



ST. HELENA

(Chapter No. not allocated yet)

ECONOMIC DEVELOPMENT ORDINANCE

Non-authoritative Consolidated Text

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Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown
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Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

ECONOMIC DEVELOPMENT ORDINANCE

(Ordinance 6 of 2007)

AN ORDINANCE TO ENCOURAGE THE ESTABLISHMENT AND EXPANSION OF ECONOMIC ENTERPRISES IN ST. HELENA BY THE GRANTING OF RELIEF FROM CUSTOMS DUTIES AND TAXES TO PERSONS ENGAGING IN APPROVED INVESTMENTS, AND FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[1 April 2007]

PART I

Preliminary

Citation and commencement

1. (1) This Ordinance may be cited as the Economic Development Ordinance, 2007.
- (2) Except as provided in subsection (3), this Ordinance comes into force on the 1st day of April 2007.
- (3) Sections 9 and 10 come into force on such date or dates as the Governor in Council may appoint by notice or notices in the *Gazette*.

Interpretation

2. In this Ordinance, unless the context requires otherwise—
“**Approved Investment**” and “**Approved Investor**” have the meanings given to them by section 3;
“**Certificate**” means a certificate granted under section 3(1);
“**concession period**” means a period commencing on the date a Certificate is granted (or such later date as may be specified in the certificate) and ending on the third anniversary of the trading date;
“**construction date**” means the date specified in the Certificate for the purposes of paragraph (c) in section 5;
“**development premises**” means the premises specified in a Certificate pursuant to paragraph (b) of section 5;
“**Governor**”, in sections 3 and 4, includes a public officer authorised by the Governor in accordance with section 3(1);
“**trading date**” means the date specified in the Certificate for the purposes of paragraph (d) in section 5;.

PART II

Approved Investment Certificates

Approved Investment Certificates

3. (1) Subject to the provisions of this Ordinance, the Governor (or a public officer authorised by him in that behalf) may, by certificate under his hand, declare that any enterprise is an Approved Investment for the purposes of this Ordinance and that any person (including a

body of persons, whether incorporated or not) is an Approved Investor in relation to that Approved Investment.

(2) The Governor shall not grant a certificate under subsection (1) unless he is satisfied that the relevant enterprise—

- (i) is either a new enterprise or the expansion of an existing enterprise;
- (ii) will have a beneficial effect on the economy of St. Helena; and
- (iii) will be adequately financed and effectively managed;

and that it is expedient in the public interest so to do.

(3) The Governor, for the purpose of assisting him to make a decision upon any application for a Certificate, may seek the advice of such persons or bodies of persons (if any) as he considers are likely to be able to provide him with relevant expert, specialist, or professional advice or assistance in connection with the subject-matter of the application.

Application for Approved Investment Certificate

4. Any person who is desirous of conducting or expanding an enterprise may apply for a Certificate in relation to such enterprise, and in support of the application shall furnish to the Governor the following information—

- (a) particulars as to the nature of the enterprise, the land or premises where it will be conducted, managed and otherwise operated, and the contribution which it is expected to make to the economy of St. Helena;
- (b) the estimated minimum amount, and utilisation, of the capital to be expended annually thereon during the concession period;
- (c) the numbers of persons to be employed in the enterprise during the concession period, broken down (as appropriate) according to trade, profession or job description;
- (d) the date on or before which:—
 - (i) the construction, expansion or preparation (as the case may be) of the premises of the enterprise will commence;
 - (ii) having regard to the nature of the enterprise, it is anticipated that the applicant shall begin producing or supplying, on a reasonably extensive or marketable basis, the result arising from the conduct of the enterprise;
 - (iii) where the enterprise relates to the provisions of residential or recreational amenities for tourists, facilities will be available;
- (e) satisfactory evidence that the enterprise will be adequately financed and managed; and
- (f) such other information as the Governor may require in any particular case.

Contents of certificate

5. Every Certificate shall specify—

- (a) the nature of the enterprise in respect of which it is granted and the name of any Approved Investor in relation thereto;
- (b) the land or premises where (if this is known at the time the Certificate is issued) the enterprise shall be conducted, managed and otherwise operated;
- (c) the date on or before which the construction, expansion or preparation of the premises will commence;

- (d) the date on or before which, having regard to the nature of the enterprise, it is anticipated that the enterprise shall begin producing or supplying, on a reasonably extensive or marketable basis, the result arising from the conduct of the enterprise;
- (e) such other conditions relating to the manner in which the affairs of the enterprise shall be conducted, managed and operated as the Governor may deem fit to impose, which may (without prejudice to the generality) include a requirement that an Approved Investor shall, during the concession period and as often as may be specified in the Certificate, submit to the Governor reports or accounts recording the progress of the enterprise.

Policy Guidance

6. (1) The Governor in Council may, subject to the provisions of this Ordinance, publish policy statements as to the manner in which he intends that this Ordinance shall be carried into effect.

(2) The Governor, and any public officer to whom he delegates the power to grant a Certificate, shall comply with the provisions of any policy published under subsection (1).

PART III

Benefits for Approved Investments

Exemption from Import Duties

7. (1) This section applies to an Approved Investment in relation to which the trading date is earlier than the first day of June 2012 or such later date as the Governor may specify by notice in the *Gazette*.

(2) Capital goods and materials imported, during the applicable concession period, for the purposes of an Approved Investment to which this section applies shall be exempt from any import duty which would otherwise be payable under the Customs Ordinance, Cap 145.

(3) In subsection (2), “Capital goods and materials” means fixed assets, fixtures and fittings, and equipment (including materials used in the process of constructing, assembling or otherwise creating fixed assets) required for the initial capital investment, but excluding:

- (a) motor vehicles which are intended to be or which are in fact used (otherwise than for the purpose of delivering them to the development premises) on public roads;
- (b) personal effects of an Approved Investor or of any other person employed or otherwise engaged in the Approved Investment;
- (c) such other goods (if any) as may be prescribed.

(4) Where any goods have been imported without the payment of import duty under this section and:

- (a) such goods are sold, hired, or otherwise disposed of for value (otherwise than in a manner or for a purpose which is an integral part of the Approved Investment or is expressly authorised by a condition in the Certificate) within one year of the date of importation, or during the concession period, or are used for any purpose other than the Approved Investment; or
- (b) the Approved Investment does not begin producing or supplying, on a reasonably extensive or marketable basis, the result arising from the conduct of the enterprise by the trading date;

the importer thereof shall be liable to pay the full import duty which would have been payable if such exemption had not been granted.

(5) Subsection 4(b) does not apply to the extent that any delays in the commencement of business are shown by the Investor, to the satisfaction of the Collector of Customs, to have been attributable to circumstances which are or were beyond the reasonable control of the Approved Investor and could not (with reasonable diligence) have been foreseen by him.

Income Tax

8. (1) This section applies to an Approved Investment in relation to which the trading date is earlier than the first day of June 2012 or such later date as the Governor may specify by notice in the *Gazette*.

(2) For the purposes of the Income Tax Ordinance, Cap 146, the taxable income of an Approved Investor shall be calculated on the basis that it does not include any income derived by him during the concession period from the Approved Investment to which this section applies.

(3) Subsection (2) does not apply in relation to any tax year unless the Commissioner of Income Tax is satisfied that, throughout that year, the Approved Investment was conducted in accordance with the conditions of the relevant Certificate.

(4) Regulations made under section 11 may prescribe the manner of calculating or assessing the amount of any income of an Approved Investor for the purposes of this section and, without prejudice to the generality, may provide (either generally or in such cases or circumstances as may be prescribed) that the concession period shall be treated as extending to the end of the accounting period in which the third year of trading of the Approved Investment expires.

Employment of Immigrants in Approved Investments

9. (1) In this section, “the Immigration Ordinance” means the Immigration Control Ordinance, Cap 40², and “immigrant” means a person who is not exempt from the provisions of Part 4 of the Immigration Ordinance.

(2) Subject to such guidance, if any, as may be included in a policy published in accordance with section 6, a Certificate may be expressed to operate (and if so expressed shall operate) so that any immigrant performing any specified work or specified type or types of work in connection with the Approved Investment is not treated as being employed in contravention of the Immigration Ordinance.

(3) For the avoidance of doubt, nothing in subsection (2) affects the provisions of section 16(1) of the Immigration Ordinance.

Acquisition of Land by Immigrants

10. (1) In this section, and in section 13(3), “the Landholding Ordinance” means the Immigrants’ Landholding (Restriction) Ordinance, Cap 68³, and “immigrant” has the same meaning as in the Landholding Ordinance.

(2) Subject to such guidance, if any, as may be included in a policy published in accordance with section 6, a Certificate may be expressed to operate (and if so expressed shall operate) as a licence for an Approved Investor who is an immigrant to hold a specified interest in the development premises for the purposes of the Landholding Ordinance.

² Cap 40 repealed and replaced by Ord. 9 of 2008

³ Cap 68 repealed and replaced by Ord. 9 of 2008

PART IV Supplementary

Regulations

11. The Governor in Council may make Regulations generally for the better carrying into effect of the provisions of this Ordinance.

Offences

12. (1) A person is guilty of an offence if he knowingly makes, in connection with any application under section 4, or in relation to any claim for an exemption or benefit provided for in Part III, any statement which he knows to be false or does not believe to be true.

(2) A person is guilty of an offence if, having become liable to pay any import duty in accordance with section 7(4), he knowingly fails to inform the Collector of Customs of the circumstances which have given rise to that liability within 14 days of the date on which he became so liable.

(3) A person is liable, on summary conviction for an offence against this section, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding £15,000, or to both such fine and imprisonment.

Revocation of Certificates

13. (1) The Governor, if he is satisfied that an Approved Investor has failed to comply with any of the provisions of this Ordinance or of any condition contained in a Certificate, or (without prejudice to the generality) that—

- (a) there has been a failure or neglect to commence the construction, expansion or preparation, as the case may be, of the development enterprise on or before the construction date; or
- (b) the result contemplated by paragraph (d) of section 5 is not attained on or before the trading date; or
- (c) a development enterprise is not being conducted in accordance with the terms of the Certificate in relation thereto; or
- (d) the information furnished by the applicant in its application for a Certificate is false in a material particular; or
- (e) conditions relating to the employment of labour are unsatisfactory;

may revoke the Certificate and thereupon the provisions of Part III shall cease to apply to the enterprise.

(2) The Governor shall not revoke a certificate without first informing every Approved Investor named therein of the circumstances which appear to entitle him to do so and allowing each such person an opportunity to make written representations in relation thereto.

(3) On the revocation of a Certificate under this section:

- (a) every Approved Investor named therein, and every person conducting the enterprise as the case may be, shall be jointly and severally liable to pay to the Collector of Customs import duty which shall be calculated as if the articles imported have been disposed of under paragraph (a) of section 7(4);

- (b) section 9 shall cease to apply to that investment and section 3(1)(a) of the Landholding Ordinance⁴ shall apply to any land or interest in land acquired by an Approved Investor under the authority of the Certificate as if the Approved Investor had succeeded to land under a will or intestacy in respect of which probate or letters of administration were granted on the date on which the Certificate was revoked;
- (c) for the avoidance of doubt, any provision included in the Certificate pursuant to section 9(2) shall cease to have effect.

Amendment of Certificate

14. On the application of an Approved Investor (and with the consent of any other Approved Investor named in the same Certificate) the Governor may, upon such conditions as he may think fit, amend a Certificate in regard to any matters specified in paragraphs (a) to (e) of section 5.

⁴ *Cap 68 repealed and replaced by Ord. 9 of 2008*