

M O N T S E R R A T

NO. 23 OF 2008

BANKING (ABANDONED PROPERTY) REGULATIONS 2008

ARRANGEMENT OF REGULATIONS

REGULATIONS

1. Short title
2. Definitions
3. Report on abandoned property
4. Publication of abandoned property
5. Notification of sale to the Central Bank
6. Advertisement of public sale
7. Delivery of abandoned property to the Central Bank
8. Unsold abandoned property
9. Deduction of Expenses
10. Settlement of Claims
11. Retention of Customer Records
12. Prohibited Items
13. Repeal

MONTSERRAT
STATUTORY RULES AND ORDERS
NO. 23 OF 2008

REGULATIONS MADE BY THE GOVERNOR IN COUNCIL ACTING UPON THE RECOMMENDATION OF THE CENTRAL BANK TO THE MINISTER UNDER SECTION 34 OF THE BANKING ACT 2005 (NO. 2 OF 2005).

Short title

1. These Regulations may be cited as the Banking (Abandoned Property) Regulations, 2008.

Definitions

2. In these Regulations—
“**abandoned property**” means any property which is presumed to be abandoned under section 60 of the Act;
“**Act**” means the Banking Act 2005 (No 2 of 2005).

Report on abandoned property

3. A licensed financial institution shall submit the report required by sub-section (1) of section 61 of the Act, in the form set out in the Schedule as Form A.

Publication of abandoned property

4. Subject to regulation 12, a licensed financial institution shall publish for two consecutive weeks, the particulars of abandoned property, excluding value, in at least two newspapers of general circulation in Montserrat.

Notification of sale to the Central Bank

5. A licensed financial institution shall at least one week prior to the public sale of any abandoned property under section 62, give notice of the sale to the Central Bank.

Advertisement of public sale

6. A licensed financial institution shall advertise for two consecutive weeks, the particulars of the public sale of any abandoned property, in the Gazette and in at least two newspapers of general circulation in Montserrat, prior to sale.

Delivery of abandoned property to the Central Bank

7. (1) A licensed financial institution shall, subject to regulations 8, 9 and 12, deliver to the Central Bank within sixty days of the date of submission of the report referred to in regulation 3, holdings of abandoned property as required by subsection (1) of section 61 of the Act, along with a statement in the form set out in the Schedule as Form B.

(2) A licensed financial institution shall, subject to regulation 9, deposit with the Central Bank the proceeds of the public sale as required by section 62 of the Act within thirty days of the date of the public sale, along with a statement in the form set out in the Schedule as Form C.

(3) On receipt of the holdings of abandoned property or the net proceeds of the sale of any property from a licensed financial institution, the Central Bank shall—

- (a) submit to the financial institution, an acknowledgement of abandoned property in the form set out in the Schedule as Form D; and
- (b) publish the particulars of the abandoned property on its website.

Unsold abandoned property

8. (1) Subject to regulation 12, a licensed financial institution shall—

- (a) retain and maintain any unsold abandoned property on behalf of the Central Bank for such period as shall be directed by the Central Bank; and
- (b) submit to the Central Bank a statement of unsold abandoned property in the form set out in the Schedule as Form E.

(2) Subject to sub-regulation (1), a licensed financial institution may dispose of unsold abandoned property as agent of the Central Bank in accordance with guidelines issued by the Central Bank.

Deduction of Expenses

9. (1) A licensed financial institution may deduct all reasonable expenses incurred by it in respect of—

- (a) the publication and mailing of notices of abandoned property required by sub-section (3) of section 61 of the Act; or
- (b) the sale of any abandoned property under section 62 of the Act,

and apportion the expenses equally among the holdings described in section 60 of the Act.

(2) Where the amount of a holding is insufficient to cover the expenses referred to in paragraphs (a) and (b) of sub-regulation (1), the licensed financial institution shall deplete the holding and apportion the remaining expenses equally among the other holdings.

Settlement of Claims

10. Any claims to abandoned property which—

- (a) is paid to the Central Bank pursuant to regulation 7; or
- (b) is held on behalf of the Central Bank pursuant to regulation 8,

shall be verified and settled by the licensed financial institution as agent of the Central Bank in accordance with guidelines issued by the Central Bank.

Retention of Customer Records

11. A licensed financial institution shall maintain—

- (a) all customer records in respect of abandoned property to facilitate the verification and settlement of claims under regulation 10;
- (b) a record of the disposal of any unsold abandoned property pursuant to sub-regulation (2) of regulation 8.

Prohibited Items

12. (1) A licensed financial institution shall not publish the particulars of any prohibited, controlled or otherwise illegal abandoned property.

(2) A licensed financial institution shall deliver abandoned property which is prohibited, controlled or otherwise illegal to the relevant authority in Montserrat immediately upon discovery.

Repeal

13. The Banking (Abandoned Property) Regulations 2006 (No. 38 of 2006) is hereby repealed.

SCHEDULE

FORM A

(Regulation 3)

Name of Licensed Financial Institution

Address of Licensed Financial Institution

REPORT ON ABANDONED PROPERTY

No.	Name(s)	Account number	Last known address	Date of last Correspondence/ transaction/ acknowledgement	Description of Property	Value EC\$	
						Gross	Net of authorised deductions

For the financial year ended [*date*]

Dated:

 Manager/Authorised Signatory

FORM B

(Regulation 7)

Name of Licensed Financial Institution
 Address of Licensed Financial Institution

STATEMENT OF DELIVERY OF ABANDONED PROPERTY

No.	Name(s)	Account number	Last known address	Date of last Correspondence/ transaction/ acknowledgement	Description of Property	Value EC\$	
						Gross	Net of authorised deductions

For the financial year ended [date]

Dated:

 Manager/Authorised Signatory

FORM C

(Regulation 7)

Name of Licensed Financial Institution

Address of Licensed Financial Institution

STATEMENT REGARDING PROCEEDS OF SALE OF ABANDONED PROPERTY

No.	Name(s)	Safety Deposit Box No.	Last known address	Date of last Correspondence/ transaction/ acknowledgement	Description of Property	Date of Public Sale	Value EC\$	
							Gross	Net of authorised deductions

For the financial year ended [date] / Following public sale conducted [date] at [place]

Dated:

 Manager/Authorised Signatory

FORM D

(Regulation 7)

Name of Licensed Financial Institution
Address of Licensed Financial Institution

ACKNOWLEDGEMENT OF DELIVERY OF ABANDONED PROPERTY

To: *[address to Manager of Financial Institution]*

The Eastern Caribbean Central Bank hereby acknowledges the receipt on the day of..... of the property described in the attached statement.

Dated:

Authorised Signatory

[Attach copy of statement submitted by financial institution]

FORM E

(Regulation 8)

Name of Licensed Financial Institution

Address of Licensed Financial Institution

**STATEMENT OF UNSOLD ABANDONED PROPERTY
HELD ON BEHALF OF THE CENTRAL BANK**

No.	Name(s)	Safety Deposit Box No.	Last known address	Date of last Correspondence/ transaction/ acknowledgement	Description of Property	Value EC\$

For the financial year ended [*date*]

Dated:

Manager/Authorized Signatory

Made by the Governor-in-Council this 10th day of July, 2008.

Clerk of Councils

Published by exhibition at the Clerk of Councils Office, Farara Plaza, Brades, this 23rd day of July, 2008.

Clerk of Councils

