

PORT AND AERODROME (HEALTH) ORDINANCE, 2017

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ST HELENA

A BILL

FOR

AN ORDINANCE

To regulate port and aerodrome health in St Helena, and of ships and aircraft therein; to make provision for the introduction of health protection measures for safeguarding public health and preventing the spread of infection or contamination by means of ships and aircraft arriving at or departing from St Helena; and for connected or incidental purposes.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

Part 1 *Preliminary*

Short title and commencement

1. This Ordinances may be cited as the Port and Aerodrome (Health) Ordinance, 2017, and comes into force on the date of publication.

Interpretation

2. In this Ordinance—
“**aerodrome**” means the aerodrome at Prosperous Bay Plain;
“**aerodrome operator**” means the person contracted by the Government of St Helena to manage and operate the aerodrome;
“**affected area**” means—
(a) any area identified for the time being by the World Health Organization under paragraph 1 of Annex 5 to the International Health Regulations; or
(b) any area declared an affected area by the Governor by notice in the *Gazette*;
“**aircraft operator**” means, in relation to a particular aircraft, the person who at the relevant time has the management of that aircraft;
“**appropriate authority**” means a person or body whom the proper officer considers has a role in relation to preventing the spread of infection or contamination;

“contaminated” includes a reference to carrying the source of contamination and
“contaminating” includes a reference to passing the source of contamination;
“Harbour Master” means the person appointed as such under the Ports Ordinance, 2016;
“health measure” means a procedure applied to prevent the spread of infection or contamination and includes disinfection, disinsection and decontamination measures;
“Health Part of the Aircraft General Declaration” means a written declaration conforming with Annex 9 of the International Convention on Civil Aviation which was signed on the 7th December 1944 on behalf of the United Kingdom at the International Civil Aviation Conference held in Chicago;
“inbound international flight” means an international flight bound for St Helena;
“inbound international voyage” means an international voyage by ship bound for a port in St Helena;
“infected” includes a reference to carrying the source of an infection and **“infecting”** includes a reference to passing the source of an infection;
“international flight” means a flight (whether departing or arriving) between St Helena and any other place outside St Helena;
“International Health Regulations” means the International Health Regulations (2005) of the World Health Organization adopted by the 58th World Health Assembly on 23rd May 2005, as applied to St Helena by section 65 of the Public Health Ordinance, 1939;
“international voyage” means a voyage by ship (whether departing or arriving) between St Helena and any other place outside St Helena;
“Maritime Declaration of Health” means a written declaration conforming with Annex 8 of the International Health Regulations;
“master”, in relation to a vessel, means any person having or taking the command, charge or management of a vessel for the time being;
“outbound international flight” means an international flight departing St Helena;
“outbound international voyage” means an international voyage by ship departing a port in St Helena;
“pilot in command” means the pilot designated by the operator as being in command of an aircraft and charged with the safe conduct of its flight or, if no such designation has been made, the person who for the time being is in charge of piloting the aircraft without being under the direction of any other pilot in the aircraft;
“port” means a port determined as such under the Ports Ordinance, 2016;
“proper officer”, in relation to any purpose in this Ordinance, means an officer of the responsible authority appointed for that particular purpose;
“related party” in relation to a person (P) means—
 (a) a person who has or may have infected or contaminated P; or
 (b) a person whom P has or may have infected or contaminated;
“responsible authority” has the meaning given to it in section 3;
“ship” means every description of vessel used in navigation.

Responsible authority

3. (1) For purposes of this Ordinance, the responsible authority is the Health Protection Board established by section 3 of the Public Health Ordinance, 1939.

(2) It is the duty of the responsible authority to enforce this Ordinance.

Disapplication of Ordinance

4. This Ordinance does not apply to any ship or aircraft forming part of Her Majesty's armed forces.

Part 2
Inbound international voyage or flight

Requirement to notify actual or suspected infection or contamination

5. (1) This section applies where it is the reasonable view of the master on an inbound international voyage or the pilot in command of an aircraft on an inbound international flight that—

- (a) either one or more passengers or crew is, or may be, suffering from an infectious or communicable disease or contamination; or
- (b) one or more passengers or crew who have disembarked during a previous stop on the international voyage or flight was or may have been suffering from an infectious or communicable disease or contamination; or
- (c) one or more passengers or crew has or have died during the international voyage or flight other than as a result of an accident or incident; or
- (d) other circumstances exist which suggest that there is or may be infection or contamination on board.

(2) The master or pilot in command must ensure that the responsible authority is notified of the actual or suspected infection or contamination as soon as reasonably possible after the master or pilot in command has formed the view mentioned in subsection (1).

(3) A master or pilot in command who fails to comply with this section without reasonable excuse commits an offence:
Penalty a fine of £5,000.

Requirement to submit Maritime Declaration of Health

6. (1) The master of a ship on an inbound international voyage must submit the Maritime Declaration of Health to the responsible authority where—

- (a) the master is required to make a notification under section 5(2) (whether or not the master has done so); or
- (b) the proper officer has requested its submission.

(2) The proper officer may request the submission of the Maritime Declaration of Health to the responsible authority where—

- (a) the ship is arriving or has arrived from an affected area; or
- (b) the proper officer has other reasonable grounds for believing that there is or may be infection or contamination on board the ship.

(3) The submission must be received by the responsible authority as soon as practicable after the obligation under subsection (1) arises (which could be after the ship has arrived).

(4) A master who fails to comply with this section without reasonable excuse commits an offence:

Penalty: a fine of £5,000.

Requirement to submit Health Part of the Aircraft General Declaration

7. (1) The pilot in command of an aircraft on an inbound international flight must submit the Health Part of the Aircraft General Declaration to the responsible authority where—

- (a) the pilot in command is required to make a notification under section 5(2) (whether or not the pilot in command has done so); or
- (b) the proper officer has requested its submission.

(2) The proper officer may request the submission of the Health Part of the Aircraft General Declaration to the responsible authority where—

- (a) the aircraft is arriving or has arrived from an affected area; or
- (b) the proper officer has other reasonable grounds for believing that there is or may be infection or contamination on board the aircraft.

(3) The submission must be received by the responsible authority as soon as practicable after the obligation under subsection (1) arises (which could be after the aircraft has landed).

(4) A pilot in command who fails to comply with this section without reasonable excuse commits an offence:

Penalty: a fine of £5,000.

Securing safe and convenient location for inbound ship or aircraft

8. (1) This section applies where—

- (a) submission of the Maritime Declaration of Health or the Health Part of the Aircraft General Declaration is required in respect of a ship or aircraft, as the case may be, under section 6 or 7 (whether or not it has been submitted); and
- (b) the proper officer reasonably believes that the ship or aircraft (or any person or thing on board) presents or may present a risk of spreading infection or contamination.

(2) The proper officer may request the Harbour Master or the aerodrome operator to ensure that on arrival the ship or aircraft is located in a part of the port or aerodrome which—

- (a) minimises the risk of spreading infection or contamination; and
- (b) allows the proper officer to carry out a risk assessment of—
 - (i) any person on board under section 13; or
 - (ii) the ship or aircraft or a thing on board it under section 18 (including an inspection of the ship or aircraft or a thing on board it under section 19, if required).

(3) The Harbour Master or aerodrome operator must comply with a request made under subsection (2) insofar as the Harbour Master or aerodrome operator is reasonably able to do so.

(4) A Harbour Master or aerodrome operator who fails to comply with subsection (3) commits an offence:

Penalty: a fine of £5,000.

Securing of passenger and crew information

- 9. (1)** This section applies where—
- (a) submission of the Maritime Declaration of Health or the Health Part of the Aircraft General Declaration is required in respect of a ship or aircraft, as the case may be, under section 6 or 7 (whether or not it has been submitted); and
 - (b) the proper officer reasonably believes that passengers or crew on board the ship or aircraft may need to be contacted after the passengers or crew have left the ship or aircraft for the purposes of preventing the spread of infection or contamination.

(2) The proper officer may request that the master or pilot in command secures from the passengers or crew (or any group of passengers or crew specified by the proper officer) prior to their leaving the ship or aircraft the information specified by the proper officer, insofar as the master or pilot in command is reasonably able to do so.

(3) Information specified by the proper officer under subsection (2) must be limited to information required by the proper officer for the purposes of—

- (a) identifying which passengers or crew are or were at risk of being infected or contaminated; and
- (b) contacting those passengers or crew.

(4) A master or pilot in command must use best endeavours to secure that the information requested by the proper officer under subsection (2) is obtained from the passengers or crew prior to their leaving the ship or aircraft.

(5) A master or pilot in command who fails to comply with subsection (4) without reasonable excuse commits an offence:

Penalty: a fine of £5,000.

Ship or aircraft to be allowed to carry out embarkation or disembarkation of passengers etc.

10. The proper officer must not prevent a ship or aircraft from embarking or disembarking passengers or crew, discharging or loading cargo, or taking on fuel, water and supplies, except where—

- (a) the proper officer is conducting or intends to carry out an assessment under section 13 or 22;
- (b) a health measure is being or is to be carried out under section 22 or 26 in respect of the ship or aircraft, or a thing on board that ship or aircraft; or
- (c) the proper officer reasonably believes that to do so is necessary in order to prevent the spread of infection or contamination.

Compliance with hygiene and sanitation requirements

11. The master of a ship engaged on an international voyage must, at the request of the proper officer, produce a valid ship sanitation certificate.

Part 3

Outbound international voyages or flights

Notifying next port of call or destination aerodrome of risk of infection or contamination

12. (1) Subsection (2) applies—

(a) where—

- (i) a ship has departed from a port on an outbound international voyage; or
- (ii) an aircraft has departed from an aerodrome on an outbound international flight; and

(b) it is the reasonable view of the proper officer that the ship or aircraft (or any person or thing on board) presents a risk of spreading infection or contamination.

(2) The proper officer must notify the appropriate authority at the ship's next port of call or the aircraft's destination aerodrome of—

- (a) the proper officer's view that the ship or aircraft (or any person or thing on board) presents a risk of spreading infection or contamination;
- (b) the reason or reasons for the proper officer's view; and
- (c) the steps that the proper officer considers should be taken in relation to the ship or aircraft (or any person or thing on board).

(3) Where it is the reasonable view of the proper officer that the ship or aircraft departing as referred to in subsection (1)(a) (or any person or thing on board) may potentially present a risk of spreading infection or contamination, the proper officer may notify the appropriate authority at the ship's next port of call or the destination aerodrome of that possible risk.

Part 4

Dealing with risks arising from people

Risk assessment of persons by proper officer

13. (1) A proper officer may carry out an assessment (a "risk assessment") of the risk to public health posed by a person where—

(a) that person is—

- (i) on an inbound international voyage or at the port having arrived on an inbound international voyage or intending to depart on an outbound international voyage; or
- (ii) on an inbound international flight or at the aerodrome having arrived on an inbound international flight or intending to depart on an outbound international flight; and

(b) the proper officer has reasonable grounds for believing that such person presents or could present a risk of spreading infection or contamination.

(2) For the purposes of subsection (1)(b), reasonable grounds for believing that a person presents or could present a risk of spreading infection or contamination includes receipt of a notification under section 5(2) which relates to such person.

(3) A risk assessment may include a medical examination of the person by a registered medical practitioner where the proper officer has reasonable grounds for believing that such a medical examination is necessary to assess the risk posed by him or her of spreading infection or contamination.

Detention for purpose of risk assessment

14. (1) Subject to subsection (10), a proper officer may detain a person for the purpose of carrying out a risk assessment under section 13 where that person's detention is necessary to carry out the risk assessment.

(2) The proper officer may require the person to move to a suitable place of detention where the proper officer is to detain him or her under subsection (1).

(3) The proper officer must notify a person immediately on commencing his or her detention under this section of—

- (a)* the fact of such person's detention;
- (b)* the powers under which such person is detained;
- (c)* the reason for such person's detention;
- (d)* the next steps that the proper officer proposes to take;
- (e)* the obligation to keep the need for such person's detention under review; and
- (f)* the penalty for absconding from detention.

(4) Subject to subsection (5), a person may be detained under this section for a maximum period, beginning with the time from which such person's detention under this section commenced, of—

- (a)* 2 hours; or
- (b)* 6 hours if the proper officer considers that a medical examination under section 13(3) should be conducted as part of the risk assessment.

(5) A person's detention must cease once the risk assessment has been completed irrespective of the time elapsed, subject to section 15.

(6) The proper officer must keep the need for a person's detention under review.

(7) Whilst a person is detained under this section, the proper officer must have due regard to his or her well-being.

(8) If a person fails to comply with a requirement imposed under subsection (2), he or she commits an offence:

Penalty: a fine of £1,000.

(9) If a person absconds from detention under this section—

- (a)* he or she commits an offence; and
- (b)* a constable may take such person into custody and return him or her to the place of detention (but only insofar as the maximum period for detention under subsection (4) has not elapsed).

Penalty: a fine of £1,000.

(10) A person may not be detained at the port or aerodrome by a proper officer under this section where that person is to be taken directly to a hospital as soon as practicable by ambulance or other mode of transport agreed with the proper officer.

Continued detention for purposes of application for order

15. (1) This section applies where—

- (a) a person is detained under section 14 for the purpose of carrying out a risk assessment;
- (b) a medical examination under section 13(3) has been carried out as part of the risk assessment; and
- (c) the risk assessment has been completed.

(2) A proper officer may detain a person where it is that officer's reasonable view that an application for compulsory hospital admission, detention, isolation or quarantine under section 16 in relation to such person is immediately required.

(3) The proper officer must notify the person immediately on commencing his or her detention under subsection (2) of—

- (a) the fact of such person's detention;
- (b) the powers under which such person is detained;
- (c) the reason for such person's detention;
- (d) the next steps that the proper officer proposes to take; and
- (e) the penalty for absconding from detention.

(4) Subject to subsection (5), a person may be detained under this section for a maximum period of 5 hours beginning with the time from which his or her detention under this section commenced.

(5) Detention under this section must cease as soon as practicable after—

- (a) the application under section 16 is determined; or
- (b) the proper officer has decided not to continue with the application.

(6) Whilst the person is detained under this section, the proper officer must have due regard to that person's well-being.

(7) If the person absconds from detention under this section he or she commits an offence and a police officer may take that person into custody and return him or her to the place of detention (but only insofar as the maximum period for detention under subsection (4) has not elapsed).

Penalty: a fine of £1,000.

Power to make orders in relation to persons

16. (1) The Chief Magistrate may, on application, make an order under subsection (2) in relation to a person ("P") if the Chief Magistrate is satisfied that—

- (a) P is or may be infected or contaminated;
- (b) the infection or contamination is one which presents or could present significant harm to human health;
- (c) there is a risk that P might infect or contaminate others; and
- (d) it is necessary to make the order in order to remove or reduce that risk.

(2) The order may impose on or in relation to P one or more of the following restrictions or requirements:

- (a) that P submit to medical examination;
- (b) that P be removed to a hospital or other suitable establishment;

- (c) that P be detained in a hospital or other suitable establishment;
- (d) that P be kept in isolation or quarantine;
- (e) that P be disinfected or decontaminated;
- (f) that P wear protective clothing;
- (g) that P provide information or answer questions about P's health or other circumstances;
- (h) that P's health be monitored and the results reported;
- (i) that P attend training or advice sessions on how to reduce the risk of infecting or contaminating others;
- (j) that P be subject to restrictions on where P goes or with whom P has contact;
- (k) that P abstain from working or trading.

(3) Where the circumstances in subsection (1) apply, but there is a further risk that a related party might infect or contaminate others, the Chief Magistrate may make an order imposing on or in relation to P a requirement that P provide information or answer questions about P's health or other circumstances (including, in particular, information or questions about the identity of a related party).

(4) An order under this section may also order a person with parental responsibility (within the meaning of the Welfare of Children Ordinance, 2010) for P to secure that P submits to or complies with the restrictions or requirements imposed by the order.

(5) The Governor in Council may by regulations make provision about the evidence that must be available to the Chief Magistrate before the Chief Magistrate can be satisfied as mentioned in subsection (1) or (3).

Provision of information by person subject to risk assessment

17. (1) A proper officer may request that a person (P) who is the subject of a risk assessment under section 13 provides information or answers questions about P's health or other circumstances (including, in particular, information or questions about the identity or whereabouts of a related party or a related thing).

(2) P must comply with a request under subsection (1) insofar as P is reasonably able to do so.

(3) If P fails to comply with subsection (2), P commits an offence.
Penalty: a fine of £1,000.

(4) In this section, “**related thing**” means—

- (a) a thing which has or may have infected or contaminated P; or
- (b) a thing which P has or may have infected or contaminated.

Part 5

Dealing with risks arising from ships, aircraft or things on board

Risk assessment by proper officer

18. (1) A proper officer may carry out an assessment (a “risk assessment”) in respect of a ship, an aircraft or a thing on board where the proper officer has reasonable grounds for

believing that the ship or aircraft or a thing on board presents or could present a risk of spreading infection or contamination and—

- (a) the ship has arrived at the port after an international voyage or is on an inbound international voyage; or
- (b) the aircraft is at the aerodrome or is on an inbound international flight.

(2) For the purposes of subsection (1), reasonable grounds for believing that the ship or aircraft presents or could present a risk of spreading infection or contamination may include where—

- (a) the proper officer has received a notification under section 5(2) in respect of the ship or aircraft; or
- (b) the ship or aircraft has arrived or is arriving from an affected area.

Inspection as part of carrying out a risk assessment

19. (1) As part of a risk assessment under section 18, a proper officer may conduct an inspection of—

- (a) a ship or a thing on board the ship when the ship is at the port; or
- (b) an aircraft or a thing on board that aircraft when the aircraft is at the aerodrome.

(2) Where a proper officer has decided to carry out an inspection under subsection (1)(a)—

- (a) the proper officer must as soon as reasonably practicable notify the decision to—
 - (i) the Harbour Master; and
 - (ii) the master of the ship which is the subject of the inspection; and
- (b) the proper officer may request that the Harbour Master ensures that the ship is located as soon as reasonably practicable in a part of the port where the inspection can be carried out safely and conveniently.

(3) The Harbour Master must comply with a request made under subsection (2)(b) insofar as the Harbour Master is reasonably able to do so.

(4) Where a proper officer has decided to carry out an inspection under subsection (1)(b) the proper officer must as soon as reasonably practicable notify the decision to the aerodrome operator and the pilot in command of the aircraft which is the subject of the inspection.

(5) Subsections (6) to (8) apply where a proper officer boards a ship or aircraft for the purpose of conducting an inspection under subsection (1).

(6) Where the proper officer boards by consent, the proper officer may—

- (a) take on board such other persons and such equipment and materials as may be necessary;
- (b) search the ship or aircraft;
- (c) carry out measurements and tests of the ship or aircraft or anything found on it;
- (d) take and retain samples from the ship or aircraft or anything found on it;
- (e) seize and detain or remove any thing from the ship or aircraft which the proper officer reasonably believes presents or may present a risk of spreading infection or contamination; or
- (f) seize and detain or remove any thing from the ship or aircraft to carry out a further examination where the proper officer reasonably believes that such further

examination might assist in identifying a cause or source of a risk of spreading infection or contamination.

(7) Where the proper officer enters the ship or aircraft by virtue of section 20 or by a warrant issued under that section, the officer may (in addition to doing the things set out in section 21)—

- (a) seize and detain or remove any thing from the ship or aircraft which the proper officer reasonably believes presents or may present a risk of spreading infection or contamination; and
- (b) seize and detain or remove any thing from the ship or aircraft to carry out a further examination where the proper officer reasonably believes that such further examination might assist in identifying a cause or source of a risk of spreading infection or contamination.

(8) Where a proper officer detains or removes a thing under subsection (6)(e) or (f) or (7), the thing must be returned to the owner or person who had custody or control when the thing was detained or removed without delay insofar as it is reasonably practicable when the risk assessment (of which the inspection forms a part) has been concluded.

(9) The master of the ship or pilot in command of the aircraft must allow the proper officer immediate access to any part of the ship or aircraft that the proper officer reasonably wishes to inspect insofar as the master or pilot in command is reasonably able to do so.

(10) When an inspection of a ship or thing on board has finished the proper officer must, without delay, inform the Harbour Master and the master of the ship.

(11) When an inspection of an aircraft or thing on board has finished the proper officer must, without delay, inform the aerodrome and the pilot in command of the aircraft.

(12) Failure to comply with an obligation under subsections (3) or (9) is an offence.
Penalty: a fine of £5,000.

Power to enter premises

20. (1) Subject to the provisions of this section, a proper officer, on producing some duly authenticated document showing his or her authority, if so required, has a right to enter any premises at all reasonable hours—

- (a) to ascertain whether there is, or has been, any contravention of a relevant provision of this Ordinance, or of an order made by the Chief Magistrate under section 16;
- (b) to ascertain whether or not circumstances exist which would authorise or require the responsible authority to take any action or execute any work under such a provision or in relation to such an order;
- (c) to take any action or executing any work authorised or required by such a provision or in relation to such an order, or by any order made under such a provision to be taken or executed by the responsible authority; or
- (d) generally, for the purpose of the performance by the responsible authority of its functions under such a provision or in relation to such an order.

(2) Admission to any premises must not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.

(3) Subsection (1) does not authorise entry to any part of premises which is used as a private dwelling (but this does not affect the power of the Chief Magistrate under subsection (4) to issue a warrant authorising entry to a private dwelling or to any part of premises used as a private dwelling).

(4) If it is shown to the satisfaction of the Chief Magistrate on sworn information in writing that—

- (a) admission to any premises has been refused, or that refusal is anticipated, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and
- (b) that there is reasonable ground for entry into the premises for any such purposes as is mentioned in subsection (1) above,

the Chief Magistrate may by warrant authorise the responsible authority to enter the premises, if need be by force.

(5) A warrant under subsection (4) must not be issued unless the Chief Magistrate is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

Supplementary provisions as to entry

21. (1) A proper officer entering any premises by virtue of section 20, or of a warrant issued under that section, may take with him or her such other persons and such equipment and materials as may be necessary, and on leaving any unoccupied premises which he or she has entered by virtue of such a warrant he or she must leave them as effectively secured against trespassers as he or she found them.

(2) The proper officer may for the purpose for which entry is authorised—

- (a) search the premises;
- (b) carry out measurements and tests of the premises or of anything found on them;
- (c) take and retain samples of the premises or of anything found on them;
- (d) inspect and take copies or extracts of any documents or records found on the premises;
- (e) require information stored in an electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form; and
- (f) seize and detain or remove anything which the officer reasonably believes to be evidence of any contravention relevant to the purpose for which entry is authorised.

(3) Every warrant issued under that section continues in force until the purpose for which the entry is necessary has been satisfied.

Power to require master or aircraft operator to carry out health measures

22. (1) Where a proper officer has completed a risk assessment under section 18 which relates to—

- (a) a ship or a thing on board that ship, the proper officer may by written notice require the master to carry out, or arrange to have carried out, health measures in respect of the ship or a thing on board that ship; or
- (b) an aircraft or a thing on board that aircraft the proper officer may by written notice require the aircraft operator to carry out, or arrange to have carried out, health measures in respect of the aircraft or a thing on board that aircraft.

(2) A notice given under subsection (1) must specify—

- (a) the measure or measures which the master or aircraft operator is or are required to take;
- (b) why the measure or measures are believed to be necessary and proportionate;
- (c) the time and date by which the measure or measures must be completed;
- (d) the penalty for failing to comply with the notice; and
- (e) contact details for the proper officer issuing the notice.

(3) A health measure required under subsection (1) must be—

- (a) necessary for preventing the spread of infection or contamination; and
- (b) proportionate.

(4) Where a health measure is required to be carried out under subsection (2)(a), the proper officer may request that the Harbour Master ensures that the ship is located as soon as reasonably practicable in a place where the measure can be carried out safely and conveniently.

(5) The Harbour Master must comply with a request made under subsection (4) insofar as the Harbour Master is reasonably able to do so.

(6) Where a health measure is required to be carried out under subsection (1)(b), the proper officer may request that the pilot in command ensures that the aircraft is located as soon as reasonably practicable in a place where the measure can be carried out safely and conveniently.

(7) The pilot in command must comply with a request made under subsection (6) insofar as he or she is reasonable able to do so.

(8) A proper officer may carry out, or arrange to have carried out, the health measures specified in the notice if—

- (a) requested to do so by the master or aircraft operator to whom the notice is addressed; or
- (b) the master or aircraft operator to whom the notice is addressed fails to comply with the notice.

(9) Where a proper officer is to carry out, or arrange to have carried out, health measures under subsection (8), the proper officer may do anything which the officer considers is appropriate for facilitating or incidental or conducive to the carrying out or arranging to have carried out of those health measures.

(10) A master or aircraft operator who fails to comply with a notice given under subsection (1) without reasonable excuse commits an offence.

Penalty: A fine of £20,000.

(11) Failure of the Harbour Master to comply with an obligation under subsection (5) is an offence.

Penalty: a fine of £5,000.

(12) Failure of the pilot in command to comply with an obligation under subsection (7) is an offence.

Penalty: a fine of £5,000.

(13) The proper officer must ensure that a health measure required under this section consists of appropriate methods or materials for these procedures as advised by the World Health Organization or as referred to in Annex 9 2.31 of the International Convention on Civil Aviation, as applicable, , unless the proper officer determines that other measures are as safe and reliable.

Power to charge in connection with health measures

23. (1) A responsible authority may charge the master or aircraft operator if a proper officer carries out, or arranges to have carried out, health measures under section 22(8) where the health measure does not relate to a passenger's baggage.

(2) Any charge levied under subsection (1) must conform to the tariff prescribed by the Governor in Council and may not exceed the actual costs incurred by the responsible authority in carrying out or arranging to have carried out the specified health measures.

(3) Where the responsible authority levies a charge under subsection (1) the responsible authority must provide a free written explanation of the work done and the charges levied in respect of that work.

(4) The responsible authority may require the whole or part of any charge levied under subsection (1) to be paid or deposited with it before action under section 19 is carried out or is arranged to be carried out.

Avoidance of delay

24. When carrying out functions under sections 18 to 22 in relation to a ship or aircraft, the proper officer must have regard to the need to restore the ship or aircraft to use as quickly as possible.

Part 6

General powers and duty of a proper officer

Power to inform and advise

25. (1) The proper officer may provide information and advice to passengers, crew and other individuals at a port or aerodrome for the purpose of preventing the spread of infection or contamination, which may include—

- (a) how to protect against infection or contamination;
- (b) the symptoms of infection or contamination;

- (c) the appropriate steps to take to address possible infection or contamination (if any); and
- (d) whether or not there is risk of spread of infection or contamination in relation to a specific incident at the port or aerodrome or on an inbound international voyage or flight.

(2) The information and advice provided under subsection (1)(a) to (c) may relate to infection or contamination generally or to specific infections or contaminants.

Power to carry out health measures in respect of people, things or premises on request

26. (1) This section applies where a person (P) requests a proper officer to carry out a health measure specified by P, in relation to—

- (a) P at the port or aerodrome;
- (b) a thing which is owned by P or which is under P's custody or control and which is at the port or aerodrome; or
- (c) premises at the port or aerodrome which are owned by P or which are under P's management or control.

(2) The proper officer may carry out, or arrange to have carried out, the health measure requested under subsection (1).

(3) The responsible authority may charge for any health measure carried out by the proper officer under subsection (2) in relation to a thing or premises if P is made aware of the charge prior to the health measure being carried out and agrees to pay it.

Power to request information

27. (1) This section applies where the proper officer has reasonable grounds for believing that a person (P), a ship, an aircraft or a thing (whether or not on board a ship or aircraft) at a port or aerodrome presents or could present a risk of spreading infection or contamination.

(2) Subject to subsection (3), the proper officer may request information about P or the ship, aircraft or thing from any person who the proper officer has reasonable grounds for believing has or might have such information as the officer may require for the purposes of—

- (a) assessing the level of the risk presented by P, the ship, the aircraft or the thing; or
- (b) removing or reducing the risk presented by P, the ship, the aircraft or the thing.

(3) The proper officer may not request information about P under subsection (2) from another person where P is willing and able to provide the information requested.

(4) The information about P that the proper officer may request under subsection (2) includes—

- (a) P's name and address;
- (b) P's medical condition;
- (c) P's travel history; and
- (d) the circumstances giving rise to the risk or possible risk of P spreading infection or contamination.

(5) The information about a ship or aircraft that the proper officer may request under subsection (2) includes—

- (a) where it came from; and
- (b) the circumstances giving rise to the risk or possible risk of the ship or aircraft spreading infection or contamination.

(6) The information about a thing that the proper officer may request under subsection (2) includes—

- (a) what it is;
- (b) what it is made of;
- (c) what it is for;
- (d) where it came from; and
- (e) the circumstances giving rise to the risk or possible risk of the thing spreading infection or contamination.

(7) A person to whom a request is addressed under subsection (2) must provide the information requested to the proper officer insofar as it is known to that person.

(8) A person who fails to comply with subsection (8) without reasonable excuse commits an offence.

Penalty: a fine of £5,000.

Power to request accommodation

28. (1) The Harbour Master must comply with any reasonable request made by a proper officer for suitable accommodation within the port to be made available to that proper officer for the purpose of exercising his or her functions under this Ordinance.

(2) The aerodrome operator must comply with any reasonable request made by a proper officer for suitable accommodation within the aerodrome to be made available to that proper officer for the purpose of exercising his or her functions under this Ordinance.

(3) Accommodation made available to the proper officer under subsection (1) or (2) must be made available free of charge.

(4) If the Harbour Master or aerodrome operator fails without reasonable excuse to comply with this section, then he or she commits an offence:

Penalty: a fine of £5,000.

Duty to inform officer of Revenue and Customs

29. The proper officer must inform a customs officer where that proper officer exercises any function under sections 8, 12, 13, 18 to 22 or 26 in relation to a person or thing which affects the exercise of functions by that customs officer.

Part 7 *Offences*

False or misleading information

30. A person who intentionally or recklessly provides false or misleading information to a proper officer carrying out a function under this Ordinance commits an offence.
Penalty: a fine of £20,000.

Obstruction

31. A person who wilfully obstructs a proper officer carrying out a function under this Ordinance commits an offence.
Penalty: a fine of £20,000.

Part 8 Miscellaneous

Regulations

33. (1) The Governor in Council may make regulations generally for carrying into effect the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1), regulations may provide for forms to be used and procedures to be adopted for or in connection with the operation of this Ordinance, including but not limited to—

- (a)* provisions relating to port and aerodrome sanitary measures and all matters connected to it and the loading and landing or unloading of goods or articles by ships and aircraft under observation;
- (b)* provisions relating to the production and issue of ship sanitation certificates;
- (c)* provision for fees and charges and for the recovery of such fees and charges and of any other expenses incurred in disinfection, decontamination or other required sanitary measures;
- (d)* prescribing any other matter which may be prescribed under this Ordinance.

(2) Regulations made under subsection (1) may make provision for penalties for the breach of any such section, not exceeding £5,000 and imprisonment for a term not exceeding 6 months.

Repeal of legislation

34. The Port (Health) Ordinance, 1905, is repealed.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

The purpose of this Ordinance is to introduce provisions to regulate port and aerodrome health and prevent the spread of infection or contamination which may potentially be introduced by ships or aircraft arriving in or departing from St Helena.