



ST HELENA

REVISED EDITION OF THE LAWS 2017

RECREATION & TOURISM

ST HELENA NATIONAL TRUST ORDINANCE, 2001¹

*Ordinance 10 of 2001
In force 1 May 2002*

Amended by Ordinances 2 of 2008, 14 of 2017

Subsidiary legislation:

ST HELENA NATIONAL TRUST REGULATIONS, 2002

Legal Notice 6 of 2002

ST HELENA NATIONAL TRUST ORDINANCE, 2001

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AN ORDINANCE to establish and make provision for the St Helena National Trust.

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.

Short title

1. This Ordinance may be cited as the St Helena National Trust Ordinance, 2001.

Interpretation

2. (1) In this Ordinance, unless the context otherwise requires—
“general meeting” means a meeting of the members of the Trust;
“Trust Council” means the Council of the Trust established under section 12;
“the President” means the President of the Trust Council elected under section 12(2)(a);
“the Trust” means the St Helena National Trust established under section 3;
“regulations” means regulations made by the Governor in Council under section 14.

- (2) Any reference to land in this Ordinance is to be read and construed as including a reference to any land under the territorial waters of St Helena.

St Helena National Trust established

3. (1) This section establishes a corporate body to be known as “The St Helena National Trust” and under that name to have perpetual succession and a common seal, which, subject to this Ordinance, has power to acquire, hold and dispose of moveable and immoveable property of whatever kind and to enter into contracts and to do all things necessary for the purposes of its functions.

- (2) The Trust may sue and be sued in its corporate name and may for all purposes be described by that name.

- (3) The seal of the Trust must be authenticated by the signature of the President and one other member of the Trust Council authorised to act in that behalf and is to be judicially and officially noticed.

- (4) All documents, other than those required by law to be under seal, made by the Trust, and all decisions of the Trust, may be signified under the hand of the President or any member or officer of the Trust authorised to act for that purpose.

Principal objects of Trust

4. The principal objects of the Trust are to—
 - (a) promote the permanent preservation for the benefit of St Helena of lands and buildings of beauty or historical interest and, in the case of lands, the preservation (so far as possible) of their natural aspect features and animal, plant and marine life;
 - (b) maintain and manage lands acquired by the Trust as open spaces or places of public resort and buildings so acquired for purposes of public recreation, resort or instruction;
 - (c) promote the preservation of buildings of public interest or architectural, historic or artistic interest and places of natural interest or beauty and the protection and augmentation of the amenities of such buildings and places and their surroundings;

- (d) promote the preservation of furniture, pictures, documents, and chattels of any description having national or historic or artistic interest;
- (e) tender advice to the St Helena Government on any matter contained in this section;
- (f) promote the access to and enjoyment of such lands, buildings, places, and chattels by the public;
- (g) develop any land, whether by the construction of buildings or otherwise.

Specific powers of Trust

5. Without limiting section 3(1), the Trust has power to—

- (a) acquire by purchase, lease, demise, gift, exchange or otherwise, and hold by its corporate name on trust or otherwise any land or building in St Helena, or any object of art or handicraft;
- (b) restore, maintain, and improve any such land, building, object of art or handicraft;
- (c) lease, sell, or otherwise deal with any such land, building, or object of art or handicraft;
- (d) invest funds in any land or securities in St Helena or in securities out of St Helena;
- (e) form, or take part in forming, companies;
- (f) manage, maintain, improve, lease, sell or otherwise deal with any land developed, or any building constructed, by the Trust in pursuance of object (g) in section 4;
- (g) act alone, or with other persons either in partnership or otherwise.

Governor may grant property to the Trust

6. (1) The Governor may grant to the Trust any land or interest in land over which the Governor has the power of disposition as the Governor thinks fit, and may grant to the Trust control over submarine areas, including control over access to such areas, activities within such areas, and such other form of control as the Governor thinks fit:

(2) No land may be granted to the Trust under this section except upon the condition that it be declared inalienable under section 7.

Certain property of Trust to be inalienable

7. (1) The Trust Council may by resolution determine that any land or building vested in the Trust, or any portion of the land specified in the resolution, is proper to be held for the benefit of St Helena and such land or building is thereupon so held by the Trust and is inalienable.

(2) Any property acquired by the Trust pursuant to section 6 must be declared inalienable by the Trust Council.

(3) Notwithstanding subsection (1), the Trust may grant any easement or right (not including a right to the exclusive possession of the surface) over or in respect of any property made inalienable by that subsection.

Power to enter into agreements restricting development of land

8. (1) If any person is willing to agree with the Trust that any land is, so far as the person's interest in the land enables the person to bind it, to be made subject to any restriction on its development, being a restriction in conformity with the principal objects of the Trust, the Trust may, subject to the approval of the Governor in Council, enter into an agreement with that person ("**the donor**") under this section.

(2) Every agreement under this section must be—

- (a) executed by the Trust and the donor;
- (b) recorded in a register to be maintained by the Registrar of Lands for the purpose; and
- (c) available for inspection by the public at all reasonable times.

(3) Notwithstanding—

- (a) the absence of valuable consideration for the making of an agreement under this section affecting a donor's interest in land; or
 - (b) any other rule of law or equity to the contrary,
- the Trust has power to enforce the agreement against the donor or any person succeeding to that interest

(4) *Repealed*

(5) *Repealed*

Membership of Trust

9. (1) The members of the Trust are to be divided into—

- (a) ordinary subscribing members, who subscribe annually to the Trust such sum as the Trust Council from time to time specifies;
- (b) life members, who pay such lump sum to the Trust as the Trust Council from time to time specifies;
- (c) society members, which are clubs, societies or other associations of persons and pay such annual subscription as the Trust Council specifies in relation to that club, society or association of persons;
- (d) honorary members, who are persons who give to the Trust any property which, in the opinion of the Trust Council, is proper to be preserved for the benefit of St Helena or such sum or other property or services as appear to the Trust Council to entitle such persons to be distinguished as honorary members;
- (e) junior members, who are persons under the age of 16 years who subscribe annually to the Trust such sum as the Trust Council from time to time specifies.

(2) Every ordinary subscribing member, every society member and every junior member is liable for the amount of the respective-subscription, which is payable on the 1st April of each year, subject to subsection (3).

(3) Any ordinary subscribing member, society member or junior member may at any time prior to 31st March in any year resign from membership and cease to be a member by sending a resignation in writing to the secretary of the Trust and thereupon that person ceases to be liable for the amount of the subscription on the following 31st March and thereafter.

Liabilities of members of Trust

10. No member of the Trust is liable for or to contribute towards the payment of the debts and liabilities of the Trust beyond the amount of the annual subscription of such member or of any contribution agreed to be given and remaining unpaid.

General meetings of Trust

11. (1) A general meeting (“**the annual general meeting**”) must be held once a year in each year.

(2) All general meetings, other than the annual general meeting, are to called “special meetings”.

(3) The annual general meeting and special meetings must be convened in accordance with regulations made under this Ordinance.

Trust Council

12. (1) There is to be a Trust Council to further the purpose and exercise the powers of the Trust, and to execute any other functions conferred upon it by or under this Ordinance.

(2) The Trust Council is to consist of the following members—

- (a)* the president, vice-president, secretary, treasurer and 2 at-large members, who are to be elected at the annual general meeting for a term established by regulations made under section 14;
- (b)* 2 members appointed by the Governor in Council from persons who are members of the Trust;
- (c)* the Chair or designated representative of each of the bodies set out in subsection (3);
- (d)* any other persons the Trust Council co-opts as members.

(3) The following bodies are each entitled to appoint one member of the Council—

- The St Helena Heritage Society;
- The St Helena Nature Conservation Group;
- The St Helena Tourism Association;
- The St Helena Diving Club;
- The St Helena Art and Crafts Association;
- The St Helena Farmers’ Association.

(4) The Trust Council is to be deemed fully constituted and all acts and proceedings of the Trust Council are to be deemed valid in all respects if and so long as 6 members have been appointed or elected to the Trust Council and is not to be deemed invalid by reason of a vacancy in its membership or by reason of a defect in the appointment or election of a member to it.

(5) If any elected member of the Trust Council dies or resigns the Trust Council

may appoint in his or her place another member of the Trust to be a member of the Trust Council and any member so appointed continues in office until the next annual general meeting after his or her appointment.

(6) No member of the Trust Council is entitled to any remuneration for his or her services as a member of the Trust Council.

(7) Only members specified in section 9(1)(a), (b) and (d) qualify for election or appointment to the Trust Council.

(8) The president must fix the date, time and place of meetings of the Trust Council—

- (a) as often as he or she considers it necessary, but in any case at least once in a period of 6 calendar months; and
- (b) at the written request of a majority of the Trust Council made at least 14 days before the date proposed by such members for a meeting.

(9) Subject to any regulations made under this Ordinance, the Trust Council may regulate the proceedings of its meetings as it thinks fit, and must keep minutes of those proceedings.

Powers of Trust Council

13. (1) The Trust Council has the charge and management of the business of the Trust and may exercise all the powers of the Trust other than those exercisable by the Trust in general meeting.

(1A) No regulation made or resolution passed by the Trust in general meeting invalidates any prior act of the Trust Council which would have been valid if such regulation or resolution had not been made or passed.

(2) The Trust Council may exercise its powers through any committee, including an executive committee, of the Trust Council as the Trust Council decides.

(3) The Trust Council may appoint such officers and servants as it from time to time considers desirable and may fix their salaries and conditions of service.

Governor in Council may make regulations

14. (1) The Governor in Council may make regulations—

- (a) as to the procedure of the Trust Council (including the quorum to be required at meetings);
- (b) as to the conduct of the business and affairs of the Trust;
- (c) for regulating the conduct of persons on or about the property of the Trust for the protection of that property, the prevention of nuisances and the preservation of order upon any such property;
- (d) for authorising an officer of the Trust after due warning to remove or exclude from any property of the Trust any person who in the opinion of that officer has caused or is likely to cause injury or damage to that property or whose presence or continued presence is likely to be detrimental to the preservation of order on

- the property of the Trust;
- (e) for prohibiting the hindrance or obstruction of an officer of the Trust in the exercise of his or her powers or duties under this Ordinance or under any regulations made under this section;
- (f) generally for the better carrying out of the provisions of this Ordinance.

(2) Regulations made under this section may provide that any contravention of them is an offence punishable on summary conviction by a fine not exceeding £1,000.

Financial provisions

15. (1) The funds of the Trust consist of—

- (a) money appropriated by the St Helena Government for the purpose of the Trust and accepted by the Trust;
- (b) donations, grants and bequests to the Trust which have been accepted by the Trust; and
- (c) any other money that vests in or accrues to the Trust, whether in terms of this Ordinance or otherwise.

(2) The funds of the Trust must be wholly applied towards furthering the objects of the Trust and discharging its functions.

(3) The Trust must keep proper accounts of its receipts, payments, assets and liabilities, in a form to be approved by the Financial Secretary.

(4) The accounts of the Trust must be audited annually by the Chief Auditor of the St Helena Government and the members, employees and officers of the Trust or Trust Council must grant to the Chief Auditor access to all the books, documents, cash and securities of the Trust and, on request, all information that is within their knowledge in relation to the operation of the Trust

(5) A copy of the audit report of the Chief Auditor must be laid before the Legislative Council simultaneously with the annual report referred to in section 18.

Tax exemptions

16. The Trust is exempt from all present and future assessments, rates and taxes and from any tax payable under any statutory provision in respect of any property owned by or vested in the Trust

Exemption from stamp duty

17. Any transaction involving the Trust is exempt from the payment of any stamp duty under the Stamp Duties Ordinance, 1987 for which, but for this section, stamp duty would be payable.

Annual report of Trust

18. (1) The Trust Council must, within 3 months of the end of each financial year, prepare and present to the annual general meeting a report of its proceedings during that

year together with a complete statement of its financial position and its accounts.

(2) The Trust Council must forward copies of the report referred to in subsection (1) to the Governor and the Financial Secretary and the Financial Secretary must, after receiving the annual report, lay it before the Legislative Council.

ST HELENA NATIONAL TRUST ORDINANCE, 2001

ST HELENA NATIONAL TRUST REGULATIONS, 2002

(Section 14)

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Citation

1. These Regulations may be cited as the St Helena National Trust Regulations, 2002.

Interpretation

2. (1) In these Regulations—
“Council” means the Trust Council established under section 12 of the Ordinance;
“notice” means any notice required or permitted under these Regulations, and is good and sufficient if published in an issue of a local newspaper;
“Officers” means the president, vice-president, secretary and treasurer;
“resolution” means any formal decision of the Council, proposed and approved by a majority of Council members eligible to vote at a meeting of the Council;
“Trust agent” means any officer, Council member or other person, whether volunteer or employed, who is appointed by the Council to act for the Trust in the management of Trust affairs or the management of Trust properties.

- (2) Expressions not otherwise defined in these Regulations have the same meaning as in the Ordinance.

Logo of Trust

3. The Logo of the Trust is as shown in the Schedule to these Regulations.

Membership

4. (1) The Council must, in accordance with section 9(1)(c) of the Ordinance, establish classes of membership in the Trust for—

- (a) clubs;
 - (b) societies; or
 - (c) other associations of persons, to be known as corporate members;
- and must specify the subscription to be paid for each class of member.

(2) A person who pays a subscription for any class of member specified under sub-regulation (1) is to be taken to be applying for membership of the class appropriate to that subscription.

(3) Payment of a subscription secures membership in the appropriate class for a period of 12 months expiring on the anniversary of the payment.

(4) A member who fails to pay the relevant subscription within 3 months after becoming a member of the Trust or within 3 months after the date set out in section 9(2) of the Ordinance ceases to be a member of the Trust

(5) The Council must cause to be kept a register of members in which must be entered –

- (a) the name and address of each member;
- (b) the class of membership of each member;
- (c) the date on which a member became a member;
- (d) the date on which a member ceases to be a member.

(6) The contents of the register of members are *prima facie* evidence of any matter directed or authorised by these Regulations to be entered in the register.

Trust Council

5. (1) The 4 officers and the 2 at-large members must be elected by ballot at the annual general meeting.

(2) Subject to sub-regulation (3), officers serve a term of 2 years each, and except for the president are eligible for re-election. The president may not serve more than 2 consecutive terms of 2 years each but is eligible for re-election after a period of 12 months out of office. Elected council members serve a term of one year but are eligible for re-election.

(3) A serving officer or elected member of Council is not be eligible for re-election if he or she has failed to attend 50% of the regular meetings of the Council during the previous year unless the Council by resolution and for good cause waives this disqualification.

(4) Not less than 6 weeks prior to the annual general meeting, the Council must appoint a Nominating Committee of 5 members of the Trust in good standing, at least 2 of

whom must not be members of the Council, but with a member of the Council as Chair of the committee.

(5) The Nominating Committee must submit to the Council a list of nominees for the Officers and elected Council members. The nominees must be members of the Trust in good standing who have indicated their willingness to stand for election. The Nominating Committee must nominate one person for each position.

(6) The Council must review the list of nominees submitted by the Nominating Committee, and, after making any changes the Council sees fit, must adopt the list as the Council list of nominees. Not less than 2 weeks before the annual general meeting, the Council must publish the list of nominees by inclusion in the notice for the meeting.

(7) Additional nominations may be made in writing signed by the proposer and a seconder (each being a member of the Trust in good standing) and by the person nominated, to be received at the office of the Trust not later than the close of business 2 days before the date of the annual general meeting. Such nomination must designate the office to which the person is being nominated.

(8) Elections must be conducted according to the following rules—

- (a) the Council must appoint a member of the Trust who is not a member of the Council, or a member of the Council who is not standing for re-election, to conduct the election;
- (b) elections must be conducted by secret ballot at the annual general meeting, with the candidate who receives the plurality of votes being elected for each position;
- (c) a proxy vote is to be valid if it is given under the signature of the absent member to a member attending the annual general meeting and delivered before the commencement of the election to the person conducting the election;
- (d) if only one nominee is standing for election to any office, he or she is to be deemed to have been elected to that office;

(9) Officers and elected members take office at the first Council meeting held after the annual general meeting at which they were elected.

(10) If any member of the Council misses 3 consecutive meetings, the Council may resolve on the motion of the president to declare that member's office to be vacant.

(11) A vacancy arising under sub-regulation (10) or through the death, resignation or absence from St Helena for more than 6 months of a member, or for any other reason, may be filled by the Council co-opting a member of the Trust until the next annual general meeting.

Council meetings

6. (1) Not less than 7 days' notice of a Council meeting must be given to each member of the Council by the secretary.

(2) The secretary must summon a meeting of the Council within 14 days of the receipt by the secretary of a request made pursuant to section (8)(b) of the Ordinance.

(3) The secretary must keep minutes for each meeting. The minutes must be reviewed by members of the Council at the next meeting and, when approved and signed by the president, constitute proof of action taken at the meeting which they record.

(4) The quorum of a meeting of the Council is a majority of the members present on St Helena at the time.

(5) The vice-president, failing whom a member elected by the Council, presides at meetings of the Council in the absence of the president.

(6) Any question arising at a meeting of the Council must be decided by a majority of the members present and voting and, in the event of an equality of votes, the president or member presiding at the meeting has a casting vote, as well as an original vote.

General meetings

7. (1) The secretary must mail to each member of the Trust written notice of the date, time, place and agenda of every general meeting of the Trust. Such notice must be mailed no less than 14 days prior to the date of the meeting.

(2) 15 or more members may sign and submit to the president a petition calling for a special meeting and setting out the business to be discussed; and the president must, within 21 days of receiving the petition, summon a special meeting.

(3) At all general meetings, every individual member aged 18 or older who is present is entitled to vote on any matter, and a majority of such members present decides all issues, unless a greater majority is required by the Ordinance or by any other law. The president has a casting vote as well as an original vote.

(4) A society member must, by notice in writing delivered to the secretary, nominate the person who may vote or stand for election on its behalf at any general meeting.

(5) Subject to regulation 5(8) as to elections, at any general meeting, a resolution of the meeting is to be decided on show of hands unless a poll is demanded by 5 or more members present at the meeting.

(6) Unless a poll is so demanded, a declaration by the president that a resolution has, on the show of hands, been carried or not carried, is conclusive evidence of the fact without proof of the number of votes recorded in favour or against such resolution. A demand for a poll may be withdrawn before the poll is taken.

(7) If a poll is demanded, it must be taken in any manner the president thinks fit and the poll is to be deemed to be a resolution of the meeting at which it was demanded.

(8) On a show of hands or a poll, each member has one vote, which may be given either in person or by proxy. In the case of equality of votes, the president is entitled to a casting vote in addition to an original vote.

(9) An instrument appointing a proxy must be in writing under the hand of the appointor, be addressed to a member attending the meeting for which the proxy is given, and

be delivered before the commencement of that meeting.

(10) The president presides at all general meetings and, in the president's absence, the vice-president acts as president. In the absence of both the president and the vice-president, the members present at the meeting may appoint any member of the Council to act as president.

(11) In addition to any other business to be conducted at the annual general meeting, the president or a nominee of the president must present the annual report for the previous year, containing an account of the activities of the Trust during the year, an audited financial report, and goals for the following year.

(12) A quorum at a general meeting is 10% of the members or 12 people, whichever is fewer.

Trust Committees

8. (1) The Council may appoint an Executive Committee to which it may entrust the day-to-day business of the Trust, to be chaired by the president of the Council, and including such members of Council and persons employed or co-opted by the Trust as the Council decides.

(1A) Any significant business conducted by the Executive Committee must be reported to the next meeting of the Council.

(2) The Council may appoint any other committees that it from time to time finds necessary.

(3) For all Trust committees, the following rules apply:

- (a) the Council may appoint a Chair but if it does not, the members of the committee must choose a Chair from among their number;
- (b) the committee must appoint a secretary, who is to be responsible for maintaining minutes of the committee's meetings. Such minutes, once approved by the committee, must be copied to the Council secretary; and
- (c) regulation 7, with appropriate modifications, applies to meetings of the committee.

National Heritage Register

9. (1) The Trust must establish and maintain a National Heritage Register of natural, cultural and historical resources and property ("**the heritage register**") that the Council determines are of national significance and worthy of preservation.

(2) The Council must, from time to time, fix criteria for the inclusion of any cultural, historical or natural resource or property in the heritage register.

(3) Any individual may recommend to the Council any resource or property for inclusion in the heritage register.

(4) The Council must review any recommendations received under sub-regulation

(3) and, after consultation with the owners of the resources or properties concerned, if any, must resolve whether to include the resources or properties in the heritage register.

(5) The Council may categorise resources or properties included in the heritage register according to the importance of their preservation.

(6) The Trust must offer whatever help towards preserving resources or properties included in the heritage register it considers appropriate and feasible, and in so doing must seek the co-operation of the owner concerned.

Financial regulation and review

10. (1) The Council must open and operate a principle account with a bank under the name of the Trust.

(2) The Council must nominate members of Council and staff to be signatories in respect of the Trust's bank account as is from time to time appropriate and convenient. All cheques drawn on the account must require to be signed by at least two signatories.

(3) In addition to the Trust's principal account the Council may authorise—

- (a) the opening and operation of separate accounts for special purposes;
- (b) the establishment of a reserve account to which it may appropriate sums as it decides from time to time for the purpose of funding any contingent or non-recurrent expenditure.

(4) The books of the Trust must be closed on 31st March each year, and must be available for inspection by any member of the Council.

(5) The Council may, from time to time, appoint a financial review committee consisting of—

- (a) the treasurer as Chair;
- (b) up to 4 other members of the Council; and
- (c) ~~such~~ other persons co-opted to the committee by the Council whose expertise may be useful to the committee; such persons may not vote on any matter before the committee.

(6) The function of the financial review committee is to consider matters referred to it by the Council which, in the opinion of the Council, may have potentially significant economic implications for the Trust

Trust properties

11. (1) Before the Trust acquires any property or interest in any property by whatever means, the Council must consider the immediate and long-term implications of such acquisition.

(2) Among the matters required to be considered by the Council before any acquisition are the following—

- (a) the report of the financial review committee, if any;
- (b) the overall finances of the Trust;

- (c) the priorities for allocation of Trust resources;
- (d) any proposed endowment or other arrangement for the maintenance of the property in question; and
- (e) any other relevant information.

(3) For each property owned by the Trust the Council must put in place an operations and management plan that establishes among other things—

- (a) hours of operation;
- (b) entry fees, if any;
- (c) designation of, and an explanation for, those areas which are to be open to the public and those areas which are to be closed; and
- (d) any other rules necessary to be made for the management of each property.

(4) The operations and management plan for a property must be published and is binding on members of the public visiting the property to which it relates.

Appointment and powers of employees and agents

12. (1) The Council may appoint such employees and agents as it considers necessary for the management of the affairs of the Trust and the management of Trust properties.

(2) The Council must, in making such appointments, fix the duties and responsibilities, remuneration, if any, and reporting relationship for the employees and agents so appointed.

(3) All employees and agents of the Trust have the power to eject from Trust properties any person not complying with the rules regarding the property.

SCHEDULE

(Regulation 3)

LOGO OF THE NATIONAL TRUST


