

ST HELENA

REVISED EDITION OF THE LAWS, 2017

ENVIRONMENT AND NATURAL RESOURCES**FORESTRY ORDINANCE, 1954¹**

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, 4 of 2023

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, 22/2014 and 8/2021

CONTROLLED AREAS DECLARATION ORDERS – Omitted

See Legal Notice 4 of 1956

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~~ Minister to consider objections
8. ~~Committee~~ Minister to submit recommendations to Governor in Council
9. Recommendations by ~~Committee~~ Minister 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
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

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 25 May 2021.

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;~~²
- “Chief Forestry Officer” means a person appointed as such in accordance with section 3;*³
- “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;~~⁴
- ~~“forest guard” means a person appointed as such under section 3 and any police officer;~~⁵
- “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;*
- “Minister” means the person appointed in accordance with section 37A of the Constitution of St Helena, Ascension and Tristan da Cunha to be the Minister charged with responsibility for the constitution, management and protection of forests, for the preservation of tree growth and of indigenous trees and plants;*⁶
- “national forest” means any area of Crown land constituted as a national forest by the Governor in Council under section 4(1)(a);*
- “portfolio” means the area of responsibility allocated to a Minister in accordance with section 37B of the Constitution of St Helena, Ascension and Tristan da Cunha;*⁷
- “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 *Chief*⁸ Forestry

² Definition omitted by Ordinance 4/2023

³ Definition inserted by Ordinance 4/2023

⁴ Definition omitted by Ordinance 4/2023

⁵ Definition omitted by Ordinance 4/2023

⁶ Definition inserted by Ordinance 4/2023

⁷ Definition inserted by Ordinance 4/2023

⁸ Word inserted by Ordinance 4/2023

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.~~

(2) Unless otherwise provided the Chief Forestry Officer is responsible for the execution of the provisions of this Ordinance, and of all orders, resolutions and rules given or made under the Ordinance and may in the Chief Forestry Officer's discretion, delegate any of the functions of the Chief Forestry Officer to a forestry officer.⁹

(3) The Governor may appoint ~~one or more persons to be forest guards and forestry assistants~~ a person to be a forestry officer¹⁰ for the purposes of this Ordinance.

(4) This Ordinance must be administered by the Environment and Natural Resources Directorate Portfolio¹¹.

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 Chief¹² 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~~ Minister¹³ 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~~ Minister 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~~ Minister decides; and
- (b) appoint and make known, in a manner the ~~Committee~~ Minister 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

⁹ Subsection (2) substituted by Ordinance 4/2023

¹⁰ Words substituted by Ordinance 4/2023

¹¹ Words substituted by Ordinance 4/2023

¹² Word inserted by Ordinance 4/2023

¹³ "Committee", wherever it occurs, substituted by "Minister" – Ordinance 4/2023

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 *Chief*¹⁴ 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~~ *Minister* on the appointed day and state the objections or claims in person.

~~Committee~~ *Minister* to consider objections

7. On the day and at the place appointed the ~~Committee~~ *Minister* must -
- (a) consider any written objections or claims which have been received by the *Chief*¹⁵ Forestry Officer; and
 - (b) hear and take written note of the representations of all persons who appear before the ~~Committee~~ *Minister* to state their objections or claims in person.

~~Committee~~ *Minister* to submit recommendations to Governor in Council

8. At the conclusion of the proceedings under section 7 the ~~Committee~~ *Minister* 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~~ *Minister* to be published in the *Gazette*

9. The recommendation announced by the ~~Committee~~ *Minister* 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~~ *Minister* 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~~ *Minister*'s recommendation, as a national forest;
- (b) by order constitute any area of the privately owned land the subject of the ~~Committee~~ *Minister*'s recommendation as a dedicated forest or a protected private forest; or
- (c) reject the recommendation of the ~~Committee~~ *Minister*.

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

Order to be defined

¹⁴ Word inserted by Ordinance 4/2023

¹⁵ Word inserted by Ordinance 4/2023

- 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~~ *Subject to subsection (1A) the Governor*¹⁶ in Council may, after consultation with the ~~Committee~~ *Minister* 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.

(1A) The Minister may subject to the following subsections, amend, vary or revoke any order relating to the constitution of land one acre or less than one acre in size as a national forest, dedicated forest, or protected private forest.

*(1B) An amendment, variation or revocation pursuant to subsection (1A) must in writing be notified to the Executive Council as soon as possible but not more than 28 days after such amendment, variation or revocation.*¹⁷

(2) ~~Notice of intention to amend~~ *A Notice to amend*¹⁸, 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~~ *28 days*¹⁹ from the date of the notice for written representations or objections to be lodged; and
- (d) specify a date not earlier than ~~6 weeks~~ *28 days*²⁰ 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~~ *Minister*;
- (b) a report by the *Chief*²¹ 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).

(3A) The Minister must before amending, varying, or revoking an order take into consideration all matters that appear to the Minister to be relevant, including—

- (a) a report by the Chief Forestry Officer on the environmental consequences of the loss of such forest;*
- (b) the value of the land for forestry purposes; and*
- (c) any representations or objections lodged under subsection (2)(c).*²²

¹⁶ Words substituted by Ordinance 4/2023

¹⁷ Subsections (1A) and (1B) inserted by Ordinance 4/2023

¹⁸ Words substituted by Ordinance 4/2023

¹⁹ Words substituted by Ordinance 4/2023

²⁰ Words substituted by Ordinance 4/2023

²¹ Word inserted by Ordinance 4/2023

²² Subsection 3A inserted by Ordinance 4/2023

(4) The Governor in Council may only act in opposition to the advice and recommendations of the ~~Committee~~ *Minister* 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 *Chief*²³ 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;~~ *obstruct any public officer or forestry officer in the lawful execution of the public officer's or forestry officer's duties in connection with the forest;*²⁴
- (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. The Chief Forestry Officer and any person acting under the instructions of the Chief Forestry Officer may take any action that is necessary to prevent any contravention of the provisions of this section which the Chief Forestry Officer or person instructed by the Chief Forestry Officer has reason to believe is about to be committed.~~²⁵

Control of forests

15. The *Chief*²⁶ 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 her 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 *Chief*²⁷ Forestry Officer, owner or person, necessary for the improvement and management of the forest in

²³ Word inserted by Ordinance 4/2023

²⁴ Paragraph (e) substituted by Ordinance 4/2023

²⁵ Subsection (3) substituted by Ordinance 4/2023

²⁶ Word inserted by Ordinance 4/2023

²⁷ Word inserted by Ordinance 4/2023

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.~~

Power to enter upon any land in St Helena

16. *The Chief Forestry Officer, a forestry officer 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.*²⁸

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.~~

17. *A person who assaults, obstructs or in any way whatsoever hinders the Chief Forestry Officer, a forestry officer 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.*²⁹

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

²⁸ Section 16 substituted by Ordinance 4/2023

²⁹ Section 17 substituted by Ordinance 4/2023

forest produce except with the written permission of the *Chief*³⁰ 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 *Chief*³¹ 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 *Chief*³² 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.

³⁰ Word inserted by Ordinance 4/2023

³¹ Word inserted by Ordinance 4/2023

³² Word inserted by Ordinance 4/2023