



ST. HELENA

CHAPTER 136

PUBLIC ORDER ORDINANCE

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 [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
PUBLIC ORDER ORDINANCE	2
Ordinance 10 of 1997 .. in force 22 December 1997	
Amended by Ord. 8 of 1998	
Gazette Notice No. 63 of 1 July 2011	

No Subsidiary Legislation has been made under this Ordinance

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

CHAPTER 136**PUBLIC ORDER ORDINANCE**

ARRANGEMENT OF SECTIONS

PART I

OFFENCES

SECTION

1. Short title
2. Interpretation
3. Riot
4. Violent disorder
5. Affray
6. Fear or provocation of violence
7. Harassment, alarm or distress
8. Mental element: miscellaneous
9. Procedure: miscellaneous

PART II

PROCESSIONS AND ASSEMBLIES

10. Advance notice of public processions
11. Imposing conditions on public processions
12. Prohibiting public processions
13. Imposing conditions on public assemblies

CHAPTER 136**PUBLIC ORDER ORDINANCE**

(Ordinances 10 of 1997 and 8 of 1998)

AN ORDINANCE TO MAKE PROVISION FOR THE PRESERVATION OF PUBLIC ORDER.

Commencement

[22 December 1997]

PART I

OFFENCES

Short title

1. This Ordinance may be cited as the Public Order Ordinance.

Interpretation

2. In this Ordinance—
- “**dwelling**” means any structure or part of a structure occupied as a person’s home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied, and for this purpose “**structure**” includes a tent, caravan, vehicle, vessel or other temporary or movable structure;
- “**public assembly**” means an assembly of 20 or more persons in a public place which is wholly or partly open to the air;
- “**public place**” means—
- (a) any road within the meaning of the Road Traffic Ordinance; and
 - (b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;
- “**public procession**” means a procession in a public place;
- “**violence**” means any violent conduct, so that—
- (a) except in the context of affray, it includes violent conduct towards property as well as violent conduct towards persons; and
 - (b) it is not restricted to conduct causing or intended to cause injury or damage but includes any other violent conduct (for example, throwing at or towards a person a missile of a kind capable of causing injury which does not hit or falls short).

Riot

3. (1) Where 12 or more persons who are present together use or threaten unlawful violence for a common purpose and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using or threatening unlawful violence for the common purpose is guilty of riot.
- (2) It is immaterial whether or not the 12 or more persons use or threaten unlawful violence simultaneously.
- (3) The common purpose may be inferred from conduct.
- (4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.
- (5) Riot may be committed in private as well as in public places.
- (6) A person guilty of riot is liable on conviction on indictment to imprisonment for a term not exceeding 10 years or a fine or both.

Violent disorder

4. (1) Where 3 or more persons who are present together use or threaten unlawful violence and the conduct of them (taken together) is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety, each of the persons using or threatening unlawful violence is guilty of violent disorder.
- (2) It is immaterial whether or not the 3 or more persons use or threaten unlawful violence simultaneously.
- (3) No person of reasonable firmness need actually be, or be likely to be, present at the scene.
- (4) Violent disorder may be committed in private as well as in public places.

(5) A person guilty of violent disorder is liable on conviction on indictment to imprisonment for a term not exceeding 5 years or a fine or both, or on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £500.

Affray

5. (1) A person is guilty of affray if he uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his personal safety.

(2) Where 2 or more persons use or threaten unlawful violence, it is the conduct of them taken together that must be considered for the purposes of subsection (1).

(3) For the purposes of this section a threat cannot be made by the use of words alone.

(4) No person of reasonable firmness need actually be, or be likely to be, present at the scene.

(5) Affray may be committed in private as well as in public places.

(6) A police officer may arrest without warrant anyone he reasonably suspects is committing affray.

(7) A person guilty of affray is liable on conviction on indictment to imprisonment for a term not exceeding 3 years or a fine or both, or on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £500 or both.

Fear or provocation of violence

6.² (1) A person is guilty of an offence if he—

(a) uses towards another person threatening, abusive or insulting words or behaviour; or

(b) distributes or displays to another person any writing, sign or other visible representation which is threatening, abusive or insulting,

with intent to cause that person to believe that immediate unlawful violence will be used against him or another by any person, or to provoke the immediate use of unlawful violence by that person or another, or whereby that person is likely to believe that such violence will be used or it is likely that such violence will be provoked.

(2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is distributed or displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

(3) A police officer may arrest without warrant anyone he reasonably suspects is committing an offence under this section.

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding £500 or both.

Harassment, alarm or distress

7.³ (1) A person is guilty of an offence if he—

(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour; or

(b) displays any writing, sign or other visible representation which is threatening, abusive or insulting,

² Section 6 amended by Ord. 8 of 1998

³ Section 7 amended by Ord. 8 of 1998

within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.

(2) An offence under this section may be committed in a public or a private place, except that no offence is committed where the words or behaviour are used, or the writing, sign or other visible representation is displayed, by a person inside a dwelling and the other person is also inside that or another dwelling.

(3) It is a defence for the accused to prove—

(a) that he had no reason to believe that there was any person within hearing or sight who was likely to be caused harassment, alarm or distress; or

(b) that he was inside a dwelling and had no reason to believe that the words or behaviour used, or the writing, sign or other visible representation displayed, would be heard or seen by a person outside that or any other dwelling; or

(c) that his conduct was reasonable.

(4) A police officer may arrest a person without warrant if—

(a) he engages in offensive conduct which the police officer warns him to stop; and

(b) he engages in further offensive conduct immediately or shortly after the warning.

(5) In subsection (4) “**offensive conduct**” means conduct the police officer reasonably suspects to constitute an offence under this section, and the conduct mentioned in subsection (4)(a) and the further conduct need not be of the same nature.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding £200.

Mental element: miscellaneous

8. (1) A person is guilty of riot only if he intends to use violence or is aware that his conduct may be violent.

(2) A person is guilty of violent disorder or affray only if he intends to use or threaten violence or is aware that his conduct may be violent or threaten violence.

(3) A person is guilty of an offence under section 6 only if he intends his words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting.

(4) A person is guilty of an offence under section 7 only if he intends his words or behaviour, or the writing, sign or other visible representation, to be threatening, abusive or insulting, or is aware that it may be threatening, abusive or insulting or (as the case may be) he intends his behaviour to be or is aware that it may be disorderly.

(5) For the purposes of this section a person whose awareness is impaired by intoxication shall be taken to be aware of that of which he would be aware if not intoxicated, unless he shows either that his intoxication was not self-induced or that it was caused solely by the taking or administration of a substance in the course of medical treatment.

(6) In subsection (5) “**intoxication**” means any intoxication, whether caused by drink, drugs or other means, or by a combination of means.

(7) Subsections (1) and (2) do not affect the determination for the purposes of riot or violent disorder of the number of persons who use or threaten violence.

Procedure: miscellaneous

9. (1) No prosecution for an offence of riot or incitement to riot may be instituted except by or with the consent of the Attorney General:

Provided that if at any time the person holding the office of Attorney General is absent from St. Helena or if there is no subsisting appointment to that office, the reference to

Attorney General shall be construed as reference to the person for the time being exercising or performing the functions of that office; and a certificate signed by the Governor to that effect shall be conclusive evidence of such fact.

(2) For the purpose of the rules against charging more than one offence in the same count or information, each of sections 3 to 7 creates one offence.

(3) If on the trial on indictment of a person charged with violent disorder or affray the court finds him not guilty of the offence charged, the court may find him guilty of an offence under section 6.

(4) The Supreme Court has the same powers and duties in relation to a person who is by virtue of subsection (3) convicted before it of an offence under section 6 as the Magistrates' Court would have on convicting him of the offence.

PART II

PROCESSIONS AND ASSEMBLIES

Advance notice of public processions

10. (1) Written notice shall be given in accordance with this section of any proposal to hold a public procession intended—

- (a) to demonstrate support for or opposition to the views or actions of any person or body of persons;
- (b) to publicise a cause or campaign; or
- (c) to mark or commemorate an event,

unless it is not reasonably practicable to give any advance notice of the procession.

(2) Subsection (1) does not apply to a funeral procession, or processions by benefit societies, churches, church lads brigade or youth movements.

(3) The notice must specify the date when it is intended to hold the procession, the time when it is intended to start it, its proposed route, and the name and address of the person (or of one of the persons) proposing to organise it.

(4) Notice must be sent or delivered to the Chief of Police⁴ at Police Headquarters in Jamestown not less than 7 clear days before the date when the procession is intended to be held.

(5) Where a public procession is held, each of the persons organising it is guilty of an offence if—

- (a) the requirements of this section as to notice have not been satisfied; or
- (b) the date when it is held, the time when it starts, or its route, differs from the date, time or route specified in the notice.

(6) It is a defence for the accused to prove that he did not know of, and neither suspected nor had reason to suspect, the failure to satisfy the requirements or (as the case may be) the difference of date, time or route.

(7) To the extent that an alleged offence turns on a difference of date, time or route, it is a defence for the accused to prove that the difference arose from circumstances beyond his control or from something done with the agreement of a police officer or by his direction.

(8) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding £500.

⁴ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Police

Imposing conditions on public processions

11. (1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public procession is being held or is intended to be held and to its route or proposed route, reasonably believes that—

(a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community; or

(b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do, he may give directions imposing on the persons organising or taking part in the procession such conditions as appear to him necessary to prevent such disorder, damage, disruption or intimidation, including conditions as to the route of the procession or prohibiting it from entering any public place specified in the directions.

(2) In subsection (1) “**the senior police officer**” means—

(a) in relation to a procession being held, or to a procession intended to be held in a case where persons are assembling with a view to taking part in it, the most senior in rank of the police officers present at the scene; and

(b) in relation to a procession intended to be held in a case where paragraph (a) does not apply, the Chief of Police⁵.

(3) A direction given by the Chief of Police by virtue of subsection (2)(b) shall be given in writing.

(4) A person who organises a public procession and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(5) A person who takes part in a public procession and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(6) A person who incites another to commit an offence under subsection (5) is guilty of an offence.

(7) A police officer in uniform may arrest without warrant anyone he reasonably suspects is committing an offence under subsection (4), (5) or (6).

(8) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding £500 or both.

(9) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding £200.

(10) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding £500 or both.

Prohibiting public processions

12. (1) If at any time the Chief of Police⁶ reasonably believes that, because of particular circumstances existing in any part of St. Helena, the powers under section 11 will not be sufficient to prevent the holding of public processions in that part from resulting in serious public disorder, he shall apply to the Governor for an order prohibiting for such period not exceeding 3 months as may be specified in the application the holding of all public processions

⁵ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Police

⁶ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Police

(or of any class of public procession so specified) in the part of St. Helena concerned. If a procession is denied, the reason for the denial is to be given to the organiser.

(2) On receiving such an application, the Governor may make an order either in the terms of the application or with such modifications as he may think fit.

(3) An order made under this section may be revoked or varied by a subsequent order made in the same way, that is, in accordance with subsections (1) and (2), as the case may be.

(4) Any order under this section shall, if not made in writing, be recorded in writing as soon as practicable after being made.

(5) A person who organises a public procession the holding of which he knows is prohibited by virtue of an order under this section is guilty of an offence.

(6) A person who takes part in a public procession the holding of which he knows is prohibited by virtue of an order under this section is guilty of an offence.

(7) A person who incites another to commit an offence under subsection (6) is guilty of an offence.

(8) A police officer in uniform may arrest without a warrant anyone he reasonably suspects is committing an offence under subsection (5), (6) or (7).

(9) A person guilty of an offence under subsection (5) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding £500 or both.

(10) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding £200.

(11) A person guilty of an offence under subsection (7) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding £500 or both.

Imposing conditions on public assemblies

13. (1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public assembly is being held or is intended to be held, reasonably believes that—

(a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community; or

(b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do, he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.

(2) In subsection (1) “**the senior police officer**” means—

(a) in relation to an assembly being held, the most senior in rank of the police officers present at the scene; and

(b) in relation to an assembly intended to be held, the Chief of Police⁷.

(3) A direction given by the Chief of Police by virtue of subsection (2)(b) shall be given in writing.

(4) A person who organises a public assembly and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

⁷ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Police

(5) A person who takes part in a public assembly and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(6) A person who incites another to commit an offence under subsection (5) is guilty of an offence.

(7) A police officer in uniform may arrest without warrant anyone he reasonably suspects is committing an offence under subsection (4), (5) or (6).

(8) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding £500 or both.

(9) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding £200.

(10) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding £500 or both.
