number of competitors in each market of operation;
- (iv) Structure of the business in each market (wholly owned subsidiary, joint venture, etc);
- (v) Number of subscribers and attendant market share in each market;
- (vi) Network rollout performance in each country;
- (vii) Experience in providing info-communications in countries with topography similar to that of Montserrat;
- (viii) Proposed customer's incentives i.e. competitive prices, new services etc; and
- (ix) Customer service programs (Total Quality Management programs, service standards, service measurement).

6. FINANCIAL PROFILE OF APPLICANT**Applicant must submit the following:**

- a. Audited financial statements of organization for the past three years including:
 - i. Annual Balance Sheet;
 - ii. Annual profit and loss accounts; and
 - iii. Annual cash flow statement;
- b. Evidence of existing financial resources and capitalization, including all debt and equity financing;
- c. Description of continuing access to capital and financial capacity, including investments, revenues, credit reserves and other short and long term financial resources;
- d. References or commitment letters from suitable financial institutions.

7. BUSINESS OR CORPORATE MODEL**Please submit information as required at 7.1, 7.2 and 7.3****7.1 Financial and Marketing Plan**

- 7.1.1 A feasibility analysis for the development of the organization's operations including five year projections re:-
 - i. Revenue and costs;
 - ii. Traffic forecasts, where applicable;
 - iii. Subscriber base and market share;
 - iv. Service prices; and
 - v. Marketing and pricing strategies.
- 7.1.2 A financial projection for 5 years showing relevant accounting ratios (including current assets to liabilities ratio, debt to equity ratio and interest coverage ratio).
- 7.1.3 A comprehensive risk assessment and analysis in support of business plan, including contingencies and risks identified as high.

Financial projections should assume constant prices.

7.2 Technical Plan

7.2.1. **Network/systems Design:** A network scheme including detailed description and specification of the technology to be used and its compliance with international standards. The systems overview shall also contain information on the applicant's system plans, system capacity and where necessary, any requirements or proposed points for interconnection.

7.2.2 **Rollout Plan:** Details regarding proposed network roll out plans must include, at a minimum, forecasts for capacity expansion and/or growth in demand for services, plans for the acquisition of all required facilities and equipment; as well as proposed population/geographic coverage of the relevant network(s) and/or service(s).

7.2.3 **Quality of Service:** Proposals regarding Quality of Service.

7.3 Human Resource Plan

7.3.1 An organigram showing management function and titles;

7.3.2 An employment plan including engagement of local human resources and training and development programmes;

7.3.3 The auditors and principal legal financial advisors to the organization.

8. WIRELESS NETWORK & TECHNICAL RESOURCE INFORMATION

Where applicable the applicant must:-

- a. provide detailed network diagram of the radio-communications network to be implemented;
- b. identify the radio-communications equipment and any other facilities to be used in the network, including a detailed description of any proposed equipment installations;
- c. include a statement explaining how the radio transmitting equipment or radio-communications that are the subject of this application relate to its business activities;
- d. identify the technical staff and/or contractors responsible for the design, implementation and ongoing operation, use and maintenance of the radio-communications equipment;

- e. provide details of the technical qualifications and experience of its technical staff and/or contractors and if the person is not a permanent employee of the applicant, include a letter from the person confirming the information provided and accepting technical responsibility for the design and implementation and/or operation, use and maintenance of the applicant's equipment;
- f. provide any other information relevant to demonstrating that the radio-communications equipment will be operated and used by sufficiently experienced personnel, to avoid harmful interference and otherwise to assure ongoing compliance with any licence granted pursuant to section 31 of the Info-Communications Development Act.

9. SPECTRUM REQUEST INFORMATION

Description	Type	Quantity Required
TS ¹ -SP	Spectrum Licence	
TS-PP	Point-to-Point Link	
TS-PM	Point-to-Multipoint Link	
TS-LM	Land Mobile System	
TS-MA	Marine Radio	
TS-AE	Aeronautical Radio	
TS-SS	Satellite Station	
	Other	

¹TS: Technical Services

10. DECLARATION AND SIGNATURE

I, the undersigned, do hereby declare that the information provided in this application is correct and accurate to the best of my knowledge. I acknowledge and agree that submitting this application pursuant to section 21 of the Info-Communications Development Act means that the concession requested would be granted on condition that the requirements of the Act for the award of concessions are fulfilled.

Applicant_____

Name of individual authorised to sign on behalf of company (*Block
Capitals*)

Title_____

Signature_____

Date_____

Where this application is made on behalf of a company, please affix
company seal hereunder:-

FORM B

(Rule 4(1)(a))

APPLICATION FOR A LICENCE
UNDER SECTION 31 OF INFO-COMMUNICATIONS DEVELOPMENT ACT
FOR A RADIO-COMMUNICATIONS LICENCE
FOR A PRIVATE INFO-COMMUNICATION SERVICE

Type of Application☐

New Application

☐

Amendment

☐

Renewal

Name of Applicant: _____

Info-Communications Authority of Montserrat
P.O Box 165, St. Peters
Montserrat

Telephone Number: 1 (664) 491-3789 Fax Number: 664) 491-3789
Email: Website:

NOTE: For Applicants not providing any service to the public but need to apply for spectrum

1. CONTACT INFORMATION Re: Signatory of Application	
Name of Signatory of Application:	
Position of Signatory in the Organization:	
<u>Contact Information</u>	
Mailing Address	
Telephone:	Fax:
Email:	Website:
Licence Number:	
2. BUSINESS OR CORPORATE INFORMATION	
Classification of Organization: ☐ Sole Trader ☐ Partnership ☐ Limited Liability Company ☐ Private Company ☐ Other If other, please specify	
a. Registered Name	
b. Registration Number	
c. Place of Incorporation	
d. Date of Registration	
e. Tax Registration Number	
f. Registered Address of Principal Place of Business	
g. Trading and Business Name (if different from registered name)	
h. Principal Business Activity of the Company	
i. Attach Copy of Memorandum of Association (where applicable)	

- | | |
|--|--|
| j. Attach Copy of Articles of Association where applicable | |
|--|--|

3. NETWORK INFORMATION (to be appended)

- a. Each network provider or operator is required to submit a diagram of existing or proposed radio-communications network;
- b. Each applicant must identify the radio-communications equipment and any other facilities used on network or to provide service, including a detailed description of any proposed equipment installations;
- c. The statement required at b. above must also clearly indicate the relationship between the radio transmitting equipment and the radio-communications services which are the subject of this application

4. TECHNICAL RESOURCE AND RESPONSIBILITY

4.a. The applicant must identify the technical staff or contractors responsible for the design, implementation and ongoing operation, use and maintenance of the radio-communications equipment.

(i) **Resource Personnel re: Design and Implementation**

Name _____

Address _____

Telephone _____

Fax _____

Mobile _____

Email _____

(ii) **Resource Personnel re: Operation, Use and Maintenance**

Name _____

Address _____

Telephone _____

Fax _____

Mobile _____

Email _____

4.b. For each technical resource personnel identified, the applicant must submit his/her resume re: technical qualifications and experience and where any such person is not the applicant or a permanent employee of the applicant, a letter from the person confirming the information provided and acceptance of the technical responsibility for the design, implementation and/or operation, use and maintenance of relevant equipment must be submitted with this application.

4.c. The applicant is encouraged to provide any other information which is indicative of pre-compliance with the requirement in the Info-Communications Development Act, that the radio-communications equipment will be operated and used by persons sufficiently experienced in avoidance of harmful interference.

5. SPECTRUM REQUEST INFORMATION

Required Type	Description	Quantity
TS ¹ -SP	Spectrum Licence	
TS-PP	Point-to-Point Link	
TS-PM	Point-to-Multipoint Link	

TS-LM	Land Mobile System	
TS-MA	Marine Radio	
TS-AE	Aeronautical Radio	
TS-SS	Satellite Station	
	Other	

¹TS: Technical Services**6. DECLARATION AND SIGNATURE**

I, the undersigned, do hereby declare that the information provided in this application is correct and accurate to the best of my knowledge. I acknowledge and agree that submitting this application pursuant to section 31 of the Info-Communications Development Act means that the licence requested would be granted on condition that the requirements of the Act for the award of licences are fulfilled.

Name of Applicant_____

Signature_____

Date_____

Where this application is made on behalf of a company, please affix company seal here under:-

FORM C

(Rule 4(1)(b))

APPLICATION FOR A LICENCE
UNDER SECTION 31 OF INFO-COMMUNICATIONS DEVELOPMENT ACT
FOR A RADIO-COMMUNICATIONS LICENCE FOR AN AIRCRAFT OR SHIP

Type of Application

☐

New Application

☐

Amendment

☐

Renewal

☐

Aircraft Station Licence

☐

Ship Radio Licence

Name of Applicant: _____

Info-Communications Authority of Montserrat
P.O Box 165, St. Peters
Montserrat

Telephone Number: 1 (664) 491-3789 Fax Number: 1 (664) 491-3789
Email: Website:

PART I – SHIP/AIRCRAFT DETAILS

1.1 Name of Ship/Aircraft _____

1.2 Country of Registration _____

1.3 Name of the owner _____

1.4 Address of owner

Home/Business Address**Postal Address**

Tel:

Fax:

Email:

1.5 Name of Agent: _____

1.6 Address of the Agent

Home/Business Address**Postal Address**

Tel:

Fax:

Email:

1.7 Name of Accounting Authority _____

1.8 Address of Accounting Authority

Home/Business Address**Postal Address**

Tel:

Fax:

Email:

1.9 Accounting Authority Identification Code _____

1.10 Class of Ship/Aircraft _____

- 1.11 Gross Tonnage: _____
- 1.12 Size of Ship/Aircraft _____
- 1.13 Distance of operation from nearest land mass: _____

**PART II – DETAILS OF PRESENT or PREVIOUS SHIP/AIRCRAFT
STATION LICENCE**

(Photocopy of the ship/aircraft station licence should be attached)

- 2.1 Licence Number: _____
- 2.2 Call Sign: _____
- 2.3 MMSI/DSC Number: _____
- 2.4 Inmarsat ID: _____
- 2.5 Country of Issue: _____
- 2.6 Country of Registration: _____
- 2.7 Period of Validity: _____
- 2.8 Public Correspondence Category: _____
- 2.9 Supplemental Information: _____

- 2.10 Details of Radio Operator's Certificates _____

PART III – SHIP EQUIPMENT INSTALLATION

(Certified copy of the installation certificates should be attached)

Equipment Type	Make & Model	TX Power (Watts)	Class of Emission	Frequency Bands
MF/HF				
MF/HF DSC				
VHF				
VHF DSC				
HAND VHF				

INMARSAT				
E.P.I.R.B				
RADAR				
SART				
EGC				
WATCH Rx				
GPS				
DIRECTION FINDER				
NAVTEX				
SATNAV				
OTHER				

PART IV – AIRCRAFT EQUIPMENT INSTALLATION

(Certified copy of the installation certificates should be attached)

Equipment Type	Make & Model	TX Power (Watts)	Class of Emission	Frequency Bands
HF Transceiver				
VHF Transceiver				
ADF Transceiver				
EPIRB				
Marker Receiver				
VHF NAV Receiver				
Glide Slope Receiver				
EGC				
DME TX				
DME RX				
ATC TX				
ATC RX				
WRT - C Band				

WRT - X Band				
GPC RX				
Radio Altimeter Transceiver				
Doppler NAV Transceiver				
Other				

PART V – DECLARATION AND SIGNATURE

I, the undersigned, do hereby declare that the information provided in this application is correct and accurate to the best of my knowledge. I acknowledge and agree that submitting this application pursuant to section 31 of the Info-Communications Development Act means that the licence requested would be granted on condition that the requirements of the Act for the award of licences are fulfilled.

Name of Applicant_____

Signature_____

Date_____

Where this application is made on behalf of a company, please affix company seal here under:-

FORM D

(Rule 4(1)(c))

APPLICATION FOR A LICENCE

UNDER SECTION 31 OF INFO-COMMUNICATIONS DEVELOPMENT ACT
FOR A RADIO-COMMUNICATIONS LICENCEFOR AN AMATEUR RADIO LICENCE, CITIZEN BAND RADIO LICENCE OR
FAMILY SERVICE RADIO***Type of Application***☐

New Application

☐

Amendment

☐

Renewal

☐

Amateur Radio Licence

☐

Citizen Band Radio Licence

☐

Family Service Radio

Name of Applicant: _____Info-Communications Authority of Montserrat
P.O Box 165, St. Peters
Montserrat

Telephone Number: 1 (664) 491-3789 Fax Number: 1 (664) 491-3789

Email: Website:

(Please complete fully in type or block letters)

PERSONAL INFORMATION

1. Name and address of applicant:
Family Name(s)_____ Given Name(s)_____
2. Country of Residence:_____
3. Country of Citizenship:_____
- ☐ by birth ☐ by naturalization
4. Nationality:_____
5. Place and Date of Birth:_____
6. Home Address:_____
7. Telephone Number:_____
8. Email address:_____
9. Personal Description *(attach 2 copies of the bio-data page of your passport)*
Hair colour_____ Eye colour_____
Weight_____ Height_____
10. Occupation *(profession and place of employment)*:_____

AMATEUR INFORMATION

11. Call sign:_____
12. Operation Licence Number *(if any)* and
class_____
13. Expiration Date:_____
- (if none given, attach notarized certificate that licence is valid)*
14. Attach photocopy of licence *(if Morse speed not shown, indicate here)*_____

INFORMATION ABOUT PLANNED VISIT

15. Arrival/ Date permit to take effect:_____

16. Departure/ Date permit to end:_____

17. Address in Montserrat:_____

18. Location(s) of operation(s):_____

19. Description of equipment:

a) Make_____ b) Model_____

c) Serial No.: XMTR_____ RCVR_____
XCVR_____ Other Apparatus_____

d) Maximum Transmit Power_____

e) Frequency Bands_____

f) Types of Emission_____

g) Other descriptions_____

20. Point of Entry of operator and equipment in Montserrat
_____**21. DECLARATION AND SIGNATURE**

I, the undersigned, do hereby declare that the information provided in this application is correct and accurate to the best of my knowledge. If granted a licence, I agree to operate in accordance with the rules, regulations and conditions established in accordance with the Info-Communications Development Act, by the ITU General Radio Regulations governing radio operations and by the terms and conditions of any bilateral agreement between Montserrat and my country.

Name of Applicant_____

Signature_____

Date_____

FORM E

(Rule 4(1)(d))

APPLICATION FOR A LICENCE
UNDER SECTION 31 OF INFO-COMMUNICATIONS DEVELOPMENT ACT
FOR A RADIO-COMMUNICATIONS LICENCE
FOR AN AERONAUTICAL MOBILE RADIO LICENCE, LAND MOBILE RADIO
LICENCE OR MARITIME MOBILE RADIO LICENCE

Type of Application

- | | |
|--------------------------|--------------------------------------|
| ☐ | New Application |
| ☐ | Amendment |
| ☐ | Renewal |
| ☐ | Aeronautical Mobile Radio
Licence |
| ☐ | Land Mobile Radio Licence |
| ☐ | Maritime Mobile Radio Licence |

Name of Applicant: _____

Info-Communications Authority of Montserrat
P.O Box 165, St. Peters
Montserrat

Telephone Number: 1 (664) 491-3789 Fax Number: 1 (664) 491-3789
Email: Website:

(Please complete fully in type or block letters)

PART I – APPLICANT INFORMATION

1.1 Contact Details

1.1.1 Name of Applicant _____

1.1.2 Address of applicant _____

1.1.3 Licence No. _____

1.1.4 Designated Contact Person _____

1.1.5 Telephone No. _____

1.1.6 Fax No. _____

1.1.7 Email Address _____

1.1.8 Website _____

1.1.9 State whether the licence is required for a (registered) business?

☐ YES ☐ NO

If the answer is YES, answer (a) and (b) below

(a) State whether the applicant is a company, partnership, sole proprietorship

(b) Business's registration number. *(Please supply a copy of the Business Registration Certificate and/or Certificate of Incorporation)*

1.1.10 If a licence is being applied for personal use, please answer the following questions

Date of Birth _____ Age on last birthday _____

PART II - LICENCE DETAIL

2.1 Select as appropriate

1. New Licence

☐

2. Equipment Upgrade

☐

3. Equipment Replacement

☐

4. Renewal

☐

If your answer for this question is other than number 4 please answer questions 2.2 – 2.4

2.2 Licence No. _____

2.3 Place of Issue: _____

2.4 Date of Issue: _____

PART III – TECHNICAL DETAILS

3.1 **Frequency Band:-**

- | | |
|---|---|
| ☐ VLF – Very Low Frequency | ☐ VHF - Very High Frequency |
| ☐ LF - Low Frequency | ☐ UHF - Ultra High Frequency |
| ☐ MF - Medium Frequency | ☐ SHF - Super High Frequency |
| ☐ HF - High Frequency | ☐ EHF - Extra High Frequency |

3.2 **Details of Communication Equipment:**

3.2.1 **PORTABLE/ HANDHELD**

In the event that you have more than four portable/handheld radios photocopy this table and include the additional radios

Portable/Handheld	Radio #1	Radio #2	Radio #3	Radio #4
Transmit Power (W)				
Band width (MHz)				
Antenna Gain (dBi)				

Polarization				
No. of channels <i>(indicate simplex or duplex)</i>				
General Area of Use				
Radio Make and Model				
TX Low Frequency Limit				
TX High Frequency Limit				
RX Low Frequency Limit				
RX High Frequency Limit				

3.3.2 MOBILE (for vehicle, boat or aircraft)

In the event that you have more than four mobile radios photocopy this table and include the additional radios

Mobile	1	2	3	4
Transmit Power (W)				
Band width (MHz)				
Antenna Gain (dBi)				
Polarization				
No. of channels <i>(indicate simplex or duplex)</i>				
General Area of Use				
Radio Make and Model				
TX Low Frequency Limit				

TX High Frequency Limit				
RX Low Frequency Limit				
RX High Frequency Limit				
Ant. Make and Model				
Ant. EIRP (dBm)				
Ant. Low limit Frequency				
Ant. High limit Frequency				
Ant. Type				
3.3.2 BASE/FIXED STATIONS AND REPEATERS <i>(If Applicable)</i> 3.3.2.1 Site/Location <i>(Indicate at top of columns if the info is for a Base station or Repeater)</i>				
3.3.2.2 Equipment <i>(Indicate at the top of columns if info is for a Base Station or Repeater)</i>				
Base Station/Repeater	1	2	3	4
Make and Model				
TX Low Frequency Limit				
TX High Frequency Limit				
RX Low Frequency Limit				
RX High Frequency Limit				
3.3.2.3 Antenna <i>(Indicate at the top if info is for a Base Station or Repeater)</i>				
Base Station/Repeater	1	2	3	4
Ant. Make and				

Model				
Ant. EIRP (dBm)				
Ant. Low limit Frequency				
Ant. High limit Frequency				
Ant. Type				
Ant. Gain (dBi)				
Polarization				

3.3.2.4 Base/Repeater Station*(Indicate at top of columns if the info is for a Base station or Repeater)*

Base Station/Repeater	1	2	3	4
Station ERP				
Station TX Power				
Stations Antenna height				
Band width Frequency				
Number of Channels				

3.4 Frequencies requested

Specific Frequency/Frequencies

Required _____

Nature of Service: _____

Number of Channels Required:

Simplex _____ Repeater _____ Voice _____

VFT² _____ Data _____ Others _____

3.5 Details of Communication Points:

(If this space is sufficient, please use extra paper to indicate the stations)

Type of Station	Location of Station or Registration Number of Vehicle/Boat/Aircraft	Number of Units	Call Sign
Base/Fixed			
Mobile			
Portable / Handheld			
Repeater			
Any Other Equipment			

VFT² Voice Frequency Telegraphy

PART III – DECLARATION AND SIGNATURE

I, the undersigned, do hereby declare that the information provided in this application is correct and accurate to the best of my knowledge. I acknowledge and agree that submitting this application pursuant to section 31 of the Info-Communications Development Act means that the licence requested would be granted on condition that the requirements of the Act for the award of licences are fulfilled.

Name of Applicant_____

Signature_____

Date_____

Where this application is made on behalf of a company, please affix company seal hereunder:-

FORM F

(Rule 5)

APPLICATION FOR
CERTIFICATION OR APPROVAL OF TERMINAL EQUIPMENT
UNDER THE INFO-COMMUNICATIONS DEVELOPMENT ACT

- | | |
|--|---|
| ☐ Cellular Phone | ☐ Radio Transmitter |
| ☐ Cordless Phone | ☐ Satellite Earth Station |
| ☐ Telephone instruments | ☐ Mobile Radio |
| ☐ Telex Equipment | ☐ Wireless Remote Device |
| ☐ Facsimile Machine | ☐ PABXs |
| ☐ Modems | ☐ Telecommunications Switching Equipment |
| ☐ Pagers | ☐ Other equipment emitting a radio signal |
| ☐ Radio Receivers | ☐ Any other user equipment to be attached to a telecommunications network or service |

Name of Applicant: _____Info-Communications Authority of Montserrat
P.O Box 165, St. Peters
Montserrat

Telephone Number: 1 (664) 491-3789 Fax Number: 1 (664) 491-3789

Email: Website:

(Please complete fully in type or block letters)

PART 1 - APPLICANT

1. Name and address of applicant:

2. Designated Contact person:_____

3. Telephone Number:_____

4. Fax Number:_____

5. Email address:_____

6. If approval is required for a registered business, please state:-

(a) Nature of business (company, partnership, sole trader, etc)

(b) Business Registration Number _____

7. If approval is required for an individual/personal use, please state:-

(a) Date of Birth_____

(b) Nationality_____

(c) Occupation_____

(d) Identification Card Number, Place of Issue

(e) Passport Number, Country of issue and Expiry Date

PART 2 – TECHNICAL DETAILS

1. Select the following options where applicable:

☐

Approval has been granted by another OECS Member

Country (ies)_____

☐

Approval granted by a foreign or international standards agency

Agency (cies)_____

☐

New Approval Requested: Equipment has not undergone any type approval process

2. Radio Communications Equipment

a) Equipment_____

b) Type_____

c) Class_____

d) Manufacturer's Name_____

e) Transmit Frequency Bands (MHz)_____

f) Receive Frequency Bands (MHz)_____

g) Output (Watts)_____

h) ITU Emission Designator_____

3. Details of the purpose for which equipment is intended to be used

4. Certificate Holder (*this is the person/business to whom the approval or certificate would be issued, this name would appear on the certificate*)

5. Address of Certificate Holder _____

DECLARATION AND SIGNATURE

I, the undersigned, do hereby declare that the information provided in this application is correct and accurate to the best of my knowledge. If granted a certificate or approval, I agree to operate in accordance with the rules, regulations and conditions established in accordance with the Info-Communications Development Act. I understand that a certificate issued for this type of terminal equipment is valid on the condition that the equipment to be used is identical to the one tested or described and that any changes to the name, model or type of equipment approved will require a new application for approval or certification. I also understand that the certificate or approval may be revoked if the terminal equipment is used outside of the scope of approval or has been obtained through the provision of false information or other illegal means.

Name of Applicant _____

Signature _____

Date _____

FORM G

*(Rule 6)*APPLICATION FOR REGISTRATION OF A TERMINAL EQUIPMENT DEALER
UNDER THE INFO-COMMUNICATIONS DEVELOPMENT ACT***Type of Application***☐

New Application

☐

Renewal

Name of Applicant: _____Info-Communications Authority of Montserrat
P.O Box 165, St. Peters
MontserratTelephone Number: 1 (664) 491-3789 Fax Number: 1 (664) 491-3789
Email: Website:

PART I - APPLICANT

1.1 Contact Details

1.1.1 Name and Business Address of Applicant

1.1.2 Contact Person _____

1.1.3 Telephone _____

1.1.4 Fax _____

1.1.5 E-mail _____

1.1.6 Web Address _____

1.21 Business Details

1.2.1 Type of Business of Applicant

- | | |
|--------------------------------------|--|
| ☐ Sole Trader | ☐ Limited Liability Company |
| ☐ Partnership | ☐ Public Liability Company |

Other _____

1.2.2 Name under which applicant proposes to trade

1.2.3 If newly established business, please provide date by which operations are to commence.

1.2.4 Please state the nature of your business

2. PART II - TECHNICAL DETAILS OF EQUIPMENT

2.1 Types of equipment to be supplied:

- ☐ Cellular Telephones;
- ☐ Cordless Telephones;
- ☐ Fax Machines;
- ☐ GSM Telephones;
- ☐ Mobile Radios;
- ☐ Modems;
- ☐ Wireless Remote Devices;
- ☐ PABXs (including Small Business Systems
and Key Systems);
- ☐ Pagers;
- ☐ Radio Transmitters;
- ☐ Satellite Earth Stations;
- ☐ Telecommunications Switching Equipment;
- ☐ Telephone Instruments;
- ☐ Telex Equipment;
- ☐ Any other customer premises equipment to be
attached to any part of a licensed telecommunications
network *(please provide details below)*

2.2 Specification of Equipment					
Equipment	1	2	3	4	5
Type of Equip					
Manufacturer					
Serial No.					
Model No.					
Year of Manufacture					
Certification Body and ID No.					

2.3 Please indicate whether your company has been in receipt of any certificates designating it as a supplier of equipment		
Certification	Issuing Authority	Relevant Standard

2.4 Please state the geographical areas in which you intend to trade

2.5 Please state office addresses of these geographical locations

3. PART III - SUPPLEMENTARY DOCUMENTATION

Documents submitted:

- ☐ Photographs or product brochures showing the appearance of the equipment;
- ☐ Certified copies of any other relevant certificates;
- ☐ Copy of customer agreement contract (if applicable);
- ☐ Certified copy of Certificate of Business Name Registration or Certificate of Incorporation

4. DECLARATION AND SIGNATURE

I, the undersigned, do hereby declare that the information provided in this application is correct and accurate to the best of my knowledge. I acknowledge and agree that submitting this application pursuant to the Info-Communications Act means that registration is granted on the condition that the requirements of the Act are fulfilled

Name of Applicant _____

Signature _____

Date _____

Where this application is made on behalf of a company, please affix company seal hereunder:-

INFO-COMMUNICATIONS ACCESS TO FACILITIES REGULATIONS
ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

REGULATION

1. Short title
2. Purpose/objectives
3. Applicability of regulations
4. Interpretation

PART 2

GENERAL OBLIGATIONS

5. Obligation to provide access to facilities
6. Obligation to provide network information
7. Conditions for access to essential facilities

PART 3

OBLIGATIONS ON INCUMBENT CONCESSIONAIRES

8. Access to essential facilities owned or controlled by any incumbent concessionaire
9. Essential facilities to be provided by incumbents
10. Power to amend inventory of essential facilities

PART 4

NON-DISCRIMINATION

11. Conditions of access to be non-discriminatory
12. Precedent to establish access point

PART 5

CO-LOCATION

13. Requirement to provide information for co-location
14. Refusal of co-location

PART 6

ACCESS AGREEMENT

15. Time for conclusion of access agreement
16. Basic particulars of access agreement

17. Modification of access agreement
18. Submission and approval of access agreement
19. Publication of access agreement

PART 7

COMMERCIAL ARRANGEMENTS

20. Charges
21. Alternative charging principles
22. Supply of cost-based charging information to the Authority

PART 8

DISPUTE RESOLUTION

23. Request for resolution of disputes

INFO-COMMUNICATIONS ACCESS TO FACILITIES REGULATIONS— SECTION 73

(S.R.O. 36/2011 and Act 9 of 2011)

Commencement

[10 August 2011]

PART I

PRELIMINARY

Short title

1. These Regulations may be cited as the Info-communications Access to Facilities Regulations.

Purpose/objectives

2. These Regulations provide and establish directives regarding the rights and obligations of a concessionaire pertaining to access to facilities used for public info-communications activities in Montserrat. In particular, these Regulations seek to encourage and ensure access to info-communications facilities which cannot be economically replicated; and/or where replication would be inimical to the aesthetics and sustainability of the environment and hazardous to human health.

Applicability of regulations

3. These Regulations apply to a concessionaire that owns or controls a public info-communications network infrastructure in accordance with section 25 of the Info-communications Development Act

Interpretation

4. In these Regulations—

“**access agreement**” means an agreement detailing arrangements as negotiated and agreed between a concessionaire requesting access and the one providing access to facilities comprising his network pursuant to section 25(2) of the Act, and which is binding on the signatory parties over the period of the agreement;

“**access fee**” means any charge for access to a facility that is part of a public info-communications network;

“**access provider**” means the concessionaire providing access to its facilities to an access concessionaire;

“**access seeker**” means the concessionaire seeking access to the facilities of another concessionaire;

“**co-location**” means provision of space at the premises of an access provider for purposes of an access seeker to install its network equipment;

“concessionaire” means a person or an entity authorised to operate a public info-communications network or provide an info-communications service under section 21 of the Act;

“efficient cost” means cost equivalent to that of the network or service provider whose combination of allocative, productive and dynamic costs are the most optimal in the market for any info-communications resource;

“essential facility” means a facility in the access provider's network which an access seeker requires in order to provide its service and for which no practical or viable alternative exists;

“incumbent concessionaire” means any entity which was a monopoly network and/or service provider prior to the opening of the market for that network or service to any new network and/or service provider;

“local loop” means the network linking termination point at the end user premises to the main distribution frame or equivalent facility in a fixed public telephone network.

PART 2

GENERAL OBLIGATIONS

Obligation to provide access to facilities

5. A concessionaire which operates a public info-communications network shall—

- (a) provide access to its facilities, and such access shall not be unreasonably withheld;
- (b) negotiate in good faith, matters concerning access to facilities;
- (c) neither withdraw nor impair access once already granted, save where authorised by the Authority, an arbitration panel or a court of law;
- (d) provide co-location services as designated at Part 5.

Obligation to provide network information

6. (1) Upon request, an access provider is required to supply to an access seeker such information about its network and support services as is necessary and sufficient for an access seeker to include facility sharing in its network configuration and operation.

(2) The information referred to in subregulation (1) shall be supplied within twenty eight days unless an extension is granted by the Authority. The access provider may request an extension in writing from the Authority not later than seven days before the deadline for supply of the information.

(3) A concessionaire seeking to have information pertaining to subregulation (1) classified as confidential shall so do in writing to the Authority not later than seven days before deadline for supply of the information, and the Authority shall determine, within a reasonable period, the validity of the request.

Conditions for access to essential facilities

7. Save and except where it is not technically feasible, where environmental, health and safety problems will be created, or where unreasonable risk to the integrity and or security of the network of the access provider is posed, the requirement to provide access to essential facilities is mandatory.

PART 3

OBLIGATIONS ON INCUMBENT CONCESSIONAIRES

Access to essential facilities owned or controlled by any incumbent concessionaire

8. Subject to the conditions specified in section 25 of the Act and regulation 7 of these Regulations, an incumbent concessionaire is obliged, upon request from an access concessionaire to—

- (a) provide access to any essential facility which it owns or controls;
- (b) provide access to bundled or unbundled configurations of network components in accordance with the access seeker's request;
- (c) make available equipment and facilities used to combine network components in the same manner it uses such equipment and facilities to combine components to provide a service for its own purposes or that of its subsidiary or partner.

Essential facilities to be provided by incumbents

9. The Authority may from time to time specify the essential facilities to which an incumbent concessionaire shall provide access and such facilities may include but are not limited to the following—

- (a) local loop;
- (b) line side facilities, including but not limited to, the connection between a loop termination at the main distribution frame and the switch line card;
- (c) trunk side facilities including, but not limited to, the trunk side cross connect panel and a switch trunk card;
- (d) trunk connect facilities, including but not limited to, the connection between trunk termination at the cross connect panel and a switch trunk card;
- (e) interoffice transmission facilities;
- (f) signaling networks, including but not limited to, signaling links and signaling transfer points;
- (h) service control points.

Power to amend inventory of essential facilities

10. Subject to approval to the Governor acting on the advice of Cabinet, the facilities at regulation 9 may be varied from time to time by the Authority. (*Amended by Act 9 of 2011*)

PART 4**NON-DISCRIMINATION****Conditions of access to be non-discriminatory**

11. (1) An access provider is obliged to apply equivalent conditions in equivalent circumstances to an access seeker and to provide access to facilities under the same conditions and of the same quality as it provides to itself, its subsidiaries or partners.

(2) Where an access provider fails to comply with subregulation (1) it shall prove to the Authority that it is not technically feasible to replicate the quality level of similar access provided for its own use.

Precedent to establish access point

12. (1) Previous successful access to a facility at a particular point on an info-communications network is evidence of technically feasible access at that point, or at a similar point on the network where similar essential facilities are used.

(2) Adherence to the same interfaces or protocol standards at other points of the network shall constitute evidence of similar facilities.

PART 5**CO-LOCATION****Requirement to provide information for co-location**

13. An access provider shall, upon request from an access seeker supply information on the availability of the relevant essential facility required to enable co-location, including—

- (a) information on sites along with security arrangements and conditions;
- (b) co-location options at the relevant sites;
- (c) restrictions, if any, on equipment which can be co-located;
- (d) security standards and measures to be put in place by access seekers to guarantee continued security;
- (e) principles governing allocation of co-location space to an access seeker;
- (f) principles governing the rights of entry to co-location space by authorised agents and staff of the access seeker.

Refusal of co-location

14. (1) Where an access provider refuses an access seeker's request for physical co-location on the grounds of technical barriers or space limitation, it must offer virtual co-location.

(2) Upon request from the Authority, an access provider must justify its refusal to offer physical co-location on the grounds of technical barriers or space limitation. Such justification must be submitted to the Authority in writing within seven days of the refusal notification.

(3) The Authority has the right to enter the premises of an access provider, subject to obtaining the necessary warrant, to determine any claims of co-location space limitation.

(4) Where the Authority deems such claims as unsubstantiated, it shall instruct, in writing, the access provider to make arrangements for co-location in a reasonable time specified by the Authority.

(5) Where necessary, the Authority shall mandate any access provider to upgrade its facilities to provide requisite co-location space to the access seeker and the access provider shall be entitled to recover the efficient costs of such upgrade from the access seeker.

PART 6

ACCESS AGREEMENT

Time for conclusion of access agreement

15. An access provider shall use all reasonable endeavours to conclude any access agreement within forty five days of the receipt of a request for access. Failure to do so shall constitute a dispute under section 77 of the Act and regulation 23.

Basic particulars of access agreement

16. An access agreement shall include, at a minimum, the price for access to facilities as well as the technical, operational, billing and planning conditions for access.

Modification of access agreement

17. Where the parties agree to modify an access agreement which is similar to a previous access agreement with another access seeker and which was signed and approved by the Authority, the modifications must have the approval of the Authority prior to taking effect and becoming binding on the signatory parties. The Authority, subject to appropriate consultation shall not withhold approval without reason, and such reasons shall be given within twenty eight days of submission of the agreement to the Authority.

Submission and approval of access agreement

18. Signed copies of an access agreement shall be submitted to the Authority for approval within fourteen days of date of signature and such agreements shall not take effect or be binding on the parties without the approval of the Authority.

Publication of access agreement

19. The Authority shall publish any access agreement on its website within seven days of the approval date.

PART 7**COMMERCIAL ARRANGEMENTS****Charges**

20. All charges for access to facility shall be just and reasonable, and based on efficient costs determined by such costing principles as the Authority may from time to time require.

Alternative charging principles

21. Where the costing principles in reference at regulation 20 are not in place the parties shall determine access to facilities charges using costing principles agreed between both parties and approved by the Authority. The Authority, within a reasonable time period shall give its decision on the proposed charges and where such rates are denied the Authority shall give reasons within a reasonable time period and specify alternative rates.

Supply of cost-based charging information to the Authority

22. An access provider shall, upon request, supply to the Authority data and analysis to demonstrate that its charges are cost-based pursuant to regulation 20, within twenty eight days of the date of receipt of the request, save and except where a time extension is granted in writing by the Authority.

PART 8**DISPUTE RESOLUTION****Request for resolution of disputes**

23. Where difficulty arises in respect of any matter under commercial negotiation, either party may refer the matter to the Authority in accordance with the Dispute Resolution Rules made under the Act.

INFO-COMMUNICATIONS INTERCONNECTION REGULATIONS

ARRANGEMENT OF REGULATIONS

PART 1

PRELIMINARY

REGULATION

1. Short title
2. Purpose/Objects
3. Applicability of Regulations
4. Interpretation

PART 2

GENERAL OBLIGATIONS

5. Interconnect negotiations
6. Supply of information
7. Mandatory sharing of infrastructure

PART 3

OBLIGATIONS ON INCUMBENT CONCESSIONAIRES

8. List of Obligations
9. Power to amend list of obligations
10. Alternative interconnection arrangements

PART 4

NON-DISCRIMINATION

11. Obligations on incumbent concessionaire
12. Applicability of precedents to non-discriminatory interconnection

PART 5

EQUAL ACCESS AND NUMBER PORTABILITY

13. Obligations to supply number ranges
14. Obligations to facilitate dialing parity and carrier pre-selection
15. Obligations to facilitate number portability

PART 6

INTERCONNECTION AGREEMENT AND REFERENCE

INTERCONNECTION OFFER

16. Interconnection Agreement timelines
17. Compulsory Interconnection Agreement particulars
18. Reference Interconnection Offer (RIO)
19. Deadline for submission of RIO
20. Obligation on concessionaire to publish RIO
21. Non-incumbent Interconnection Agreement
22. Obligation, manner and timeline on the Authority to publish Interconnection Agreement
23. Freedom to negotiate Interconnection Agreement

PART 7

COMMERCIAL ARRANGEMENTS

24. Cost-efficient interconnection charges
25. Formulae for sharing link costs
26. Authority and modalities for determining interconnection charges
27. Obligation to supply costing information
28. Symmetrical interconnection charges

PART 8

DISPUTE RESOLUTION

29. Dispute resolution process

INFO-COMMUNICATIONS INTERCONNECTION REGULATIONS – SECTION 73

(S.R.O. 35/2011)

Commencement

[10 August 2011]

PART 1

PRELIMINARY

Short title

1. These Regulations may be cited as the Info-communications Interconnection Regulations.

Purpose/Objects

2. (1) These Regulations establish a body of legal obligations and directives that are fundamental to ensure and sustain any-to-any connectivity between different and competing info-communications networks and the seamless communication between the subscribers of the services delivered over those networks.

(2) These Regulations also seek to provide the legal certainties which are necessary to—

- (a) encourage investment in and efficient use of modern info-communications technologies;
- (b) guarantee technology neutral interoperability between networks;
- (c) assist the development and sustainability of a universal service funding regime;
- (d) protect end users' confidentiality; and
- (e) provide and maintain the availability of choice in info-communications service providers to the people of Montserrat.

Applicability of Regulations

3. The Regulations apply to all concessionaires requesting interconnection, or from whom interconnection services are requested, in accordance with section 24 of the Info-communications Development Act, (hereinafter referred to as “**the Act**”).

Interpretation

4. In these Regulations—

“**Authority**” means the Info-Communications Authority established under section 4(1) of the Act;

“**carrier pre-selection**” means a form of equal access in which the customer selects a preferred service provider;

“concessionaire” means a person or an entity authorised to operate a public info-communications network or provide a public info-communications service under section 21 of the Act;

“efficient cost” means cost equivalent to that of the network or service provider whose combination of allocative, productive and dynamic cost are the most optimal in the market for any info-communications resource;

“equal access” means a facility enabling a customer to choose in a transparent and equal manner between two or more competing service providers;

“essential interconnection resource” means an interconnection resource for which no practical and viable alternative exists;

“incumbent concessionaire” means any entity which was a monopoly network and/or service provider prior to the opening of the market for that network or service to any new network and/or service provider;

“infrastructure provider” means a concessionaire which owns or operates an info-communications network and from which the use of infrastructure which forms part of his network is requested by a concessionaire;

“Interconnect Agreement” means an agreement detailing arrangements as negotiated and agreed between parties to interconnect their networks in order to provide info-communication services in accordance with section 24(2)(e) of the Act, and which is binding on the signatory parties over the period of the Agreement;

“interconnecting concessionaire” means the concessionaire which is seeking interconnection services from another concessionaire;

“interconnection provider” means the concessionaire which is providing interconnect services to an interconnecting concessionaire;

“interconnection resource” means a component of a network or a combination of such components that is required for the provision of an interconnection service;

“interconnection service” means a service provided by an interconnection provider to an interconnecting concessionaire including voice, data and image;

“interconnect link” means a transmission path that connects a point of interconnection on an interconnection provider’s network to a point on the interconnecting concessionaire’s network;

“Non-incumbent interconnection provider” means a concessionaire other than the incumbent concessionaire and from which an interconnection resource or an interconnection service is requested;

“number portability” means a facility enabling a customer to port and retain the same telephone number when changing telephone service provider;

“open access” means technology neutral access;

“point of interconnection” means a point on the interconnection provider’s network where physical connection is allowed to any interconnecting concessionaire

and can serve as a gateway between networks to enable the exchange of info-communications services between or among networks so interconnected;

“Reference Interconnect Offer (RIO)” means a document setting out the terms and conditions on which an interconnection provider proposes to offer interconnect resources to interconnecting concessionaires;

“traffic origination” means an interconnection service which begins on one network at its termination point on a customer’s premises and passed to a point of interconnection with another network for onward transmission;

“traffic termination” means an interconnection service received at a point of interconnection to be terminated at a termination point on a customer’s premises which is connected to the network that received the service;

“transit traffic” means traffic that originates on one network and passes through another network to be terminated on a third network.

PART 2

GENERAL OBLIGATIONS

Interconnect negotiations

5. All concessionaires shall—

- (a) have a right and, when requested, an obligation to negotiate interconnection with each other for the purpose of providing public info-communications resources;
- (b) negotiate in good faith with each other matters concerning interconnection;
- (c) neither withdraws nor impairs interconnection once already granted, unless authorised by the Authority, a dispute settlement arbitrator or a court of law;
- (d) grant access to technical interfaces, protocols or any other technology for the interoperability of public network services.

Supply of information

6. (1) Upon request, a concessionaire shall supply to an interconnecting concessionaire such information about its network as is necessary and sufficient for the purposes of interconnection.

(2) The information referred to in subregulation (1) shall be supplied within twenty eight days except where the interconnection provider is granted an extension in writing by the Authority in response to a request submitted in writing at least seven days before the deadline for supply of the information.

(3) A concessionaire seeking to have information pertaining to subregulation (1) classified as confidential shall so do in writing to the Authority not later than seven days before the deadline for supply of the information and the Authority shall

determine and communicate its decision regarding the request within a reasonable period which does not exceed fourteen days, to the date the request was received.

(4) Information provided to facilitate interconnection shall only be used for that purpose and shall not be disclosed to third parties or used to compete against the party providing the information on any service delivered in the info-communications market.

Mandatory sharing of infrastructure

7. Save and except where it is not technically feasible, where environmental, health and safety problems will be created, or where unreasonable risk to the integrity and or security of the network of the infrastructure provider is posed, infrastructure sharing arrangements to effect interconnection shall be mandatory on all concessionaires.

PART 3

OBLIGATIONS ON INCUMBENT CONCESSIONAIRES

List of obligations

8. An incumbent concessionaire is obliged, upon request from an interconnecting concessionaire to provide—

- (a) interconnect link capacity within its network and between its network and that of the interconnecting concessionaire to enable transmission and switching/routing of multimedia services (voice, data, image etc.) over their networks;
- (b) operator services such as directory enquiries, and emergency services;
- (c) resources and services that enable transmission of all signals over which permit the origination, transit and termination of traffic between networks on the condition that such signals do not compromise the integrity of services, delivered over its networks;
- (d) access to essential interconnection resources as the Authority may from time to time specify and such resources may include—
 - (i) Local and international switching /routing functions;
 - (ii) Operations Support Systems;
 - (iii) Databases;
 - (iv) Service Management Systems.

Power to amend list of obligations

9. The obligations listed in regulation 8 may be varied from time to time by the Authority.

Alternative interconnection arrangements

10. Where an interconnecting concessionaire is denied access by an Incumbent interconnection provider to any interconnection resource or service specified at regulation 8 and/or required under regulation 9 on the grounds that it is not technically feasible or would compromise network integrity, and such a claim has been authenticated by the Authority, the Authority may cause the interconnection provider to make the necessary network adjustment to enable the required interconnection in a reasonable period.

PART 4

NON-DISCRIMINATION

Obligations on incumbent concessionaire

11. (1) Interconnection providers are obliged to apply equivalent conditions in equivalent circumstances to interconnecting concessionaires in providing any interconnection resource or service under the same conditions and of the same quality as they provide for those of their subsidiaries or partners.

(2) Where an interconnection provider fails to comply with subregulation (1) it must upon request from the Authority prove that it is not technically feasible to replicate the quality level of the interconnection service or resource provided for its own use.

Applicability of precedents to non-discriminatory interconnection

12. (1) Previous supply of an interconnection service or access to an interconnection resource at a particular point of interconnection is evidence of technically feasible interconnection at that point of interconnection, or at similar points on the network where similar resources are used or services provided.

(2) Adherence to the same interfaces or protocol standards at other points of interconnection shall constitute evidence of similar resources.

PART 5

EQUAL ACCESS AND NUMBER PORTABILITY

Obligation to supply number ranges

13. An interconnection provider shall upon request from any interconnecting concessionaire, supply details of number ranges that are hosted on its local exchange/server to enable interconnecting concessionaires to route calls to those number ranges directly through the interconnection link as required.

Obligations to facilitate dialing parity and carrier pre-selection

14. An interconnection provider, upon a directive from the Authority shall—

- (a) configure its network to facilitate dialing parity in such a manner that provides subscribers with the option of using any available alternative

service provider to make international calls whenever concessions are granted by the Authority to such service providers to provide international voice services;

- (b) programme its switches to enable carrier pre-selection for access to international telecommunications services.

Obligations to facilitate number portability

15. Each concessionaire shall configure its network to facilitate number portability between similar networks as and when directed by the Authority.

PART 6

INTERCONNECTION AGREEMENT AND REFERENCE INTERCONNECTION OFFER

Interconnection agreement timelines

16. Concessionaires shall use all reasonable endeavours to conclude any interconnection agreement within sixty days of the receipt of a request for interconnection from an interconnecting concessionaire. Failure to do so shall constitute a dispute.

Compulsory Interconnection Agreement particulars

17. Interconnect agreements shall include—

- (i) prices and price adjustments for interconnection resources and services including the initial level of interconnection charges, a definition of the currency in which interconnection charges are to be paid and how prices will adjust over the term of the Agreement to account for exchange rate changes and inflation;
- (ii) definition of the traffic pertaining to any network as well as liability for technical, operational, billing, and planning conditions for exchange of traffic, bad debt and uncollectable bills;
- (iii) the physical locations of interconnection points and specification of technical standards to be employed as well as the process for requesting and obtaining additional points of interconnection;
- (iv) specifications regarding quality standards, in particular the time period for provisioning of circuits, call blocking levels as well as the applicable remedies when those standards are not met;
- (v) definition of access to the parties' numbering resources, the time period for implementation of said access as well as the applicable terms to effect number portability where required;
- (vi) the planning details to be followed by the interconnecting parties so that investment to procure additional capacity can be budgeted to facilitate timely installation;

- (vii) the basic procedures to be adopted to resolve differences that may arise over forecasts of additional interconnection capacity; and
- (viii) a mutual obligation to serve in a reasonable time advanced notification of intended network changes and upgrades.

Reference Interconnection Offer (RIO)

18. (1) Incumbent concessionaires shall prepare a Reference Interconnection Offer (RIO) that will serve as the basis for its interconnection agreements with interconnecting concessionaires.

(2) The RIO must be fully compliant with these Regulations.

(3) In addition, the Authority may issue an indicative specimen RIO in order to guide an incumbent concessionaire on the expected content and format of its RIO.

Deadline for submission of RIO

19. An incumbent concessionaire shall submit its RIO to the Authority within thirty five days of the date of the first request for interconnection by any interconnecting concessionaire.

Obligation on concessionaire to publish RIO

20. An incumbent concessionaire shall publish its RIO on its website within seven days of submission to the Authority.

Non-incumbent Interconnection Agreement

21. An Interconnection Agreement prepared by any non-incumbent interconnection provider and agreed to by an interconnecting concessionaire requires the approval of the Authority prior to taking effect and becoming binding on the interconnecting concessionaire and the Authority shall not withhold approval without reason, and such reason must be given within twenty eight days of submission of the Interconnection Agreement to the Authority by the non-incumbent interconnection provider.

Obligation, manner and timeline on the Authority to publish Interconnection Agreement

22. Any Interconnection Agreement approved by the Authority shall be published by the Authority on its website within seven days of the date of approval.

Freedom to negotiate Interconnection Agreement

23. There shall be no restrictions on any concessionaires engaged in negotiating the terms and conditions proposed in any Interconnection Agreement.

PART 7**COMMERCIAL ARRANGEMENTS****Cost-efficient interconnection charges**

24. All interconnection charges shall be based on efficient costs.

Formula for sharing link costs

25. (1) The cost of an interconnection link shall be shared equally between the interconnecting concessionaire and the interconnection provider.

(2) Where the interconnection provider has underwritten the full expenditure to supply an interconnection link, the liability in reference at subregulation (1) charged to the interconnecting concessionaire shall be based on the efficient costs of the link and shall, at a minimum, be separated into set-up costs and on-going leasing costs.

Authority and modalities for determining interconnection charges

26. (1) Interconnection charges shall be determined by such costing formats, methodologies, models or formulae as the Authority may from time to time approve or specify.

(2) The Authority may use at its discretion the costing formats, methodologies, models or formulae approved or specified at subregulation (1) to resolve interconnection disputes between concessionaires.

(3) Where the relevant data for the application of the costing formats, methodologies, models or formulae in reference at subregulation (1) are unavailable or not available within a reasonable time period, interconnection charges may be set by proxies derived from actual charges for similar interconnection services in countries where the characteristics used to determine those charges are similar to the essential determinants of interconnection costs in Montserrat.

(4) The approval of the Authority is required before proxy interconnection charges take effect and the Authority shall give its decision within twenty eight days from the date the request for approval was received.

(5) Where approval is not granted as requested at subregulation (4) the Authority shall undertake its own benchmarking exercise and submit the charges so estimated to the parties for implementation and the charges shall be binding on the parties except overturned in a court of law.

Obligation to supply costing information

27. A concessionaire shall—

- (i) upon request, supply to the Authority data and analysis to demonstrate that its interconnection charges are based upon efficient costs;
- (ii) supply all data and analysis in reference at subregulation (1), within twenty eight days of the date of receipt of the request, save

and except where a time extension is granted in writing by the Authority.

Symmetrical interconnection charges

28. (1) Save and except otherwise agreed between the parties, charges for similar interconnection services exchanged between similar networks, fixed network to fixed network or mobile network to mobile network etc., regardless of the technology which supports each network shall be symmetrical.

(2) A concessionaire shall not increase interconnection charges without the approval of the Authority.

(3) Where such approval referred to at subregulation (2) is given, the concessionaire is required to give a minimum of one month's notice before the new charges come into effect.

PART 8

DISPUTE RESOLUTION

Dispute resolution process

29. Where a disagreement arises in respect of any interconnection matter under negotiation, either concessionaire may refer the matter to the Authority in accordance with any dispute resolution rules made pursuant to section 77 of the Act.

