



ST HELENA

REVISED EDITION OF THE LAWS, 2017

MARITIME & AVIATION LAW

AIRPORT DEVELOPMENT ORDINANCE, 2006¹

*Ordinance 3 of 2006
In force 1 March 2006*

Amended by Ordinances 11 of 2007, 2 of 2008

Subsidiary legislation:

AIRPORT DEVELOPMENT AREA ORDER, 2008

Legal Notice 14 of 2008

Amended by L.N. 21/2011, L.N. 5/2012, 36/2012

AIRPORT DEVELOPMENT ORDINANCE, 2006

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¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

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AN ORDINANCE to facilitate the design, construction and operation of an airport in St Helena, and for connected or incidental purposes.

PART I PRELIMINARY

Short title and commencement

1. This Ordinance may be cited as the Airport Development Ordinance, 2006 and comes into force on a date the Governor appoints by notice in the *Gazette*.

Interpretation

2. (1) In this Ordinance, unless the context otherwise requires—

“**airport**” means any area of land designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and services and facilities for use in connection with the landing and departure of aircraft, and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing vertically;

“**Airport Development Area**” means any area designated as such in accordance with section 4;

“**Airport Development Area Order**” means an order made under section 4;

“**development**” means the carrying out of a building, engineering, or other physical operation in, on, over or under any land that has been designated to be an Airport Development Area;

“**infrastructure**”, in the definition of “project”, has its ordinary English meaning but does not include anything in the nature of a shop, restaurant, bar, hotel, or similar facility;

“**project**” means the design, construction and operation of an airport and associated services and infrastructure in St Helena;

“**services**”, in the definition of “project”, means services provided in or adjacent to the airport for facilitating the handling of passengers and freight or for the comfort or convenience of employees, passengers and other visitors, and includes (without limiting that definition) shops, restaurants, bars, and car parks.

(2) The term “**project**” includes the construction of a jetty in Rupert’s Bay and a new Bulk Fuel Store in Rupert’s Valley, and the term “**associated infrastructure**” (without limiting its meaning) includes the construction of new roads.

(3) References in this Ordinance to “**land**” include land covered by water.

Contractual arrangements

3. The Governor in Council may enter into a contract, or a series of contracts, for the purpose of facilitating the project.

PART II AIRPORT DEVELOPMENT

Designation of land for airport development

4. The Governor in Council may, subject to section 5, by order published in the *Gazette*, designate any land in St Helena to be an Airport Development Area.

Airport Development Area Orders

5. (1) An order under section 4 must not be made unless, at least 28 days before the order is made—

- (a) notice has been published in the *Gazette*, and in any newspapers from time to time in circulation in St Helena, stating that the Governor in Council proposes to make the order and inviting objections or representations as to the making of the order;
- (b) notice has been served on any person who is the proprietor of any registered interest in any land proposed to be included in the order that is not Crown land;
- (c) the advice of a Council Committee has been requested if any land proposed to be included in the order has been designated as a forest under the Forestry Ordinance, 1954;
- (d) the advice of the Environmental Coordinator has been requested with regard to any environmental matters affecting, or that might affect, the land that is proposed to be included in the order;
- (e) the advice of a Council Committee has been requested as to the social impact of the proposed order;

and unless the Governor in Council is, after considering any advice, objections or representations received, satisfied that—

- (i) it is desirable to make the order for the purpose of facilitating the project; and
- (ii) the registered proprietor of any private land included in the order (and of every registered interest in any such land) has consented to the making of the order.

(2) At any time after the expiry of the 28 day period mentioned in subsection (1), the Governor in Council may proceed with the making of the order even if any advice requested under that subsection has not been received.

(3) An Airport Development Area Order does not affect existing ownership or interests in any land.

- (4) An Airport Development Area Order may contain provisions for—
- (a) regulating access to all or any part of the Airport Development Area which is Crown land, either generally or in relation to specified persons or classes of persons;
 - (b) subject to subsection (3), regulating the activities of persons within an Airport Development Area.

(5) A person who contravenes or attempts to contravene any provision of an

Airport Development Area Order commits an offence.

Penalty: A fine of £5,000.

(6) *Omitted*

PART III MODIFICATION OF EXISTING LAWS

References to consent of Governor in Council

6. In this Part, references to anything done with the consent of the Governor in Council include anything authorised to be done—

- (a) by an Airport Development Area Order;
- (b) in a contract entered into in accordance with section 3;
- (c) by decision of the Governor in Council, if certified under the hand of the Clerk of Councils; or
- (d) by a public officer authorised for the purpose by the Governor in Council either by an Airport Development Area Order under paragraph (a) or by a decision under paragraph (c).

Compliance with local legislation

7. (1) Nothing done in an Airport Development Area with the consent of the Governor in Council is to be held to be in contravention of the—

- (a) Electricity Ordinance, 1961;
- (b) Health and Safety Ordinance, 1977;
- (c) Telecommunications Ordinance, 1989;
- (d) Highways Ordinance, 1881;
- (e) Road Traffic Ordinance, 1985;
- (f) Water Ordinance, 1978;
- (g) Forestry Ordinance, 1954;

but the Governor in Council must not consent to any act or omission which (but for that consent) would be contrary to any of those Ordinances unless the Governor in Council is satisfied that—

- (i) it is desirable to so consent in order to avoid delay or additional cost in the project; and
- (ii) the giving of consent is not against the public interest.

(2) Any consent given in accordance with subsection (1) may be made subject to any conditions the Governor in Council considers appropriate.

(3) Anything done in breach of conditions imposed under subsection (2) is to be treated as a contravention of the relevant legislation set out in subsection (1).

Land Planning and Development Control Ordinance, 2013

8. (1) Subject to subsection (1A), nothing done in an Airport Development Area with the consent of the Governor in Council is to be held to be in contravention of the Land Planning and Development Control Ordinance, 2013 (or any statutory amendment or re-enactment of that Ordinance).

(1A) The Governor in Council must consult the Land Development Control Authority (“**the Authority**”) before consenting to any matter which, apart from this subsection, would normally require the approval of the Authority.

(2) At any time after the expiry of 28 days from the date on which the Authority was consulted under the proviso to subsection (1), the Governor in Council may proceed with the granting of permission even if the comments of the Authority have not been received.

Petroleum and explosives

9. Nothing contained in any Ordinance enacted before this Ordinance (or any subsidiary legislation made under such an Ordinance) renders unlawful anything done with the consent of the Governor in Council for the purposes of the project with regard to the importation, transportation, storage or use of petroleum or explosives.

Immigration Ordinance, 2011

10. Notwithstanding anything contained in Part 6 of the Immigration Ordinance, 2011, a contract made under section 3 may authorise a party to the contract who does not have St Helenian status to have the occupation and use of land within an Airport Development Area, for the duration of the contract.

AIRPORT DEVELOPMENT ORDINANCE, 2006

AIRPORT DEVELOPMENT AREA ORDER, 2008 (Section 4)

Citation

1. This Order may be cited as the Airport Development Area Order, 2008.

Airport Development Areas

2. The parcels of land and other areas described in the Schedule are designated as Airport Development Areas.

Restriction of access to designated areas

3. (1) The Head of the Project Management Unit may, with the approval of the Governor in Council, restrict access to any land or area which has been designated as an Airport Development Area under paragraph 2, and such an area is hereinafter referred to as a “**restricted area**”.

(2) Notice of any restriction under subparagraph (1) may be given in any manner that the Head of the Project Management Unit considers appropriate, including by fencing off the restricted area, but must include displaying suitable notices around the perimeter of each restricted area indicating the nature of the restriction.

(3) *Omitted*

SCHEDULE
(Article 2)

| <u>Area No.</u> | <u>Description of area</u> |
|-----------------|--|
| 1. | Deadwood: Parcels Nos. 41, 94, 100, 101 and 143 |
| 2. | Longwood North: Parcels Nos. 254, 269, 273, 313, 369, 370, 383 and 391 |
| 3. | Longwood South: Parcels Nos. 36, 37, 38, 123 and 456 |
| 4. | Prosperous Bay: Parcels Nos. 4, 10, 13, 14 and 15 |
| 5. | Rupert's Valley: Parcels Nos. 25, 31, 32, 33, 35, 36, 46, 47, 54, 57, 63, 65 and 79 |
| 6. | Rupert's Bay: The water covered area of Rupert's Bay within a radius of 500 meters from the point where the boundary between parcels 31 and 65 touches the waterline |
| 7. | Silver Hill: Parcels Nos. 35, 36, 37, 329, 341, 348, 380, 381 |
| 8. | The Barn: Parcel No. 1 |
| 9. | White Hill: Parcels Nos. 1, 3 and 4 |
| 10. | Jamestown: Block 17, Parcel 74 |
| 11. | Inshore waters: A radius of 500 meters of inshore waters measured from the waterline along the coast from Bay Point located in Prosperous Bay, Parcel No. 2 to Gill Point located in White Hill, Parcel No. 3. |
