



ST. HELENA

## CHAPTER 54

# HEALTH AND SAFETY ORDINANCE and Subsidiary Legislation

### Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

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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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

**CHAPTER 54****HEALTH AND SAFETY ORDINANCE**

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## CHAPTER 54

## HEALTH AND SAFETY ORDINANCE

(Ordinance 7 of 1977)

AN ORDINANCE TO MAKE FURTHER PROVISION FOR SECURING THE HEALTH, SAFETY AND WELFARE OF PERSONS AT WORK, AND FOR PROTECTING OTHERS AGAINST RISKS TO HEALTH OR SAFETY HOWSOEVER ARISING, FOR CONTROLLING THE KEEPING AND USE AND PREVENTING THE UNLAWFUL ACQUISITION, POSSESSION AND USE OF DANGEROUS SUBSTANCES, AND FOR CONNECTED PURPOSES.

**Commencement**

[7 November 1977]

**Short title**

1. This Ordinance may be cited as the Health and Safety Ordinance.

**Interpretation and definitions**

2. In this Ordinance, unless the context otherwise requires—  
“**article for use at work**” means—
  - (a) any plant designed for use or operation (whether exclusively or not) by persons at work, and
  - (b) any article designed for use as a component in any such plant;“**employee**” means an individual who works under a contract of employment (or a contract of apprenticeship) whether express or implied, and, if express, whether in writing or not, and related expressions shall be construed accordingly;  
“**enforcing authority**” means the authority (whether a council committee, a department, a body or an individual) to whom is entrusted the enforcement of any of the relevant statutory provisions to the extent specified;  
“**the existing statutory provisions**” means the following provisions while and to the extent that they remain in force, namely the provisions of the Ordinances specified in Schedule 1, and of the regulations, orders or other instruments of a legislative character made or having effect under any provision so specified;  
“**health and safety regulations**” means any of the regulations made by the Governor in Council under the general powers conferred upon him by section 11;  
“**improvement notice**” means a notice issued under section 13;  
“**inspector**” means a person duly appointed as such as provided in health and safety regulations made by the Governor in Council under section 11, and includes an acting inspector, and any person appointed to act in the capacity of an inspector whatever his actual designation may be;  
“**personal injury**” includes any disease and any impairment of a person’s physical or mental condition;  
“**plant**” includes any machinery, equipment or appliance;  
“**premises**” includes any place, and, in particular includes—
  - (a) any vehicle, vessel, aircraft or hovercraft,
  - (b) any installation on land (including any land intermittently covered by water), and
  - (c) any tent or movable structure;

- “**prescribed**” means prescribed by regulations made by the Governor in Council;
- “**prohibition notice**” means a notice issued under section 14;
- “**self-employed person**” means an individual who works for gain or reward otherwise than under a contract of employment, whether or not he employs others;
- “**substance**” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;
- “**substance for use at work**” means any substance intended for use (whether exclusively or not) by persons at work;
- “**supply**”, where the reference is to supplying articles or substances means supplying them by way of sale, lease, hire or hire-purchase, whether as principal or agent for another.

### **Preliminary**

- 3. (1)** The provisions of this Ordinance shall have effect with a view to—
- (a) securing the health, safety and welfare of persons at work;
  - (b) protecting persons other than persons at work against risks to health or safety, arising out of or in connection with the activities of persons at work;
  - (c) controlling the keeping and use of explosive, highly flammable, poisonous or otherwise dangerous substances, and generally preventing the unlawful acquisition, possession and use of such substances; and
  - (d) enabling the Governor in Council to make regulations in any sphere of human activity where health, safety or welfare appear to be endangered or likely to be endangered in the future.

### **Application and objectives of Ordinance**

**4. (1)** The provisions of this Ordinance relating to the making of health and safety regulations shall in particular have effect with a view to enabling the enactments specified in Schedule 1 and the regulations, orders and other instruments in force under those enactments to be progressively replaced by sets of regulations operating in combination with other provisions of this Ordinance and designed to maintain or improve the standards of health, safety and welfare established by or under those enactments.

**(2)** When it shall appear to the Governor in Council that any Ordinance or regulations made thereunder ought to be superseded by regulations made under this Ordinance, the Governor in Council may, by regulations made under this Ordinance add to the enactments specified in Schedule 1 of this Ordinance and thereupon such enactment and any regulations, orders or other instruments under such added enactments shall be replaced to the extent specified in regulations made under this Ordinance.

**(3)** Whenever the Governor in Council has made regulations under this Ordinance which are inconsistent with the provisions of any English law which applies to St. Helena by virtue of the English Law (Application) Ordinance<sup>2</sup>, such English law shall be subject to, and be overridden by, such regulations insofar as there is any inconsistency.

### **Meaning of ‘risks’**

**5.** For the purposes of this Ordinance, risks arising out of or in connection with the activities of persons at work shall include risks attributable to the manner of conducting an

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<sup>2</sup> Cap. 4

undertaking, the plant or substances used for the purposes of an undertaking, and the condition of premises so used or any part of them.

#### GENERAL DUTIES

##### **General duties of employers to their employees**

**6. (1)** It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

**(2)** Without prejudice to the generality of an employer's duty under the preceding subsection, the matters to which that duty extends include in particular—

- (a)* the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;
- (b)* arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
- (c)* the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees;
- (d)* so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
- (e)* the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

**(3)** Regulations made by the Governor in Council may provide for the election in prescribed cases by employees of safety representatives from amongst the employees, and those representatives shall represent the employees in consultations with the employers under subsection (4) and may have such other functions as may be prescribed.

**(4)** It shall be the duty of every employer to consult any such representatives with a view to the making and maintenance of arrangements which will enable him and his employees to co-operate effectively in promoting and developing measures to ensure the health and safety at work of the employees, and in checking the effectiveness of such measures.

**(5)** In such cases as may be prescribed it shall be the duty of every employer, if requested to do so by the safety representatives mentioned in subsections (3) and (4), to establish, in accordance with regulations made by the Governor in Council, a safety committee having the function of keeping under review the measures taken to ensure the health and safety at work of his employees and such other functions as may be prescribed.

##### **General duties of employers and self employed to persons other than their employees**

**7. (1)** It shall be the duty of every employer to conduct his undertaking in such way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health and safety.

**(2)** It shall be the duty of every self employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health and safety.

### General duties of manufacturers, importers and suppliers

**8. (1)** It shall be the duty of any person who designs, manufactures, imports or supplies any article—

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed as to be safe and without risks to health when properly used;
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed upon him by the preceding paragraph;
- (c) to take such steps as are necessary to secure that there will be available in connection with the use of the article at work, adequate information about the use for which it is designed and has been tested, and about any conditions necessary to ensure that, when put to that use, it will be safe and without risks to health.

**(2)** It shall be the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work to ensure, so far as is reasonably practicable, that nothing about the way in which it is erected or installed makes it unsafe or a risk to health when properly used.

**(3)** It shall be the duty of any person who manufactures, imports or supplies any substance for use at work—

- (a) to ensure, so far as is reasonably practicable, that the substance is safe and without risks to health when properly used;
- (b) to take such steps as are necessary to secure that there will be available in connection with the use of the substance at work adequate information about the results of any relevant tests which have been carried out or in connection with the substance and about any conditions necessary to ensure that it will be safe and without risks to health when properly used.

**(4)** For the purposes of this section an article or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice relating to its use which has been made available by a person by whom it was designed, manufactured, imported or supplied.

### General duties of employees at work

**9.** It shall be the duty of every employee while at work—

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and
- (b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

### Duty not to misuse

**10.** No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

## REGULATIONS

**Health and safety regulations**

- 11. (1)** The Governor in Council may make regulations—
- (a) prescribing anything which by this Ordinance is to be prescribed;
  - (b) generally for the better carrying into effect of the provisions of this Ordinance;
  - (c) concerning any matter, procedure, place or thing which is susceptible to improvement by regulation, in order to promote or aid in promoting the health or safety of any person or persons.
- (2)** Without prejudice to the generality of the preceding subsection, health and safety regulations—
- (a) may repeal or modify any of the existing statutory provisions;
  - (b) may make a specified person or authority responsible, to such extent as may be specified, for the enforcement of any of the relevant statutory provisions (in the Ordinance and in regulations referred to as ‘an enforcing authority’);
  - (c) may provide (either unconditionally or subject to conditions, and with or without limit of time) for exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions;
  - (d) may specify the persons or classes of persons who, in the event of a contravention of a requirement or prohibition imposed by or under the regulations, are to be guilty of an offence, whether in addition to or to the exclusion of other persons or classes of persons;
  - (e) may provide for any specified defence to be available in proceedings for any offence under the relevant statutory provisions either generally or in specified circumstances;
  - (f) may take the form of regulations applying to particular circumstances only or to a particular case only (for example, regulations applying to particular premises only);
  - (g) may provide for the appointment and termination of appointment of such inspectors (under whatever title may from time to time be determined) as may be necessary for carrying into effect the relevant statutory provisions.

## POWERS OF INSPECTORS

**Powers of inspectors—general**

**12. (1)** Subject to the provisions of section 11 and this section, an inspector may, for the purpose of carrying into effect any of the relevant statutory provisions within his field of responsibility, exercise the powers set out in subsection (2).

**(2)** The powers of an inspector referred to in the preceding subsection are the following, namely—

- (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose mentioned in subsection (1);
- (b) to take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duty;
- (c) without prejudice to the preceding paragraph, on entering any premises by virtue of paragraph (a) to take with him—
  - (i) any other person duly authorised by the enforcing authority; and

- (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (d) to make such examination and investigation as may in any circumstances be necessary for the purpose mentioned in subsection (1);
- (e) as regards any premises which he has power to enter, to direct that those premises or any part of them, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under paragraph (d);
- (f) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d);
- (g) to take samples of any articles or substances found in any premises which he has power to enter, and of the atmosphere in or in the vicinity of any such premises;
- (h) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purpose mentioned in subsection (1));
- (i) in the case of any such article or substance as is mentioned in the preceding paragraph, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
  - (i) to examine it and do to it anything which he has power to do under that paragraph;
  - (ii) to ensure that it is not tampered with before his examination of it is completed;
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under any of the relevant statutory provisions or any proceedings relating to a notice under section 13 or 14;
- (j) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (d) to answer (in the absence of persons other than a person nominated by him, to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;
- (k) to require the production of, inspect, and take copies of or of any entry in—
  - (i) any books or documents which by virtue of any of the relevant statutory provisions are required to be kept; and
  - (ii) any other books or documents which it is necessary for him to see for the purposes of any examination or investigation under paragraph (d);
- (l) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this section;
- (m) any other power which is necessary for the purpose mentioned in subsection (1).

(3) The Governor may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(g) (including provision as to the way in which samples that have been so taken are to be dealt with).

(4) Where an inspector proposes to exercise the power conferred by subsection (2)(h) in the case of an article or substance found in any premises, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to those premises, cause



anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of the country.

(5) Before exercising the power conferred by subsection (2)(h) in the case of any article or substance, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(6) Where under the power conferred by subsection (2)(i) an inspector takes possession of any article or substance found in any premises, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(7) No answer given by a person in pursuance of a requirement imposed under subsection (2)(j) shall be admissible in evidence against that person or the husband or wife of that person in any proceedings.

(8) Nothing in this section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the Supreme Court.

#### NOTICES

##### **Improvement notices**

**13.** If an inspector is of opinion that a person—

- (a) is contravening one or more of the relevant statutory provisions; or
- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

the inspector may serve on him a notice (referred to as an improvement notice') stating that he is of that opinion, specifying the provision or provisions as to which he is of that opinion, giving particulars of the reasons why he is of that opinion, and requiring that person to remedy the contravention, or, as the case may be, the matters occasioning it, within such period tending not earlier than the period within which an appeal against the notice can be brought under section 15) as may be specified in the notice.

##### **Prohibition notices**

**14. (1)** If an inspector is of the opinion that he would be justified in serving an improvement notice, but the circumstances are such that, in the opinion of the inspector, a continuance of the activities concerned would involve a risk of serious personal injury, he may serve on the person concerned a notice (referred to as a 'prohibition notice').

(2) A prohibition notice shall—

- (a) state that the inspector is of the said opinion;
- (b) specify the matters which, in his opinion, give, or as the case may be, would give rise to the said risk;
- (c) specify the relevant statutory provision or provisions;
- (d) give particulars of the reasons upon which he has formed his opinion; and
- (e) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served, unless the matters

specified in the notice in pursuance of paragraph (b) and any associated contraventions of the relevant statutory provisions specified in pursuance of paragraph (c), have been remedied.

### General provisions for notices, and appeal against them

**15. (1)** In this section “**a notice**” means an improvement notice or a prohibition notice.

**(2)** Subject to the provisions regarding appeal against a notice, it shall be the duty of any person upon whom a notice is served, to comply with the terms thereof and to remedy the matters which have given rise to the issue of the notice.

**(3)** When an inspector is satisfied that the matters which have given rise to the issue of the notice have been remedied, he may withdraw the notice.

**(4)** A person on whom a notice is served may within such period from the date of its service as may be prescribed, appeal to the Magistrates’ Court and that court may either cancel or affirm the notice, and, if it affirms it, may do so either in its original form, or with such modifications as the court may in the circumstances think fit.

### PROVISIONS AS TO OFFENCES

#### Offences

**16. (1)** It is an offence for a person—

(a) to fail to discharge a duty to which he is subject by virtue of sections 6 to 10;

(b) to contravene any health and safety regulations or any requirement or prohibition imposed under any such regulations;

(c) to contravene any requirement imposed by an inspector under section 12;

(d) to contravene any requirement or prohibition imposed by an improvement notice or a prohibition notice (including any such notice as modified on appeal);

(e) intentionally to obstruct an inspector in the exercise or performance of his powers or duties;

(f) to make a statement which he knows to be false or recklessly to make a statement which is false where the statement is made—

(i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions; or

(ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to himself or another person;

(g) intentionally to make a false entry in any register, books, notice, or other document required by or under any of the relevant statutory provisions to be kept served or given or, with intent to deceive, to make use of any such entry which he knows to be false;

(h) with intent to deceive, to forge or use a document issued or authorised to be issued under any of the relevant statutory provisions or required for any purpose thereunder or to make or have in his possession a document so closely resembling any such document as to be calculated to deceive;

(i) to fail to comply with an order made by a court under section 15.

**(2)** A person found guilty of any offence under the preceding subsection shall be liable on conviction to a fine not exceeding £400.

**Extension of time for bringing summary proceedings**

**17. (1)** Summary proceedings for an offence to which this subsection applies may be commenced at any time within six months from the date on which there comes to the knowledge of an enforcing authority evidence sufficient in the opinion of that authority to justify a prosecution for that offence; and for the purpose of this subsection—

- (a) a certificate of an enforcing authority stating that such evidence came to its knowledge on a specified date shall be conclusive evidence of that fact; and
- (b) a document purporting to be such a certificate and to be signed by or on behalf of the enforcing authority in question shall be presumed to be such a certificate unless the contrary is proved.

**(2)** The preceding subsection applies to any offence under any of the relevant statutory provisions which a person commits by virtue of any provision or requirement to which he is subject as the designer, manufacturer, importer, or supplier of any thing.

**Offences due to fault of other person**

**18. (1)** Where the commission by any person of an offence under any of the relevant statutory provisions is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first mentioned person.

**(2)** Where there would be or have been the commission of an offence under section 16 by the Government but for the circumstance that that section does not bind the Government and that fact is due to the act or default of a person other than the Government, that person shall be guilty of the offence which, but for that circumstance, the Government would be committing or would have committed, and may be charged with and convicted of that offence accordingly.

**Offence by bodies corporate**

**19. (1)** Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

**(2)** Where the affairs of a body corporate are managed by its members, the preceding subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**Restriction on institution of proceedings**

**20.** Proceedings for an offence under any of the relevant statutory provisions shall not be instituted except by an enforcing authority or by or on behalf of the Attorney General.

**Prosecutions by Inspectors**

**21.** An inspector, if authorised by the Attorney General may appear before a Magistrates' Court and prosecute proceedings for an offence under any of the relevant statutory

provisions or may appear to justify any improvement notice or prohibition notice against which an appeal is being heard.

### **Onus of proving limits of what is practicable**

**22.** In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something as far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

### **Powers of court to order remedy or forfeiture**

**23. (1)** Where a person is convicted of an offence under any of the relevant statutory provisions in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.

**(2)** The time fixed by an order under subsection (1) may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this subsection, as the case may be.

**(3)** Subject to the following subsection, the court by or before which a person is convicted of an offence of acquiring or attempting to acquire, possessing or using an explosive article or substance or any thing whatsoever which is inherently dangerous to life may order such explosive article, substance or thing to be forfeited and either destroyed or dealt with in such other manner as the court may order.

**(4)** The court shall not order anything to be forfeited under the preceding subsection where a person claiming to be the owner or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

### **Civil liability**

**24. (1)** Nothing in this Ordinance shall be construed—

*(a)* as conferring a right of action in any civil proceedings in respect of any failure to comply with any duty imposed by sections 6 to 10; or

*(b)* as affecting the extent (if any) to which breach of a duty imposed by any of the existing statutory provisions is actionable.

**(2)** Breach of a duty imposed by health and safety regulations shall, so far as it causes damage, be actionable except in so far as the regulations provide otherwise.

**(3)** No provision for a specified defence to be available in proceedings for any offence under the relevant statutory provisions shall afford a defence in any civil proceedings, whether brought by virtue of subsection (2) or not.

**(4)** Subsections (1)(a) and (2) are without prejudice to any right of action which exists apart from the provisions of this Ordinance, and subsection (3) is without prejudice to any defence which may be available apart from the provisions of the regulations there mentioned.

(5) Any term of an agreement which purports to exclude or restrict the operation of subsection (2), or any liability arising by virtue of that subsection shall be void, except in so far as health and safety regulations provide otherwise.

(6) In this section 'damage' includes the death of, or injury to, any person (including any disease and any impairment of a person's physical or mental condition).

### **Exclusion of application to domestic employment**

25. The general duties of employers and employees as laid down in sections 6 to 10 shall not apply to any employer or employee by reason only of such a relationship created by employment of the employee as a domestic servant in a private household.

### **Meaning of work and at work**

26. Subject to the provisions of section 25, for the purpose of this Ordinance—

(a) 'work' means work as an employee or as a self-employed person;

(b) an employee is at work throughout the time when he is in the course of his employment, but not otherwise;

(c) a self-employed person is at work throughout such time as he devotes to work as a self-employed person,

and the expressions 'work' and 'at work', in whatever context shall be construed accordingly.

### **Application to Government**

27. (1) Subject to the provisions of this section, and excepting sections 13 to 17, this Ordinance, and regulations made hereunder shall bind the Government.

(2) Although they do not bind the Government, sections 16 and 17 shall apply to persons in the public service of the Government as they apply to other persons.

(3) For the purposes of this Ordinance and regulations made hereunder, persons in the service of the Government shall be treated as employees of the Government whether or not they would be so treated apart from this subsection.

(4) The Governor in Council may to the extent that it appears to him requisite or expedient so to do, by order exempt the Government either generally or in particular respects from all or any of the provisions of this Ordinance which would otherwise, by virtue of subsection (1), bind the Government.

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## **SCHEDULE**

### **(EXISTING STATUTORY PROVISIONS TO BE GRADUALLY REPLACED)**

Dilapidated Buildings Ordinance *Cap. 27 in 1950 Revised Edition.*

Factories Ordinance *Cap. 122.*

Ionising Radiations (Protection of Workers) Ordinance *Cap. 59.*

Fire Ordinance *Cap. 134.*

Petroleum Ordinance *Cap. 139.*

English Acts of Parliament concerned with health and safety which apply in St. Helena by virtue of the English Law (Application) Ordinance *Cap. 4.*

**HEALTH AND SAFETY REGULATIONS – SECTION 11**

*(Legal Notice 29 of 1977 and 26 of 2009)*

**Short title**

1. These regulations may be cited as the Health and Safety Regulations.

**Inspectors**

2. (1) The persons for the time being holding the following appointments shall be inspectors for the purposes of the Health and Safety Ordinance (hereinafter called ‘the Ordinance’)—

Chief Medical Officer  
Medical Officers  
Public Health Inspectors  
Civil Engineer.

(2) The Governor may appoint any other suitable person to be an inspector for the purposes of the Ordinance, either as a permanent or temporary position, with such terms as to remuneration and otherwise as the circumstances may require.

**Enforcing authorities**

3. “**Enforcing authorities**” as defined in the Ordinance shall be—

- (a)<sup>3</sup> the Council Committee (if any) for the time being having responsibility for Government business relating to public health.;
- (b) the Inspectors appointed or to be appointed under section 2:

Provided that no enforcing authority shall act in any matter outside the normal sphere of operation of such authority, (so that, for example, Medical Officers shall not be inspectors for the purpose of inspection of cranes).

**Forms of notice**

4. For the purpose of issuing an improvement or prohibition notice, the forms set out in the Schedule hereto shall be followed so far as practicable, with such modifications thereto as circumstances may require.

**Withdrawal notice**

5. A withdrawal notice must be in writing, and refer to the improvement or prohibition notice concerned.

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<sup>3</sup> Regulation 3(a) amended by LN 26 of 2009

**SCHEDULE**

St. Helena

HEALTH AND SAFETY ORDINANCE

*(Sections 13 and 15)*

To:.....  
.....  
.....

**IMPROVEMENT NOTICE**

No. ....

1. This notice is served upon you as the result of my visit to your premises located at .....

2. I am of the opinion that upon your stated premises, there is a contravention of a statutory provision, or that there has been such a contravention in circumstances that it may continue or be repeated, such contravention being against—

*(State here the Ordinance, or Regulations etc., and section or sections contravened)*

3. The particulars of the reasons why I am of this opinion are:

*(Set out here in full the activity and in what way the same is in contravention of legal requirements)*

*(continue overpage or on additional sheet if necessary)*

4. I now require that you should remedy the contravention stated, or the matters occasioning it, within a period of *(not less than 14 days should be specified)* ..... days from the date of the service of this notice upon you.

5. This notice will be **withdrawn** as soon as you can satisfy me that the matters which gave rise to the issue of this notice have been remedied.

6. If you consider that the issue of this notice is not justified, you have a **right of appeal** to the Magistrates' Court, and this appeal should be lodged within 14 days from the date of the service of this notice upon you.

7. If you neither:

(a) comply with the terms of this notice; nor

(b) appeal within the stated time;

you will be liable to prosecution.

.....

Inspector.

RECEIVED one copy of the above notice:

.....

(date)

\_\_\_\_\_

St. Helena

HEALTH AND SAFETY ORDINANCE

(Sections 14 and 15)

To:.....

.....

.....

**PROHIBITION NOTICE**

No. ....

1. This notice is served upon you as the result of my visit to your premises located at .....

2. I am of the opinion that upon your stated premises, there is a contravention of a statutory provision, or that there has been such a contravention in circumstances that it may continue or be repeated, such contravention being against—

*(State here the Ordinance, or Regulations etc., and section or sections contravened)*



3. The particulars of the reasons why I am of this opinion are:

*(Set out here in full the activity and in what way the same is in contravention of legal requirements)*

*(continue overpage or on additional sheet if necessary)*

4. I am of the opinion that I would be justified in serving an improvement notice (section 13), but the circumstances are such that in my opinion, the continuance of the activities concerned would involve a risk of serious personal injury, and such activities **must cease immediately**.

5. I now direct that the activities stated in paragraph 3 above shall not be carried on by you or under your control until the matters specified have been remedied and can be carried on without any contravention of the law.

6. This notice will be **withdrawn** as soon as you can satisfy me that the matters which gave rise to the issue of this notice have been remedied.

7. If you consider that the issue of this notice is not justified, you have a **right of appeal** to the Magistrates' Court, and this appeal should be lodged within 14 days from the date of the service of this notice upon you. Please note that the terms of this Prohibition Notice must be strictly observed until reversed or modified by the Magistrates' Court.

8. If you fail to comply with the terms of this notice, you will be liable to prosecution.

.....  
Inspector.

RECEIVED one copy of the above notice:

.....  
.....  
(date)

\_\_\_\_\_