



## ST HELENA

### REVISED EDITION OF THE LAWS, 2017

#### MARITIME & AVIATION LAW

#### **MERCHANT SHIPPING LAWS**

- *There is no local Ordinance governing merchant shipping as such.*
- *By virtue of section 5 of the English Law (Application) Ordinance, 2005, all English laws on merchant shipping and oil pollution from ships that were in force on 1 January 2006 and were capable of applying to St Helena continue to apply, with necessary modifications, unless inconsistent with local law. In particular, this means that most of the provisions of the UK Merchant Shipping Act, 1895, apply to St Helena.*
- *A list of other UK merchant shipping laws which apply by virtue of the English Law (Application) Ordinance, or of their own force, or by Order in Council, is in Part E of the List of UK Laws Applied to St Helena, Ascension and Tristan da Cunha on this website.*
- *The Admiralty Rules, 1912 which appeared in the 2001 Revised Edition are no longer in force. See now equivalent rules made under sections 20 to 24 of the Senior Courts Act, 1981 which apply to St Helena by virtue of the Admiralty Jurisdiction (St Helena and its Dependencies) Order 1969 (SI 1969/858). That Order applied the Administration of Justice Act 1956 which was replaced by the 1981 Act.*

*See also the following local Ordinances which affect merchant shipping:*

Ports Ordinance, 2016

Ports (Health) Ordinance, 1905

Light Dues Ordinance, 1955

Environmental Protection Ordinance, 2016

High Seas Fishing Ordinance, 2001

Protection of Wrecks and Marine Archaeological Heritage Ordinance, 2014

St Helena Fisheries Corporation Ordinance, 1979

**The following items of subsidiary legislation were made locally:<sup>1</sup>**

#### **COMPULSORY INSURANCE REGULATIONS, 1976**

*Legal Notice 7 of 1976*

*In force 1 April 1976*

*No amendments to 1 November 2017*

#### **JAMESTOWN (REGISTRY PORT) ORDER, 1977**

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<sup>1</sup> *Under section 10 of the Revised Edition of the Laws Ordinance, 1999 the text of the subsidiary legislation is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.*

*Legal Notice 23 of 1977*  
*In force 30 September 1977*  
*No amendments to 1 November 2017*

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## **MERCHANT SHIPPING (OIL POLLUTION) ACT, 1971**

### **COMPULSORY INSURANCE REGULATIONS, 1976**

(Made by the Governor under sections 10(1) and (4) and 11(3) of the Act as applied to St Helena by the Merchant Shipping (Oil Pollution)(Overseas Territories) Order 1975 (S.I. 1975/2171). The 1975 Order was revoked and replaced by the Merchant Shipping (Oil Pollution)(St Helena) Order 1998 (SI 1998/1263) but subsidiary legislation made under it is saved by the UK Interpretation Acts. )

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#### **Citation, commencement and interpretation**

1. (1) These Regulations may be cited as the Oil Pollution (Compulsory Insurance) Regulations 1976, and come into operation on 1 April 1976.

(2) In these Regulations, unless the context otherwise requires—  
“**Certificate**” means a document showing that there is in force in respect of a ship to which section 10(2) of the Act applies a contract of insurance or other security such as is mentioned in that subsection;

“**Convention country**” has the meaning assigned to it in section 19(1) of the Act;

“**St Helena**” means St Helena, Ascension and Tristan da Cunha.

#### **Definition of “persistent oil”**

2. For the purposes of section 10(1) of the Act (requirements as to compulsory insurance against liability for oil pollution) “**persistent oil**” means any of the following—

- (a) hydrocarbon mineral oils whether crude or distilled, including crude coal tar and the oily residue of tank cleaning operations necessitated by the carriage of any such oils, but excluding those oils which consist wholly of distillate fractions of which more than 50 per cent by volume distil at 340° centigrade when tested by the “American Society for Testing and Materials Specification D 86/67” in the case of oils derived from petroleum and at 350° centigrade in the case of oils derived from coal tar;
- (b) residual oil, consisting of mineral hydrocarbons comprising the residues of the process of distilling and/or refining crude petroleum, and any mixture containing such residual oil;
- (c) whale oil.

## Recognition of certificates

3. (1) Subject to sub-regulation (3), certificates for ships registered in any country which is not a Convention country are to be recognised for the purposes of section 10(3)(c) of the Act (authorities by whom a certificate must be issued) if issued by or under the authority of the government of any of the following countries, namely—

Denmark,  
Federal Republic of Germany,  
France,  
Netherlands,  
Norway,  
Spain,  
Sweden,  
United Kingdom.

(2) Subject to sub-regulation (3), a certificate for a ship registered in any of the following countries, namely—

Australia,  
Austria,  
Belgium,  
Canada,  
Finland,  
Greece,  
Iceland,  
Italy,  
Japan,  
Luxembourg,  
New Zealand,  
Portugal,  
Republic of Ireland,  
Switzerland,  
Turkey,  
United States of America,

are to be recognised for the purposes of that section 10(3)(c) if issued by or under the authority of the government of the country specified above in which that ship is registered.

(3) Where a ship such as is mentioned in sub-regulation (1) or (2) is engaged on a St Helena voyage, a certificate relating to that ship is not, by virtue of either of those sub-regulations, to be recognised for the purposes of section 10(3)(c) of the Act unless the certificate has, and is expressed to have, as the period of its validity a period ending not earlier than the completion of that St Helena voyage.

For the purposes of this paragraph, “**St Helena voyage**” means any voyage by a ship—

- (a) from a port in St Helena or a terminal in the territorial sea of St Helena to another such port or terminal;
- (b) from a place outside St Helena to a port in St Helena or a terminal in the territorial sea of St Helena; or
- (c) from a port in St Helena or a terminal in the territorial waters of St Helena to a place outside S. Helena,

and the reference to the duration of such a voyage is to be taken as comprising the whole of any period during which the ship is engaged in that voyage, including any time during which in connection with the voyage, it is in a port in St Helena or at a terminal in the territorial sea of St Helena.

### **Fee for certificate**

4. The fee payable on application for a certificate to be issued by the Governor under section 11 of the Act is £12.00.

### **Cancellation and delivery up of certificates**

5. (1) If at any time while a certificate under section 11 of the Act is in force the person to whom the certificate has been issued ceases to be the owner of the ship to which the certificate relates, the person must forthwith deliver up the certificate to the Governor and in such a case the certificate must be cancelled by the Governor.

(2) If at any time while a certificate under section 11 is in force it is established in any legal proceedings that the contract of insurance or other security in respect of which the certificate was issued is or may be treated as invalid, the certificate may be cancelled by the Governor and if so cancelled must on demand forthwith be delivered up to the Governor by the person to whom it was issued.

(3) If at any time while a certificate under section 11 is in force circumstances arise in relation to the insurer or guarantor named in the certificate (or, where more than one is so named, to any of them) such that, if the certificate were applied for at that time, the Governor would be entitled to refuse the application under subsection (2) of that section (power to refuse a certificate where there is a doubt whether an insurer will be able to meet insurance obligations), the certificate may be cancelled by the Governor and if so cancelled must on demand forthwith be delivered up to the Governor by the person to whom it was issued.

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## **MERCHANT SHIPPING ACT, 1894**

*Made by the Governor under sections 4(1)(e) and 89 of the Act, which applies to St Helena by implication*

### **JAMESTOWN (REGISTRY PORT) ORDER, 1977**

#### **Citation**

1. This Order may be cited as the Jamestown (Registry Port) Order, 1977.

#### **Port Jamestown**

2. The port of Jamestown in St. Helena is approved as a port for the registry of British Shipping.

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