



## ST HELENA

### REVISED EDITION OF THE LAWS, 2017

### ENVIRONMENT AND NATURAL RESOURCES

### **FORESTRY ORDINANCE, 1954<sup>1</sup>**

*Ordinance 9 of 1954*

*In force 25 October 1954*

*Amended by Ordinances 10 of 1955, 6 of 1959, 9 of 1973, 2 of 1985, 5 of 1993, 2 of 2001, L.N. 4/1967, L.N. 18/2011*

*Subsidiary legislation:*

**CONSTITUTION OF FORESTS ORDERS** – *Omitted*

*See Legal Notices 8/1955, 25/1955, 13/1956, 6/1957, 8/1957, 11/1957, 7/1958, 5/1959, 8/1962, 14/1976, 4/1977, 3/1993, 5/1993, 17/1994, 20/1994, 21/1994, 28/1994, 3/1995, 16/1995, 7/1995, 18/1995, 16/1996, 23/1997, 24/1997, 13/2001, 3/2002, 9/2002, 1/2005, 1/2009, 4/2010, 10/2010, 17/2014 and 22/2014*

**CONTROLLED AREAS DECLARATION ORDERS** – *Omitted*

*See Legal Notice 4 of 1956*

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### **FORESTRY ORDINANCE, 1954**

#### ARRANGEMENT OF SECTIONS

1. Short title, application
2. Interpretation
3. Administrative provisions
4. Governor in Council may constitute forests
5. Proposal of the Governor in Council to be made known
6. Objections may be lodged
7. Committee to consider objections
8. Committee to submit recommendations to Governor in Council
9. Recommendations by Committee to be published in the *Gazette*
10. Powers of Governor in Council
11. Order to be defined
12. Amendment, variation or revocation of order
13. Management expenses
14. Protection of forests

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<sup>1</sup> 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.

15. Control of forests
16. Power of Forestry Officer to enter upon any land in St Helena
17. Obstruction
18. Payment of damages in addition to punishment
19. Governor in Council may declare controlled areas
20. Protection of controlled areas
21. Governor in Council may make regulations

AN ORDINANCE to provide for the constitution, management and protection of forests, for the preservation of tree growth and of indigenous trees and plants and for other connected purposes.

### Short title, application

1. This Ordinance may be cited as the Forestry Ordinance, 1954 and applies only to St Helena.

### Definitions

2. In this Ordinance, unless the context otherwise requires—
- “**Committee**” means a Council Committee;
- “**dedicated forest**” means any area of land constituted as a dedicated forest by the Governor in Council under section 4(1)(b);
- “**forestry assistant**” means a person appointed as such under section 3;
- “**forest guard**” means a person appointed as such under section 3 and any police officer;
- “**Forestry Officer**” means the person appointed by the Governor under section 3 to be the Forestry Officer for the purposes of this Ordinance;
- “**forest produce**” means and includes—
- (a) timber, firewood, charcoal, wood oil, gum, resin, natural varnish, tanning extracts, tanning barbs, fruits, fibres, bark and lac;
  - (b) trees and all parts and produce of trees not otherwise mentioned in this definition;
  - (c) plants, including climbers and grasses, creepers and all parts and produce of such plants;
  - (d) wood ashes;
  - (e) peat, surface soil and minerals other than minerals within the meaning of any Ordinance regulating the working of minerals;
  - (f) marl, gravel, limestone, rock and laterite;
  - (g) honey, beeswax, guana, silk-cocoons, humus and all produce from animals;
- “**indigenous tree**” and “**indigenous plant**” mean respectively a tree and a plant of a kind indigenous to St Helena;
- “**national forest**” means any area of Crown land constituted as a national forest by the Governor in Council under section 4(1)(a);
- “**protected private forest**” means any area of land constituted as a protected private forest by the Governor in Council under section 4(1)(c);
- “**owner**” includes lessee and manager and the attorney of any owner or lessee.

### Administrative provisions

3. (1) The Governor may appoint any public officer to be the Forestry Officer for the purpose of this Ordinance.

(2) The Forestry Officer is responsible for the execution of the provisions of this Ordinance, and of all orders, resolutions and rules given or made under it.

(3) The Governor may appoint one or more persons to be forest guards and forestry assistants for the purposes of this Ordinance.

(4) This Ordinance must be administered by the Environment and Natural Resources Directorate.

### **Governor in Council may constitute forests**

4. (1) The Governor in Council may constitute—

- (a) any area of Crown land as a national forest;
- (b) any area of any privately owned land, in respect of which the Governor in Council has received a written request from the owner that it should be placed under the control of the Forestry Officer, as a dedicated forest; or
- (c) any area of privately owned land, which the Governor in Council is satisfied is managed on sound forestry principles and in respect of which the Governor in Council has received a written request from the owner that it should receive the protection of this Ordinance, as a protected private forest.

(2) Before any lands are constituted as a national forest, a dedicated forest or a protected private forest a notice must be published by the Governor in the *Gazette*—

- (a) specifying as near as may be the situation, the limits and the ownership of such lands;
- (b) declaring that it is intended to constitute such lands a national forest, a dedicated forest or a protected private forest as the case may be;
- (c) instructing the Committee to inquire into and determine what rights, if any, exist in favour of any person in or over any of the land in question and to hear and determine any objections to the constitution of such lands as a national forest, dedicated forest or protected private forest as the case may be.

### **Proposal of the Governor in Council to be made known**

5. Upon publication of the notice required by section 4(2), the Committee must immediately—

- (a) cause the particulars contained in the notice to be made known in the district in which the lands are situated in a manner the Committee decides; and
- (b) appoint and make known, in a manner the Committee decides, a day (not less than 6 weeks after the publication of the notice) and a place for the hearing of objections to the proposal set out in the notice.

### **Objections may be lodged**

6. Any objection to the proposal set out in the notice and any claim to any rights in or over the land in question may be made in writing and sent to the Forestry Officer at any time prior to the hearing and any objector or claimant may, whether or not the objector has lodged objections in writing, appear before the Committee on the appointed day and state the objections or claims in person.

### **Committee to consider objections**

- 7.** On the day and at the place appointed the Committee must -
- (a) consider any written objections or claims which have been received by the Forestry Officer; and
  - (b) hear and take written note of the representations of all persons who appear before the Committee to state their objections or claims in person.

### **Committee to submit recommendations to Governor in Council**

- 8.** At the conclusion of the proceedings under section 7 the Committee must –
- (a) admit or reject, wholly or in part, all claims and objections brought to its knowledge;
  - (b) announce the nature of the recommendations it has decided to make in the matter; and
  - (c) send the recommendations to the Governor in Council.

### **Recommendations by Committee to be published in the *Gazette***

**9.** The recommendation announced by the Committee under section 8 must be published in the *Gazette*, and any person aggrieved by the recommendation may appeal in writing to the Governor in Council within a period of one month from the date of its publication.

### **Powers of Governor in Council**

**10. (1)** On receipt of a recommendation by the Committee under section 8, the Governor in Council may cause any further investigation to be made that it thinks necessary.

**(1A)** On the expiration of the period within which appeals may be lodged, after considering the results of any such investigation together with any written appeals that may have been lodged and the representations of any persons the Governor in Council considers desirable to call before the Governor in Council, the Governor in Council may—

- (a) by order constitute the whole or any part of any Crown land the subject of the Committee's recommendation, as a national forest;
  - (b) by order constitute any area of the privately owned land the subject of the Committee's recommendation as a dedicated forest or a protected private forest;
- or
- (c) reject the recommendation of the Committee.

**(2)** Notice of the rejection of any recommendation of the Committee must be published in the *Gazette*.

### **Order to be defined**

- 11.** Any order constituting a forest must set forth—
- (a) the nature of the forest, whether national forest, dedicated forest or protected private forest;
  - (b) the limits of the lands which constitute the forest;

- (c) any rights reserved to any person in the lands.

### **Amendment, variation or revocation of order**

**12. (1)** The Governor in Council may, after consultation with the Committee and subject to the following subsections, amend, vary or revoke any order relating to the constitution of land as a national forest, dedicated forest, or protected private forest.

**(2)** Notice of intention to amend, vary or revoke an order must be published in the *Gazette* and must—

- (a) describe the land affected;
- (b) contain details of the proposed amendment, variation, or revocation;
- (c) specify a date not earlier than 6 weeks from the date of the notice for written representations or objections to be lodged; and
- (d) specify a date not earlier than 6 weeks from the date specified in the preceding paragraph when it is proposed that the order will be amended or revoked.

**(3)** The Governor in Council must before amending, varying, or revoking any order take into consideration all matters that appear to the Governor in Council to be relevant, including—

- (a) the recommendations of the Committee;
- (b) a report by the Forestry Officer on the environmental consequences of the loss of such forest;
- (c) the value of the land for forestry purposes; and
- (d) any representations or objections lodged under subsection (2)(c).

**(4)** The Governor in Council may only act in opposition to the advice and recommendations of the Committee if the Governor certifies that the amendment, variation or revocation of an order is necessary for a public purpose.

### **Management expenses**

**13. (1)** All expenses arising from the management of a dedicated forest must be met in the first place by the Government, but their recovery by Government is a first charge upon the revenue of the forest.

**(2)** Any balance of the revenue of a forest after payment of all expenses as provided by subsection (1) must be paid to the forest owner.

### **Protection of forests**

**14. (1)** Except with the written permission of the Forestry Officer or in exercise of any right reserved and specified in an order made under this Ordinance, no person may in any national forest, dedicated forest or protected private forest—

- (a) cut, dig, burn or carry away any soil;
- (b) cut, gather, burn or carry away any forest produce;
- (c) permit any stock to enter or remain in the forest;
- (d) bring or make any fire in the forest;
- (e) obstruct any public officer or forest guard or forestry assistant in the lawful execution of his or her duties in connection with the forest;

- (f) use any motor vehicle (including cars, four wheel drives, motor bikes and trucks) on any forest land (including Crown wastes and footpaths) except on a defined track.

(2) A person who contravenes any provision of subsection (1) commits an offence.

Penalty: A fine of £100.

(3) The Forestry Officer and any person acting under his or her instructions (including every forest guard and forestry assistant) may take any action that is necessary to prevent any contravention of the provisions of this section which the Forestry Officer or person has reason to believe is about to be committed.

### **Control of forests**

15. The Forestry Officer or any person acting under his or her authority in a national or dedicated forest, and the owner or any person acting under his or authority in a protected private forest may fell, dig up, destroy, burn, sow, plant or foster vegetation, or cut, dig or turn the soil to such extent and in such manner as is, in opinion of the Forestry Officer, owner or person, necessary for the improvement and management of the forest in accordance with the established principles of forestry.

### **Power of Forestry Officer to enter upon any land in St Helena**

16. The Forestry Officer or any forest guard or forestry assistant or other public officer authorised in writing by the Governor for the purpose, may enter upon and pass and re-pass over any land in St Helena for the purposes of this Ordinance or of any order or rule made under it.

### **Obstruction**

17. A person who assaults, obstructs or in any way whatsoever hinders the Forestry Officer or any forest guard or forestry assistant or other public officer lawfully engaged in carrying out the provisions of this Ordinance or of any order or rule made under it commits an offence.

Penalty: A fine of £100.

### **Payment of damages in addition to punishment**

18. If a person is charged with a contravention of this Ordinance or of any order or rule made under it and it appears that the contravention has resulted in damage to a national forest, a dedicated forest or a protected private forest -

- (a) the court hearing the charge must take evidence as to and determine the amount of such damage; and
- (b) if the court convicts the person of an offence, the court may in addition to imposing the penalty provided for the offence, order payment by the person convicted of the amount so determined as an additional penalty.

### **Governor in Council may declare controlled areas**

**19. (1)** The Governor in Council may declare any area, outside areas that are constituted as forests, on which the preservation of tree growth is considered necessary for the protection of natural resources of St Helena, as a controlled area.

**(2)** Before an area is constituted as a controlled area a notice must be published by the Governor in the *Gazette* specifying as nearly as practicable the situation, the limits and the ownership of the area.

### **Protection of controlled areas**

**20. (1)** In a controlled area no person may cut down any tree or carry away any forest produce except with the written permission of the Forestry Officer, who may include in such permission any conditions with regard to felling and replanting that he or she considers necessary for the proper protection of natural resources.

**(2)** It is an offence for a person to -

*(a)* contravene subsection (1); or

*(b)* fail to comply with any of the conditions of a permit issued under that subsection.

Penalty: A fine of £100.

**(3)** The Forestry Officer and any person acting under his or her instructions may take any action that is necessary to prevent any contravention of this section which the Forestry Officer or person has reason to believe is about to be committed.

### **Governor in Council may make regulations**

**21. (1)** The Governor in Council may make regulations for -

*(a)* the preservation, development and management of forests constituted under this Ordinance;

*(b)* the preservation of tree growth in controlled areas so constituted;

*(c)* the preservation of kinds of indigenous trees and kinds of indigenous plants from extinction; and

*(d)* generally for giving effect to the purposes of this Ordinance.

**(2)** Regulations made under subsection (1) may -

*(a)* prescribe the kinds of trees and plants which are to be deemed to be indigenous to St Helena; and

*(b)* provide for penalties not exceeding £100 for any contravention of the rules.

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