



ST. HELENA

CHAPTER 3

INTERPRETATION ORDINANCE and Subsidiary Legislation

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 [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legalandlands.gov.sh]¹

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

	Page
INTERPRETATION ORDINANCE	2
Ordinance 8 of 1968 ... in force on 2 April 1970	
Amended by Ordinances:	14 of 1987
	23 of 1987
	2 of 2001
	1 of 2008
	6 of 2008
	4 of 2009
	10 of 2014
	14 of 2017
Amended by Legal Notices:	3 of 1989
	26 of 2009
	11 of 2010
CHANGE OF TITLE ORDERS – Section 18	17
ST. HELENA AND DEPENDENCIES TERRITORIAL SEA ORDER	18
PROCLAMATION ESTABLISHING EXCLUSIVE ECONOMIC ZONE	20

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CHAPTER 3

INTERPRETATION ORDINANCE

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTION

1. Short title
2. Application

PART II

MEANING OF CERTAIN WORDS AND EXPRESSIONS

3. Interpretation of words and phrases
4. Grammatical variations, etc

PART III

ORDINANCES AND SUBSIDIARY LEGISLATION

5. Ordinances to be public Ordinances
6. Commencement of Ordinances
7. Repealed Ordinances not revived
8. Where repealed provisions of Ordinances remain in force
9. Effect of repeal
10. Amended Ordinances
11. Construction of amended Ordinance
12. Meaning of reference to the number of a line
13. Subsidiary legislation
14. Commencement of subsidiary legislation
15. Miscellaneous provisions relating to subsidiary legislation

PART IV

PUBLIC OFFICERS

16. Registrar of Court
17. References to public officers
18. Change in title of public office
19. Acting appointments
20. Appointment of public officer to board, etc
21. Appointment by name or office

PART V

POWERS AND DUTIES

- 22. Exercise of Power Between Publication and Commencement of Ordinance
- 23. Powers, etc., conferred by Act on holders of non-existent offices
- 24. Exercise of powers and duties
- 25. Implied powers
- 26. Power to appoint includes power to remove
- 27. Power to appoint member of board, etc., temporarily
- 28. Power to appoint chairman, etc
- 29. Power of majority
- 30. Power to fill vacancies
- 31. Delegation of powers by Governor
- 32. Signification of orders, etc., of Governor, etc
- 32A. Rectification of errors
- 33. Powers of a board, etc., not affected by vacancy etc

PART VI

MISCELLANEOUS

- 34. Distance
- 35. Time
- 36. Computation of time
- 37. Offences under two or more laws
- 38. Disposal of forfeits, etc
- 39. Penalties
- 40. Forms
- 41. Fees
- 42. References to the Crown
- 43. Saving of rights of Crown

CHAPTER 3

INTERPRETATION ORDINANCE

(Ordinances 8 of 1968, 14 of 1987, 23 of 1987, 2 of 2001, 1 of 2008, 6 of 2008 and 4 of 2009, Legal Notices 3 of 1989, 26 of 2009 and 11 of 2010 and Ordinances 10 of 2014 and 14 of 2017)

AN ORDINANCE RELATING TO THE CONSTRUCTION AND INTERPRETATION OF ORDINANCES, TO REGULATE CERTAIN OTHER MATTERS RELATING TO ORDINANCES AND TO STATUTORY POWERS AND DUTIES, AND TO MAKE GENERAL PROVISION FOR PURPOSES CONNECTED WITH OR SIMILAR TO THE PURPOSES AFORESAID.

Commencement

[2 April 1970]

PART I
PRELIMINARY**Short title**

1. This Ordinance may be cited as the Interpretation Ordinance.

Application

2.² (1) Subject to the provisions of this section, this Ordinance applies for the construction and interpretation of and otherwise in relation to all Ordinances and subsidiary legislation including this Ordinance and Ordinances enacted before the commencement of this Ordinance.

(2) Where in any Ordinance or subsidiary legislation—

(a) it is expressly provided that this Ordinance or any provision thereof shall not apply; or

(b) there is something in the subject or context which is inconsistent with or repugnant to the application of this Ordinance or any provision thereof,

this Ordinance or that provision thereof, as the case may be, shall not apply.

(3) This Ordinance shall not apply for the construction or interpretation of any Act of Parliament of the United Kingdom or of any Order in Council, but the Interpretation Acts, 1889 and 1978 apply for the interpretation of Adopted English Laws or any other Acts of Parliament mentioned in an Ordinance, to the extent appropriate.

PART II
MEANING OF CERTAIN WORDS AND EXPRESSIONS**Interpretation of words and phrases**

3. (1) The following words and expressions shall have the meanings in this section assigned to them respectively, that is to say—

“Act” means an Act of Parliament of the United Kingdom;

² Section 2 amended by Ord. 14 of 2017

- “act”**, used with reference to an offence or a civil wrong, includes a series of acts, and words which refer to acts done extend to unlawful omissions;
- “Adopted English Law”**³ has the meaning given that term by section 2 of the English Law (Application) Ordinance, 2005;
- “advocate”** means a person entitled to practise as such in the Supreme Court or any court subordinate thereto under the provisions of any law for the time being in force relating to advocates;
- “alien”**⁴ means a person other than a person who has St Helenian status under the Immigration Ordinance, 2011;
- “animal”** includes birds, reptiles, fish and every kind of vertebrate animal and the young thereof;
- “arrestable offence”**⁵ has the meaning given to that term by section 2(4) of the Police and Criminal Evidence Ordinance, 2003;
- “Ascension”** means the Island of Ascension⁶;
- “audit”**⁷ means an independent examination of financial statements resulting in a report, which, where it relates to an entity whose gross income exceeds £500,000, or whose gross income exceeds £250,000 and whose gross assets exceed £3.26 million, shall comply with the International Standards on Auditing (UK and Ireland) issued by the Financial Reporting Council, and where it relates to an entity below the threshold, shall comply with International Standard on Review Engagements published by the International Auditing and Assurance Standards Board;
- “British possession”** means any British colony, Dependent Territory, Overseas Territory or protectorate, any territory under Her Majesty’s protection or any territory in respect of which trusteeship is exercised by Her Majesty’s Government in the United Kingdom;
- “Cap.”**⁸ refers to an Ordinance given a Chapter number in the 2001 Revised Edition of the Laws of Saint Helena;
- “Chair”, “Chairman” and “Chairperson”**⁹ in relation to a meeting each mean the person appointed to preside at the meeting;
- “Chief Auditor”**¹⁰ means the person appointed as such under section 110 of the Constitution;
- “Chief Justice”**¹¹ means the person holding the office of Chief Justice for the time being by virtue of the Constitution;
- “Chief Magistrate”**¹² means the person appointed as such under section 7 of the Magistrates’ Court Ordinance, 2011;
- “Clerk of Councils”**¹³ means the public officer appointed by the Governor for the purposes of sections 42 and 79 of the Constitution;
- “Clerk of the Peace”**¹⁴ means the public officer appointed as such under section 12 of the Magistrates’ Court Ordinance, 2011;
- “Code of Management”**¹⁵ means a Code of Management for the Public Service contemplated by sections 96, 164 and 227 of the Constitution;

³ Definition of “Adopted English Law” inserted by Ord. 14 of 2017

⁴ Definition of “alien” inserted by Ord. 14 of 2017

⁵ Definition of “arrestable offence” inserted by Ord. 14 of 2017

⁶ Includes Territorial Sea – see the Order in Council at page 25 of this Chapter

⁷ Definition of “audit” added by Ord. 4 of 2009 and substituted by Ord. 10 of 2014

⁸ Definition of “Cap” inserted by Ord. 14 of 2017

⁹ Definition of “Chair”, “Chairman” and “Chairperson” inserted by Ord. 14 of 2017

¹⁰ Definition of “Chief Auditor” inserted by Ord 14 of 2017

¹¹ Definition of “Chief Justice” inserted by Ord. 14 of 2017

¹² Definition of “Chief Magistrate” inserted by Ord. 14 of 2017

¹³ Definition of “Clerk of Councils” substituted by LN 26 of 2009

¹⁴ Definition of “Clerk of the Peace” inserted by Ord. 14 of 2017

¹⁵ Definition of “Code of Management” inserted by Ord. 14 of 2017

- “**coin**” means any coin legally current in St. Helena and its Dependencies;
- “**commencement**”, used with reference to an Ordinance means the date on which the Ordinance comes into force;
- “**Commissioner for Oaths**”¹⁶ means a person appointed as such under the Commissioners for Oaths Ordinance, 1968;
- “**Committee**” or “**Council Committee**”¹⁷ in relation to any matter means the Legislative Council Committee to which responsibility for the matter in question Ordinance has been assigned under section 58(2) of the Constitution;
- “**common law**” means the common law of England;
- “**Commonwealth**”¹⁸ means the Commonwealth of Nations;
- “**Consolidated Fund**”¹⁹ means the Fund established by section 98 of the Constitution;
- “**the Constitution**”²⁰ means the Constitution set out in the Schedule to the St. Helena, Ascension and Tristan da Cunha Constitution Order 2009;
- “**contravene**” in relation to any requirement or condition prescribed in any written law or in any grant, permit, lease, licence or authority granted by or under any written law includes a failure to comply with that requirement or condition;
- “**Council Committee**”²¹ means a Council Committee established under section 56 of the Constitution;
Provided that, where no Council Committee is for the time being designated to have responsibility for the relevant subject-matter, the expression refers to the Governor in Council;
- “**Court of Appeal**”²² means the Court of Appeal for St Helena established by section 86 of the Constitution;
- “**Crown lands**” means all public lands in St. Helena which are for the time being subject to the control of Her Majesty and all lands which have been acquired by Her Majesty for the public service or otherwise;
- “**Crown Prosecutor**”²³ has the meaning given to that term by section 51A of the Criminal Procedure Ordinance, 1975;
- “**Customs**” and “**customs officer**”²⁴ have the meaning given to those terms by the Customs and Excise Ordinance, 1999;
- “**Dependencies**”²⁵ ...
- “**dues**” includes duties, rates and taxes;
- “**enactment**”²⁶ means a law made by a legislature in and for St Helena or an Adopted English Law;
- “**entered**”²⁷, in relation to a judgment or order, means included in the records of the court;
- “**export**” means take or cause to be taken out of St. Helena;
- “**Executive Council**”²⁸ the Executive Council constituted by section 35 of the Constitution;
- “**financial regulations**”²⁹ mean regulations made under section 5 of the Public Finance

¹⁶ Definition of “Commissioner for Oaths” inserted by Ord. 14 of 2017

¹⁷ Definition of “Committee” or “Council Committee” inserted by Ord. 14 of 2017

¹⁸ Definition of “Commonwealth” inserted by Ord. 14 of 2017

¹⁹ Definition of “Consolidated Fund” inserted by LN 26 of 2009 and Ord 14 of 2017

²⁰ Definition of “the Constitution” substituted by LN 26 of 2009

²¹ Definition of “Council Committee” substituted by LN 26 of 2009

²² Definition of “Court of Appeal” substituted by Ord. 14 of 2017

²³ Definition of “Crown Prosecutor” inserted by Ord. 14 of 2017

²⁴ Definition of “Customs” and “customs officer” inserted by Ord. 14 of 2017

²⁵ Definition of “Dependencies” repealed by LN 26 of 2009

²⁶ Definition of “enactment” inserted by Ord. 14 of 2017

²⁷ Definition of “entered” inserted by Ord. 14 of 2017

²⁸ Definition of “Executive Council” substituted by LN 26 of 2009

²⁹ Definition of “financial regulations” inserted by Ord. 14 of 2017

- Ordinance, 2010;
- “Gazette”** means the St. Helena Government *Gazette* and includes any supplement thereto and any Gazette Extraordinary;
- “Government”**³⁰ means the Government of St Helena;
- “Government Printer”**³¹ means any person or body authorised from time to time to print the *Gazette* and other official publications of the Government;
- “Governor”**³² means the person for the time being holding, or lawfully performing the functions of, the officer of Governor of St. Helena;
- “Governor in Council”** means the Governor acting after consultation with the Executive Council, but not necessarily acting in such Council assembled nor necessarily in accordance with the advice of such Council;
- “Harbour Master”**³³ means the person appointed as such under section 3 of the Ports Ordinance, 2016;
- “Her Majesty”** and **“the Queen”** include Her Majesty the Queen, Her Heirs and Successors;
- “Her Majesty’s dominions”** includes the United Kingdom of Great Britain and Northern Ireland, all British possessions and all countries within the Commonwealth whereof Her Majesty is the Sovereign;
- “import”** means bring or cause to be brought into St. Helena;
- “infectious disease”**³⁴ has the meaning given to that term by section 32 of the Public Health Ordinance, 2016;
- “Islander”**³⁵ has the meaning given to that term by Schedule I to the Immigration Ordinance, 2011;
- “judge”**³⁶ means the Chief Justice and any other judge or acting judge of the Supreme Court;
- “judgment”**³⁷ includes a decree, order, ruling or finding of a court or tribunal and a refusal to make any order;
- “justice of the peace”**³⁸ (or “Justice of the Peace”) means a person appointed as such under section 8(1) of the Magistrates’ Court Ordinance, 2011, or a person who under section 8(2) of that Ordinance is *ex officio* a justice of the peace;
- “land”** or **“lands”** includes messuages, tenements, hereditaments, houses and buildings of any tenure;
- “Legislative Council”**³⁹ the Legislative Council constituted by section 48 of the Constitution;
- “life partner”**⁴⁰ of a person (‘A’) means the partner (‘B’) of A to whom B is not married, but with whom B lives in a heterosexual or homosexual relationship which is akin to marriage and which is intended by A and B to be permanent, as evidenced by their having lived together for at least 12 months or in such other way as is appropriate in any exceptional circumstances;
- “local enactment”** means any Ordinance enacted by the legislature of St. Helena;
- “magistrate”**⁴¹ means a justice of the peace;

³⁰ Definition of “Government” inserted by Ord. 14 of 2017

³¹ Definition of “Government Printer” inserted by Ord. 14 of 2017

³² Definition of “Governor” substituted by LN 26 of 2009

³³ Definition of “Harbour Master” inserted by Ord. 14 of 2017+

³⁴ Definition of “infectious disease” inserted by Ord. 14 of 2017

³⁵ Definition of “Islander” inserted by Ord. 14 of 2017

³⁶ Definition of “judge” inserted by Ord. 14 of 2017

³⁷ Definition of “judgement” inserted by Ord. 14 of 2017

³⁸ Definition of “justice of the peace” inserted by Ord. 14 of 2017

³⁹ Definition of “Legislative Council” substituted by LN 26 of 2009

⁴⁰ Definition of “life partner” inserted by Ord. 6 of 2008 and substituted by Ord. 14 of 2017

⁴¹ Definition of “magistrate” inserted by Ord. 14 of 2017

- “**master**”, in relation to a ship, means any person (other than a pilot or harbourmaster) having charge, control or command of a ship;
- “**medical practitioner**” means a person who may lawfully practise medicine or surgery under the provisions of the Medical Practitioners Ordinance⁴²;
- “**mental disorder**”⁴³ has the meaning given to that term by section 2 of the Mental Health and Mental Capacity Ordinance, 2016;
- “**month**” and “**year**” mean respectively a month and a year reckoned according to the British Calendar;
- “**oath**”, “**swear**” and “**affidavit**” include the affirmation and declaration of any person who by law is permitted to make an affirmation or declaration in substitution for an oath;
- “**or**”, “**other**” and “**otherwise**” are to be construed disjunctively and not as implying similarity, unless the word “**similar**” or other word having the like meaning is added;
- “**Order in Council**” means an Order made by Her Majesty in Council;
- “**Ordinance**” includes any subsidiary legislation made under the authority of an Ordinance or other written law, and a reference to a particular Ordinance includes a reference to any subsidiary legislation made thereunder;
- “**Part**”, “**section**”, “**paragraph**” and “**Schedule**” mean respectively a Part, section and paragraph of, and Schedule to, the Ordinance in which the word occurs, and “**subsection**” and “**subparagraph**” mean a subsection and subparagraph of the section and paragraph in which the word occurs;
- “**person**” includes any company, any association and body of persons, corporate or unincorporate;
- “**police**” or “**police service**”⁴⁴ means the St Helena Police Service established by the Police Service Ordinance, 1975;
- “**police officer**”⁴⁵ means a person who is a member of, or seconded to, the police service, and includes a special constable and a constable under probation;
- “**prescribed**” means prescribed by the Ordinance in which the word occurs or by any rules made thereunder;
- “**property**” includes land, goods, chattels, money, valuable securities, documents and every other matter or thing, whether real or personal, upon or in respect of which any offence may be committed;
- “**public holiday**” means any day so declared in accordance with the provisions of the Public Holidays Ordinance;
- “**public office**” means an office of emolument in the public service, and “**public officer**” shall be construed accordingly:
- Provided that a person shall not be deemed to hold a public office by reason only that he receives any remuneration or allowance as a member of the Executive Council, the Legislative Council or a Council Committee, or is in receipt of a pension or other like allowance in respect of service under the Crown;
- “**public prosecutor**”⁴⁶ means a person appointed as such under section 52 of the Criminal Procedure Ordinance, 1975;
- “**public seal**” means the public seal of St. Helena;
- “**public service**” means the service of the Crown in a civil capacity in respect of the Government of St. Helena and its Dependencies;
- “**Public Solicitor**”⁴⁷ means the person appointed as such under section 21 of the Legal Aid, Assistance and Services Ordinance, 2017;

⁴² Cap. 50

⁴³ Definition of “mental disorder” inserted by Ord. 14 of 2017

⁴⁴ Definition of “police” or “police service” inserted by Ord. 14 of 2017

⁴⁵ Definition of “police officer” substituted by Ord. 14 of 2017

⁴⁶ Definition of “public prosecutor” inserted by Ord. 14 of 2017

- “registered”**, in relation to a document, means registered under the provisions of the written law applicable to the registration of such document;
- “Registrar”** means the Registrar of the Supreme Court;
- “regulations”** includes rules, orders and by-laws;
- “rules”** includes regulations, orders and by-laws;
- “rules of court”**⁴⁸ means rules made by the Chief Justice under section 89 of the Constitution or section 8 of the Superior Courts (Appeals and Rules) Ordinance, 2017, or any other relevant power;
- “Secretary of State”**⁴⁹ means Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs;
- “Sheriff”**⁵⁰ means the person appointed as such under section 4 of the Sheriff of St Helena Ordinance, 1969;
- “sign”**, in relation to a person who is unable to write his name, includes the making of a mark by such person;
- “Speaker”**⁵¹ means the person elected as such under section 55 of the Constitution;
- “St. Helena”** means the Island of St. Helena⁵², unless the context requires that the expression be construed as a reference to St. Helena and its Dependencies;
- “St Helenian status”**⁵³ has the meaning given by Part 3 of the Immigration Ordinance, 2011;
- “statutory body”**⁵⁴ means a body incorporated by or under an enactment;
- “statutory declaration”** means a declaration made under the provisions of the Statutory Declarations Act, 1835;
- “subsidiary legislation”** means any proclamation, rule, regulation, order, notice, by-law, or other instrument made under the authority of any Ordinance or other lawful authority and having legislative effect;
- “summary conviction”** means a conviction under and by virtue of any law for the time being in force conferring the power of summary jurisdiction on magistrates or justices of the peace;
- “Supreme Court”**⁵⁵ means the Supreme Court of St Helena
- “Tristan da Cunha”** means the Island of Tristan da Cunha and includes the Islands of Gough, Nightingale and Inaccessible⁵⁶;
- “vessel”** includes any ship, boat or other description of vessel used in maritime navigation;
- “warrant”** means a warrant under the hand of the person issuing the same;
- “will”** includes a codicil;
- “writing”**⁵⁷ includes printing, photography, lithography, typewriting and any other form of representing or reproducing words in visible form, including in electronic form;
- “written law”**⁵⁸ means all Ordinances, all subsidiary legislation, all Acts of Parliament of the United Kingdom extending expressly or by necessary implication, or applied to, or otherwise having the force of law in St. Helena and its Dependencies or any of them,

⁴⁷ Definition of “Public Solicitor” inserted by Ord. 14 of 2017

⁴⁸ Definition of “rules of court” inserted by Ord. 14 of 2017

⁴⁹ Definition of “Secretary of State” substituted by Ord. 14 of 2017

⁵⁰ Definition of “Sheriff” inserted by Ord. 14 of 2017

⁵¹ Definition of “Speaker” inserted by Ord. 14 of 2017

⁵² Includes Territorial Sea – see the Order in Council at page 25 of this Chapter

⁵³ Definition of “St Helenian status” inserted by Ord. 14 of 2017

⁵⁴ Definition of “statutory body” inserted by Ord. 14 of 2017

⁵⁵ Definition of “Supreme Court” inserted by Ord. 14 of 2017

⁵⁶ Includes Territorial Sea – see the Order in Council at page 25 of this Chapter

⁵⁷ Definition of “writing” amended by Ord. 14 of 2017

⁵⁸ Definition of “written law” amended by L.N. 3 of 1989

and all Orders in Council, Letters Patent and Royal Instructions so extending or applied or having such force.

(2)⁵⁹ In the construction of references to the Governor or the Governor in Council, regard shall be had to the provisions of sections 43 and 44 of the Constitution.

(3)⁶⁰ A term defined in section 115 of the Constitution has the same meaning in an Ordinance, unless the Ordinance otherwise expressly provides.

(4)⁶¹ A reference to a written law is a reference to it as amended or replaced from time to time and a reference to an Act of Parliament is to it as applied to St Helena.

(5)⁶² The terms ‘attorney’ ‘advocate’, ‘barrister’, ‘counsel’ ‘legal practitioner’, ‘solicitor’ and ‘legally represented’ are to be construed by reference to the term ‘legal representative’ as defined in section 115 of the Constitution.

Grammatical variations, etc

4. (1) Where any word is defined in any Ordinance, including this Ordinance, the definition shall extend to the grammatical variations of the word or expression so defined and to any cognate expression thereof.

(2) Words importing the masculine gender include females.

(3) Words in the singular include the plural and words and expressions in the plural include the singular.

PART III

ORDINANCES AND SUBSIDIARY LEGISLATION

Ordinances to be public Ordinances

5. Every Ordinance shall be deemed to be a public Ordinance and judicial notice taken thereof accordingly unless the contrary is expressly provided and declared by such Ordinance.

Commencement of Ordinances

6. (1) Subject to the provisions of this section, the date of commencement of any Ordinance shall be the date on which such Ordinance is published, that is to say the date on which a copy of such Ordinance is affixed to the public notice board at the Castle in Jamestown, unless some other date of commencement is expressly provided in such Ordinance.

(2) Every Ordinance shall be deemed to come into operation immediately on the expiration of the day next preceding its date of commencement.

(3) A provision in an Ordinance regulating the coming into force of the Ordinance or any part thereof shall have effect notwithstanding that the part of the Ordinance containing that provision has not come into operation.

Repealed Ordinances not revived

⁵⁹ Subsection (2) inserted by L.N. 3 of 1989 and amended by L.N. 11 of 2010

⁶⁰ Subsection (3) inserted by Ord. 14 of 2017

⁶¹ Subsection (4) inserted by Ord. 14 of 2017

⁶² Subsection (5) inserted by Ord. 14 of 2017

7. Where any Ordinance which repeals in whole or in part a previously enacted Ordinance is itself repealed, such last mentioned repeal shall not revive the Ordinance or provisions before repealed unless express provision is made for such revival.

Where repealed provisions of Ordinances remain in force

8. Where by any Ordinance provision is made for the repeal in whole or in part of a previously enacted Ordinance and for the substitution of other provisions for those so repealed, such repeal shall have no effect until such time as the substituted provisions come into operation by virtue of such Ordinance.

Effect of repeal

9. (1) Where an Ordinance repeals any other enactment such repeal shall not—
- (a) revive anything not in force or existing at the time at which such repeal takes effect; or
 - (b) affect the previous operation of such enactment so repealed or anything duly done or suffered under such enactment; or
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under such enactment so repealed; or
 - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against such enactment prior to such repeal; or
 - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if such enactment had not been repealed.
- (2) Upon the expiry of an Ordinance, this section shall apply as if the Ordinance had been repealed.

Amended Ordinances

10. (1) Where in any Ordinance a reference is made to any other Ordinance such reference shall be deemed to be a reference to such last mentioned Ordinance as the same may from time to time be amended.

(2) Where any Ordinance repeals and re-enacts, with or without modification, any provision of any previously enacted Ordinance, a reference in any other Ordinance to the provision so repealed shall be construed as a reference to the provision so re-enacted.

Construction of amended Ordinance

11. Where an Ordinance amends any other Ordinance—
- (a) the amended Ordinance may in the amending Ordinance be referred to as the principal Ordinance; and
 - (b) the amending Ordinance shall so far as is consistent with the tenor thereof be construed as one with the amended Ordinance.

Meaning of reference to the number of a line

12. A reference in any Ordinance to a line of any section of an Ordinance shall be construed as a reference to such line as it occurs in the latest official printed copy of such Ordinance in existence at the time of the enactment of the Ordinance containing such reference.

Subsidiary legislation

13. Where by any Ordinance power is conferred upon any authority to make subsidiary legislation, the following provisions shall have effect—

- (a) any such subsidiary legislation may at any time be amended, varied, suspended or revoked by the same authority and in the same manner by and which it was made:
Provided that where such authority has been replaced, wholly or partially, by some other authority the power conferred by this paragraph upon the original authority may be exercised by such other authority in relation to all matters within the extent of its jurisdiction as if it were the original authority;
- (b)⁶³ any such subsidiary legislation may provide that in respect of any contravention thereof the offender shall be liable on conviction to such fine not exceeding £5,000, or to such term of imprisonment not exceeding six months, or to both as may therein be prescribed;
- (c) such subsidiary legislation shall be published in the *Gazette* and shall be judicially noticed;
- (d) where in any subsidiary legislation a reference is made to “**the Ordinance**” such reference shall be construed as a reference to the Ordinance by which power is conferred to make such subsidiary legislation.

Commencement of subsidiary legislation

14. (1) Subject to the provisions of this section, the date of commencement of any subsidiary legislation shall be the date on which it is published, that is to say, the date on which a copy of such subsidiary legislation is affixed to the public notice board at the Castle in Jamestown, unless some other date of commencement is expressly provided in such subsidiary legislation.

(2) All subsidiary legislation shall be deemed to come into operation immediately on the expiration of the day preceding its date of commencement.

(3) Subsidiary legislation made and published on the date of commencement of the Ordinance under which it is made shall be deemed to come into force simultaneously with that Ordinance.

(4) References in this section to the commencement of the Ordinance under which subsidiary legislation is made shall, where different provisions of that Ordinance come into force on different dates, be construed as references to the commencement of the particular provision under which the subsidiary legislation is made.

(5) The provisions of this section shall be without prejudice to the provisions of section 22 of this Ordinance.

Miscellaneous provisions relating to subsidiary legislation

15. (1) Words and expressions used in subsidiary legislation shall have the same meaning as in the Ordinance under which the subsidiary legislation is made.

⁶³ Paragraph (b) substituted by Ord. 1 of 2008 and amended by Ord. 14 of 2017

(2) Any provision of subsidiary legislation which is inconsistent with any provision of any Ordinance, including the Ordinance under which the subsidiary legislation is made, shall be void to the extent of the inconsistency.

(3) An act done under or by virtue of or in pursuance of subsidiary legislation shall be deemed to be done under or by virtue of or in pursuance of the Ordinance conferring power to make the subsidiary legislation.

(4) Subsidiary legislation shall be deemed to be made under all powers thereunto enabling, whether or not it purports to be made in exercise of a particular power or particular powers.

(5) Section 9 of this Ordinance shall apply upon the revocation of subsidiary legislation as it applies on the repeal of an Ordinance.

(6) Upon the repeal or expiry of an Ordinance, all subsidiary legislation made under that Ordinance shall be deemed to have been revoked on the same date as that on which that Ordinance ceases to have effect.

PART IV PUBLIC OFFICERS

Registrar of Court

16. The Governor shall appoint suitable public officers to be (and to perform the duties and exercise the powers from time to time imposed or conferred by any written law upon) the Registrar of the Supreme Court and Registrar of the Court of Appeal, respectively, and may appoint deputy registrars of either of those courts.⁶⁴

References to public officers

17. (1) Where in any written law there is a reference to a public officer by the title of his office, such reference shall be construed as a reference to the person holding or for the time being exercising the powers and performing the duties of that office:

Provided that where the Governor has appointed a Council Committee or a public officer to be responsible for the administration of the subject or matter referred to in such written law, such reference shall be construed as a reference to such Council Committee or such public officer, as the case may be.

(2) Where powers and duties are conferred and imposed by any written law upon the holder of an office—

- (a) which has been abolished; or
- (b) which has been amalgamated with some other office; or
- (c) the duties of which have devolved upon some other person,

such powers and duties may be exercised and performed by such person in the public service as may from time to time be authorised by the Governor in writing in that behalf.

Change in title of public office

18.⁶⁵ When the Governor decides to change the title of any public office, other than one constituted by a written law, the Governor may by notice published in the *Gazette* declare that such change of title shall take effect from a date specified in such notice, and with effect from

⁶⁴ Inserted by L.N.3/1989

⁶⁵ Section 18 amended by Ord. 14 of 2017

the date so specified any reference in any written law to the former title of such office shall be construed as a reference to that office by such new title.

Acting appointments

19. (1) Where by or under any Ordinance any powers or duties are conferred or imposed upon a public officer, and owing to absence or inability from illness or any other cause such public officer is unable to exercise such powers or perform such duties, the Governor may direct that such powers and duties shall be exercised and performed by the person named or the public officer holding the public office designated by him, and thereupon such person or public officer shall, for the period of such absence or inability, have and may exercise such powers and shall perform such duties, subject to such conditions, exceptions and qualifications as the Governor may direct.

(2) Where the substantive holder of any office in the public service is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed to be the substantive holder of that office.

Appointment of public officer to board, etc

20. Where under any written law power is conferred upon the Governor or any authority to appoint any person to be a member of any board, commission, committee or other similar body, it shall be lawful for the Governor or that authority, as the case may be, to appoint as such member any public officer by the designation of his office, and on such appointment and until such appointment is revoked or otherwise determined, the person for the time being holding or exercising the powers and performing the duties of that office shall be a member of such board, commission, committee or body.

Appointment by name or office

21.⁶⁶ (1) Where under any written law the Governor or any authority is empowered to appoint or nominate a person to have and exercise any powers or perform any duties, the Governor or that authority, as the case may be, may—

- (a) appoint a person by name; or
- (b) direct the person for the time being holding the office designated by the Governor or that authority, as the case may be, to have and exercise those powers and perform those duties,

and thereupon or from the date specified by the Governor or that authority, as the case may be, the person appointed by name or holding the office so designated shall have and may exercise such powers and shall perform such duties accordingly.

(2) Unless otherwise provided, the making of an appointment under an Ordinance does not need to be by order, but notice of any such appointment must be published in the Gazette.

Gazette as evidence

21A.⁶⁷ If notice of the exercise of a statutory power, whether of appointment or otherwise, is published in the *Gazette*, the notice is sufficient evidence of the lawful exercise of the power unless it is shown not to have been lawfully exercised.

⁶⁶ Section 21 amended by Ord. 14 of 2017

⁶⁷ Section 21A inserted by Ord. 14 of 2017

PART V
POWERS AND DUTIES

Exercise of power between publication and commencement of Ordinance

22. Where by any Ordinance which is not to come into operation immediately on the publication thereof a power is conferred to—

- (a) make any appointment or establish any office;
- (b) make any subsidiary legislation;
- (c) issue any order with respect to the application of the Ordinance; or
- (d) do any other thing for the purposes of the Ordinance,

such power may be exercised at any time after the publication of the Ordinance:

Provided that no appointment, subsidiary legislation, order or other thing made or done under the exercise of such power shall, unless it is necessary for bringing the Ordinance into operation, have effect until the commencement of the Ordinance.

Powers, etc, conferred by Act on holders of non-existent offices

23. Where powers and duties are conferred or imposed by any Act upon the holder of an office which does not exist in St. Helena, such powers and duties may be exercised and performed by such person as may from time to time be authorised in that behalf by the Governor.

Exercise of powers and duties

24. Where powers and duties are conferred or imposed by any Ordinance, any such power may be exercised and any such duty shall be performed from time to time as occasion requires.

Implied powers

25. Where an Ordinance confers a power on any person to do or enforce the doing of any act or thing, all such additional powers shall be deemed to be given as are reasonably necessary to enable such person to do or enforce the doing of the act or thing.

Power to appoint includes power to remove

26. Where by any Ordinance a power to make any appointment is conferred, the Governor or the authority empowered to make the appointment shall have power, subject to any limitations or qualifications which affect the power of appointment, to revoke any such appointment and to remove, suspend, reappoint or reinstate any person appointed in the exercise of such power.

Power to appoint member of board, etc, temporarily

27. Where by any Ordinance a power is conferred upon the Governor or any authority to appoint any person to be a member of any board, commission, committee or other similar body and any member so appointed is unable to act as such owing to absence or inability from illness or any other cause, the Governor or that authority, as the case may be, may appoint

some other person temporarily to act for such member during the period of such absence or inability.

Power to appoint chairman, etc

28. Where by any Ordinance a power is conferred on the Governor or any authority to appoint any board, commission, committee or other similar body, the Governor or that authority, as the case may be, may appoint a chairman, vice-chairman and secretary of such board, commission, committee or similar body.

Power of majority

29. Where by any Ordinance an act or thing may or is required to be done by more than two persons, such act or thing, may be done by a majority of such persons.

Power to fill vacancies

30. Where by any Ordinance powers and duties are conferred or imposed upon any person to be elected or appointed and such election or appointment has not been made or the person elected or appointed declines to act, it shall be lawful for the Governor to appoint any person to exercise such powers and perform such duties until a person is elected or appointed and is willing to act.

Delegation of powers by Governor

31. (1) Where by any Ordinance powers and duties are conferred or imposed upon the Governor, he may, unless by law expressly prohibited from so doing, by notice published in the *Gazette*, depute any person by name or the person for the time being holding, the office designated by him, to exercise such powers and perform such duties on his behalf, subject to such conditions, exceptions and qualifications as the Governor may prescribe, and upon publication of such notice or from such later date as may be specified therein such person shall have and may exercise such powers and shall perform such duties, subject as aforesaid:

Provided that, subject to the provisions of any Royal Instructions relating to the appointment of a deputy to the Governor, nothing in this section shall authorise the Governor to delegate to any person the power to make rules or to make or issue any warrant or proclamation.

(3)⁶⁸ The delegation, under a power conferred by a written law, of a power or duty to another person does not prevent the person who made the delegation from exercising the power or performing the duty upon the withdrawal or expiration of the delegation.

Signification of orders, etc, of Governor, etc

32. (1) Where by any Ordinance the Governor or the Governor in Council in empowered to—

- (a) make any subsidiary legislation or appointment;
- (b) give any directions or issue any order;
- (c) authorise any thing or matter to be done or omitted;
- (d) grant any exemption or remit any fee or penalty; or
- (e) exercise any other power,

⁶⁸ Section 31(3) inserted by Ord. 14 of 2017

it shall be sufficient if the exercise of such power by the Governor or the Governor in Council is signified—

- (i) in the case of the Governor, under the hand of the Chief Secretary, or in his absence under the hand of the Deputy Chief Secretary;
- (ii) in the case of the Governor in Council, under the hand of the Clerk of Councils:

Provided that nothing in this section shall apply to the power of the Governor to make or issue any warrant or proclamation, which shall be made or issued under the hand of the Governor only.

(2) Where any Council Committee is lawfully empowered to exercise any power or perform any duty, it shall be sufficient if the exercise of such power or the performance of such duty is signified under the hand of the Chairman of such Council Committee.⁶⁹

Rectification of errors

32A.⁷⁰ (1) The Attorney General may, by Order published in the Gazette, rectify any printing or clerical error appearing in any Ordinance or Subsidiary Legislation.

(2) Every Order made under the provisions of this section shall be laid before the Legislative Council at its next meeting and if a resolution is passed by the Legislative Council that the Order be annulled, it shall thenceforth be void.

Powers of a board, etc, not affected by vacancy etc

33. Where by any Ordinance any board, commission, committee or other similar body, whether corporate or unincorporate, is established, then, unless the contrary intention appears, the powers of such board, commission, committee or other similar body shall not be affected by—

- (a) any vacancy in the membership thereof;
- (b) the presence or participation of any person not entitled to be present thereat or to participate therein; or
- (c) any minor irregularity in the convening of any meeting thereof.

PART VI MISCELLANEOUS

Distance

34. Any distance to be measured for the purposes of any Ordinance shall be measured in a straight line on a horizontal plane.

Time

35. Where any expression of time occurs in any Ordinance, the time referred to shall signify the standard time of St. Helena which, until the Governor prescribes otherwise by proclamation, shall be Greenwich Mean Time.

Computation of time

⁶⁹ Amended by Ord. 23 of 1987

⁷⁰ Inserted by Ord. 2 of 2001

36. (1) In computing time for the purposes of any Ordinance—

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done;
- (b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day, not being an excluded day;
- (c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding, shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;
- (d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of the time.

(2) Where no time is prescribed or allowed within which any thing shall be done, such thing shall be done without unreasonable delay and as often as due occasion arises.

Offences under two or more laws

37. Where an act or omission constitutes an offence under two or more Ordinances, or under an Ordinance and any other law, the offender shall be liable to be prosecuted and punished under either or any of such Ordinances or laws, but shall not be liable to be punished twice for the same offence.

Disposal of forfeits, etc

38. (1) Where any animal or any thing is adjudged by any court or other authority to be forfeited, it shall be forfeited to the Crown and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into and form part of the public revenues of St. Helena.

(2) All dues, fees, fines and pecuniary penalties shall be paid into and form part of the public revenues of St. Helena.

(3) Nothing in this section shall affect any provision of any Ordinance whereby any portion of any fine, penalty or forfeit or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

Penalties

39.⁷¹ (1) Where in an Ordinance a fine or penalty is prescribed for any offence against that Ordinance, such provision shall be deemed to mean that the offence shall be punishable upon conviction by a fine or penalty not exceeding the fine or penalty prescribed.

(1A) If a penalty is set out at the foot of a section or subsection of an Ordinance it means that a contravention of the section or subsection, whether by act or omission, is an offence punishable by a fine or term of imprisonment not exceeding the amount or period stated.

(2) If—

- (a) a person contravenes a provision of an Ordinance the contravention of which constitutes an offence; and

(b) no penalty is provided in the Ordinance,
the person is liable on conviction to a fine of £2,000.

⁷¹ Section 39 amended by Ord. 23 of 1987 and Ord. 14 of 2017

(3) Any person who wilfully obstructs any person in performing any duties under any Ordinance shall, where no penalty is provided for such obstruction, be liable on conviction to a fine of £2,000.

Forms

40. (1) Where any form is prescribed by any Ordinance, an instrument or document which purports to be in such form shall not be void by reason of any deviation from such form which does not affect the substance thereof or which is not calculated to mislead any person or authority.

(2) Where forms are not prescribed in any Ordinance, such forms as the Governor may direct may be used for the purposes of the Ordinance for which forms are required.

Fees

41. (1) Where any Ordinance confers power on the Governor or any authority to prescribe fees and charges, the instrument prescribing such fees and charges may provide for all or any of the following matters—

- (a) the imposition either generally or under specified conditions or in specified circumstances of—
 - (i) specific fees and charges;
 - (ii) maximum and minimum fees and charges; or
 - (iii) no fee or charge;
- (b) the reduction, waiver or refund in whole or in part of any such fees and charges, either upon the happening of a specified event or in the discretion of a specified person.

(2) Where provision is made for the reduction, waiver or refund in whole or in part of any fee or charge, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically—

- (a) in respect of certain matters or transactions or classes of matters or transactions;
- (b) in respect of certain documents or classes thereof;
- (c) when any event happens or ceases to happen;
- (d) in respect of certain persons or classes of persons;
- (e) in respect of any combination of all or any such matters, transactions, documents, events or persons,

and may be expressed to apply subject to such conditions as may be specified in the instrument or in the discretion of a specified person.

(3) Fees and charges imposed under any Ordinance shall, when collected, be paid into and form part of the public revenues of St. Helena.

References to the Crown

42. Any reference in any Ordinance to the Sovereign or to the Crown shall be construed as a reference to the Sovereign for the time being.

Saving of rights of Crown

43. (1) No Ordinance shall in any manner whatever affect the rights of the Crown, unless it is therein expressly provided or unless it so appears by necessary implication.

(2) This Ordinance shall be binding on the Crown.

CHANGE OF TITLE ORDERS – SECTION 18

The following titles have been changed—

1. Sanitary Inspector to Public Health Inspector
 2. Government Secretary to Chief Secretary (L.N. 1/89)
 3. Colonial Treasurer to Financial Secretary (L.N. 1/89)
 4. Assistant Government Secretary to Deputy Chief Secretary (L.N. 1/89)
 5. Deputy Government Secretary to Deputy Chief Secretary (G.N. 2/89)
 6. Payment to Colonial Treasurer means payment to Consolidated Fund (L.N. 3/89)
 7. Auditor and Government Auditor mean Chief Auditor (Ord. 8 of 1999)
 8. Chief Finance Officer to Director of Finance (G.N. 63/11)
 9. Chief Development Officer to Director of Corporate Procurement (G.N. 63/11)
 10. Chief Human Resources Officer to Director of Human Resources (G.N. 63/11)
 11. Chief Administrative Health and Social Services Officer to Director of Health and Social Welfare (G.N. 63/11)
 12. Chief Education Officer to Director of Education and Employment (G.N. 63/11)
 13. Chief Agriculture and Natural Resources Officer to Director of Agriculture and Natural Resources (G.N. 63/11)
 14. Chief of Police to Director of Police (G.N. 63/11)
 15. Chief Engineer to Director of Infrastructure and Utilities (G.N. 63/11)
 16. Senior Medical Officer to Senior Medical Officer/Clinical Director (G.N. 63/11)
 17. Deputy Chief Secretary to Assistant Chief Secretary (Support) (G.N. 61/2014)
 18. Director of Human Resources to Head of Human Resources (G.N. 61/2014)
 19. Director of Health and Social Welfare to Director of Health (G.N. No. 40/2015)
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THE ST. HELENA AND DEPENDENCIES (TERRITORIAL SEA) ORDER 1989

(Statutory Instrument 1989 No. 1994 (U.K.))

Her Majesty, in pursuance of the powers conferred upon Her by the Colonial Boundaries Act 1895 and all other powers enabling Her in that behalf, is pleased, by and with the advice of her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the St. Helena and Dependencies (Territorial Sea) Order 1989 and shall come into force on 1st January 1990.

2. The boundaries of the Colony of St. Helena and its Dependencies are hereby extended to include, as territorial sea, that part of the sea which is situated within 12 nautical miles of St. Helena and its Dependencies, measured from the baselines as established by articles 3 and 4 of this Order, together with the seabed of the territorial sea and its subsoil.

3. (1) Except as otherwise provided in paragraph (2) of this article and in article 4 of this Order, the baseline from which the breadth of the territorial sea adjacent to St. Helena and its Dependencies is measured shall be the low-water line along the coast of all islands comprised in the Colony of St. Helena and its Dependencies.

(2) For the purposes of this article a low-tide elevation which lies wholly or partly within the breadth of sea which would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth thereof shall be treated as an island.

4. In the case of the sea adjacent to a bay, the baseline from which the breadth of the territorial sea is measured shall—

- (a) if the bay has only one mouth and the distance between the low-water lines of the natural entrance points of the bay does not exceed 24 nautical miles, be a straight line joining the said low-water lines;
- (b) if, because of the presence of islands, the bay has more than one mouth and the distances between the low-water lines of the natural entrance points of each mouth added together do not exceed 24 nautical miles, be a series of straight lines across each of the mouths drawn so as to join the said low-water lines;
- (c) if neither paragraph (a) nor (b) of this article applies, be a straight line 24 nautical miles in length drawn from low-water line to low-water line within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

5. In this Order—

- (a) “**bay**” means an indentation of the coast such that its area is not less than that of the semi-circle whose diameter is a line drawn across the mouth of the indentation, and for the purposes of this definition the area of an indentation shall be taken to be the area bounded by the low-water line around the shore of the indentation and the straight line joining the low-water lines of its natural entrance points, and where, because of the presence of islands, an indentation has more than one mouth the length of the diameter of the semi-circle referred to shall be the sum of the lengths of the straight lines drawn across each of the mouths, and in calculating the area of an indentation the area of any islands lying within it shall be treated as part of the area of the indentation;

- (b) **“island”** means a naturally formed area of land surrounded by water which is above water at mean high-water spring tides;
 - (c) **“low-tide elevation”** means a naturally formed area of drying land surrounded by water which is below water at mean high-water spring tides; and
 - (d) **“nautical miles”** means international nautical miles of 1,852 metres.
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PROCLAMATION*(Legal Notice 16 of 2017)*

In the Name of Her Majesty Elizabeth II, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

WHEREAS there is a need to establish and to regulate activity in an exclusive economic zone around St Helena Island in accordance with the rules of international law.

NOW THEREFORE I, Lisa Phillips, Governor of St Helena, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do hereby proclaim as follows:

1. There is established for St Helena Island an exclusive economic zone (hereinafter referred to as “the zone”) beyond and adjacent to the territorial seas around the Island as set out in the Schedule to this Proclamation.
2. Any rights exercisable over the waters of the zone, its seabed and subsoil and their natural resources are hereby vested in Her Majesty.
3. In regard to the zone, Her Majesty will exercise jurisdiction in accordance with the rules of international law over the exploration and exploitation of the natural resources, the protection and preservation of the marine environment, marine scientific research and other economic exploitation, subject to such provision as is in force or may hereafter be made by law.
4. This Proclamation has force with effect from the date of publication.

SCHEDULE

The exclusive economic zone extends 200 nautical miles (M) from the nearest points on the baseline from which the breadth of the territorial waters adjacent to the Island of St Helena is measured.

