

MONTSERRAT

STATUTORY RULES AND ORDERS

NO. 22 OF 2010

COMPANY MANAGEMENT (FORMS) REGULATIONS 2010

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MONTSERRAT
STATUTORY RULES AND ORDERS
NO. 22 OF 2010

COMPANY MANAGEMENT (FORMS) REGULATIONS 2009

THE COMPANY MANAGEMENT (FORMS) REGULATIONS 2010 MADE BY THE GOVERNOR UNDER SECTION 23 OF THE COMPANY MANAGEMENT ACT, CAP. 11.26.

Short title

- 1. These Regulations may be cited as the Company Management (Forms) Regulations, 2009.

Interpretation

- 2. In these Regulations, "Act" means the Company Management Act, Cap. 11.26.

Application for licence

- 3. An application for a licence under section 5(1) of the Act shall be made to the Commission in the form set out as Form 1 in the Schedule.

Certificate of compliance

- 4. The certificate of compliance to be issued by an independent auditor and furnished to the Commission under section 18(1)(b) of the Act shall be in the form set out as Form 2 in the Schedule.

Annual report

- 5. A licensee shall prepare the annual report to be submitted to the Commission under section 18(3) of the Act in the form set out as Form 3 in the Schedule.

SCHEDULE

(Regulations 3, 4 and 5)

FORM 1

(Regulation 3)

APPLICATION FOR COMPANY MANAGEMENT LICENCE IN MONTSERRAT
Part A

This application form must be completed and submitted together with the documents specified in the Schedule to the Company Management Act, Cap. 11.26

- 1. Name of Applicant, who will be carrying on the business:
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2. Address in Montserrat of the principal office of the applicant and, in the case of a company, its registered office:

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3. In the case of a company, the names and addresses of all shareholders, including beneficial shareholders and details of percentage of shareholding:

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4. In case of a company, the names and addresses of all directors, offices and managers

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5. In the case of a company, the names and addresses of foreign agents of the company and details of any contractual arrangements with such persons:

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6. Names and addresses of attorneys of the applicant, together with a letter from such attorneys confirming that they act for the applicant:

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7. Names and addresses of auditors of the applicant, together with a letter from such auditors confirming that they act for the applicant:

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8. In the case of a company –
(a) the name and address of the officer who is the authorized agent in Montserrat to accept, on behalf of the applicant, service of process and any notices required to be served on it:

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.....

(b) the name and address of another officer who is so authorised when the authorised officer is absent or unable to act:

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9. In case of a company, list the documents that are being submitted as evidence of proper incorporation of the company in Montserrat or other country of incorporation:

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.....

10. List the written evidence that is being submitted to prove that the applicant or some person or company directly or indirectly connected with the applicant possesses solid and practical experience in company management:

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.....

11. List and provide details of any written character reference and police certificate certifying that neither the applicant and in the case of a company, any director or officer, has a criminal record either in Montserrat of elsewhere:

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12. In the case of a company, list the documents being submitted regarding the provision of or an undertaking to provide fully paid-up capital, as required by the Act, or a guarantee under seal of such sum given by a holding or parent or other company approved by the Commission:

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13. Outline the assets, liabilities and capital of the holding company, if any, for the three (3) years preceding this application:

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.....
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14. Names of any subsidiary companies of the applicant and the address of their registered offices:

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.....

18. Details of the applicant’s banker(s) or trust company:

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NOTE: Please attach the following to this application together with the documents specified in the Schedule to the Company Management Act, Cap. 11.26:

- 1. Business plan covering the following:
 - a) Background and experience of the applicant and of the applicant’s shareholders if applicable;
 - b) Overview of the proposed business activities, including proposed volumes of business;
 - c) Administration of the business, including proposed staffing levels, due diligence and know your customer controls;

d) Reasons for choosing Montserrat to set up the business.

2. The prescribed non-refundable application fee (regulation 2 of the Company Management (Fee) Regulation, Cap. 11:26) of US \$200:

NOTE: Part B of this Application is to be completed by each shareholder, beneficial shareholder, director, manager, if not a director, and such other person(s) as the Financial Services Commission may require to be filed with this application:

Part B

DETAILS OF SHAREHOLDERS, DIRECTORS, MANAGERS, OR SENIOR OFFICERS OF APPLICANT

Full Name and Address of Applicant

In connection with the above-named company, I herewith make representations and supply information about me as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.)

Please state if answer is "no" or "none" where appropriate

1. Surname Name _____
Forenames _____

2. a. Have you ever had you name changed? _____. If yes, give
the reason for the change _____
b. Other names used at any time. _____

3. Social Security No./ Passport No./National Insurance No./or other
similar identification No. applied to Government Record Systems.
Give details of **photo I.D.** _____
(Please include copy of photo I.D.)

4. a. Date of Birth _____
b. Place of Birth _____

5. Nationality, including statement as to whether it was acquired by birth, descent or naturalisation _____

6. Business address _____

7. Business Telephone No. _____ Fax/E-mail address: _____

8. Current residential/private address

Street _____

City _____

State/Province _____

Country _____

9. List your residential/private addresses for the last ten(10) years

DATE	ADDRESS	CITY AND STATE
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_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. Education: Dates, Names, Locations and Degrees

College _____

Graduate Studies

Others

- 17. a. Present employer may be contacted. Yes No
- b. Former employers may be contacted. Yes No
- c. List names, address, phone/fax numbers of independent references.

- 18. Have you ever been in a position which required a fidelity bond? _____
If any claims were made on the bond, give details. _____

- 19. Have you ever been denied an individual or position schedule fidelity bond, had a bond cancelled or revoked? Yes No

If yes, give details _____

- 20. List any professional, occupational, and vocational licenses issued by any public or governmental licensing agency or regulatory authority which you presently hold or have held in the past (State date license issued, issuer of license, date terminated, reasons for termination).

- 21. During the last ten (10) years, have you ever been refused a professional, occupational, or vocational license by any public or governmental licensing agency or regulatory authority, or has any such license held by you ever been suspended or revoked? Yes No

If yes, give details _____

22. List any financial services activity that is licenced by a regulatory authority in which you control directly or indirectly or own legally or beneficially 10% or more of the outstanding stock (in voting power).

If any of the stock is pledged in any way, give details.

23. Have you at any time failed to satisfy any debt adjudged due and payable by you as a judgement-debtor under an order of a court in Montserrat or elsewhere. If so, give particulars.

24. Have you, in connection with the formation or management of any body corporate, partnership or incorporated institution other than a partnership, been adjudged by a court in Montserrat or elsewhere civilly liable for any fraud, misfeasance or other misconduct by you towards such a body or company, or towards any members thereof? If so give particulars

25. Has any body corporate, partnership or unincorporated institution other than a partnership with which you were associated as a director or officer in the last 10 years, in Montserrat or elsewhere, been compulsorily wound up or has made any compromise or arrangement with its creditors, or ceased trading in circumstances where its creditors did not receive or have yet to receive full settlement of their claims, either where you were associated with it or within one year after you ceased to be associated with it? If so, give full particulars

26. Will you or members of your immediate family subscribe to or own, beneficially or of record, shares of stock of the applicant company or its affiliates? _____.

If any of the shares or stock are pledged in any way, give details.

27. a. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence pardoned for conviction or pleaded guilty or admit or deny to any information or indictment charging any felony, or charging a misdemeanor involving embezzlement, theft, larceny, or mail fraud, or charging a violation of any corporate securities statute or any insurance law, or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? Yes No

If yes, give details:

_____.

b. Has any company been charged as a result of any alleged action or conduct on your part? Yes No

If yes, give details:

28. Have you ever been adjudged a bankrupt? _____

29. Have you ever been an officer, director, trustee, investment committee member, key employee, or controlling stockholder of any financial services activity that is licenced by a regulatory authority which, while you occupied any such position or capacity with respect to it, became insolvent or was placed under supervision or in receivership, rehabilitation, liquidation or conservatorship? Yes No

If yes, give details including names and dates _____

30. Has a certificate of authority or license to do business of any financial services activity that is licenced by a regulatory authority of which you were an officer or director or key management person ever been suspended or revoked while you occupied such position? Yes No

If yes, give details _____

Dated and signed this _____ day of _____ at _____

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

(Signature of Applicant)

City _____

Country _____

The above named _____ personally appeared before me and is personally known to me, being duly sworn, deposes and says that he executed the above instrument and that the statements and answers contained therein are true and correct to the best of his knowledge and belief.

Subscribed and sworn to before me this ____ day of _____ 20__.

(Notary Public)

(Seal)

FORM 2

(Regulation 4)

CERTIFICATE OF COMPLIANCE

Issued pursuant to section 18(b) of the Company Management Act (Cap. 11.26)

NAME OF LICENSEE:

We, confirm that in accordance with the requirements of section 18 of the Company Management Act, Cap. 11.26 (“the Act”) that –

(a) the information set out in licensee’s application for a licence under section 5 of the Act, as modified by any subsequent notification of change submitted in accordance with section 11 of the Act,

- i) remains correct;
- ii) is an accurate summary of the business of the licensee; and

(b) we provide company management services to less than fifty (50) companies.

.....
Director of Licensee

.....
Date

FORM 3

(Regulation 5)

ANNUAL REPORT

A. Services Offered

1. Provide state the number of companies for which the following services are provided:

- a) Directors
- b) Nominee shareholders
- c) Secretarial
- d) Custodial (bearer shares)
- e) Company formation agent
- f) Registered office/business address
- g) Company officer

2. Provide information on the following if applicable in regards to bearer shares:

- a) Number of clients for which bearer shares held in custody.
- b) Number of clients for which bearer shares have been transferred in the last six months from one party to another.
- c) If bearer shares were transferred were they transferred to a recognised / authorised custodian?
Yes No
- e) Other Services (please specify):

B. Client Account Reviews

1. Provide information on the following:

a) How many client companies do you manage?

b) How many reviews of client companies have been completed in the past six months?

2. How many companies, if any, are NOT up-to-date with respect to:

a) Filing of statutory records with the applicable Government department?

b) Directors / Officers records?

c) Minutes?

C. Client Base

1. Provide information in respect to:

a) Whether you have access to records of the beneficial ownership of all new client companies?

Yes No

b) Have any clients been removed from the company's client list in the past 6 months ?

Yes No

c) Have any clients been added in the past 6 months?

Yes No

d) Please provide a list of your client companies in Appendix A.

Yes No

2. What percentage of the beneficial owners of client companies are residing in each of the following regions: -

	<u>Country</u>	<u>Percentage</u>
i.	Asia	
ii.	Caribbean	
iii.	Europe	

- iv. North America
- v. South America
- vi. Latin America
- vii. Middle East
- viii. Russia
- ix. Others

3. What percentage of your client companies are involved primarily in the following activities:

<u>Products</u>	<u>Percentage</u>
i. Investments	
ii. Import/ Export	
iii. Commercial shipping	
iv. Registration of yachts	
v. Others, Please specify below	

D. General Information

1. Provide information on the following:

- a) Number of suspicious activity reports filed since last reporting period?
- b) Is there any material litigation outstanding or threat of litigation against the company?
Yes No

If yes, please give details.:

c) Has the institution and/or any directors or shareholders controllers been subject to criminal or regulatory investigations over the past reporting period, whether in Montserrat or elsewhere? Yes No

If yes, please give details.:

d) Are there any industry and/or market related issues which you wish to draw to the attention of the Commission? Yes No

2. Please feel free to add additional comments:

Dated and signed this _____ day of _____ at _____

(Director of Licensee)

I hereby certify this _____ day of _____, _____ that the foregoing statements are true and correct to the best of my knowledge and belief.

Independent Auditor

Made by the Governor this 11th day of March, 2010.

PETER ANDREW WATERWORTH
Governor

Published by exhibition at the Clerk of Councils Office, Farara Plaza, Brades, this 15th day of March, 2010.

Judith Jeffers
Clerk of Council