



## ST HELENA

### A BILL

### FOR

### AN ORDINANCE

**to amend the Immigration Ordinance, 2011, to revise the provisions for entry into St Helena; to further regulate the conditions for the employment of immigrants in St Helena; to revise penalties; to make the Chief Immigration Officer responsible for matters related to asylum and for connected and incidental purposes.**

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Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

#### **Short title and commencement**

1. (1) This Ordinance may be cited as the Immigration (Amendment) Ordinance, 2026.
- (2) This Ordinance comes into force on a date fixed by the Governor by Order.

#### **Amendment of the Immigration Ordinance 2011**

2. The Immigration Ordinance 2011 is amended as set out in sections 3 to 38.

#### **Amendment of section 2 (interpretation)**

3. In section 2(1)—
  - (a) before the definition of “approved form” insert—  
“**“administrative review”** means the review process as set out in section 12;”;
  - (b) after the definition of “entry permit” insert—  
“**“holiday permit”** means a permit granted in accordance with section 19;”;
  - (c) in the definition of “Islander”, after paragraph (d) insert—  
“(e) a person aged 18 or older, who immediately before 18 October 1999 was a child with islander status in accordance with paragraph (e) of the definition of “islander” in the Immigration Ordinance 1972 (as set out in Schedule I);”;
  - (d) omit the definition of “long term entry permit”;
  - (e) after the definition of “passport” insert—  
“**“permission to stay and work permit”** means a permit granted in accordance with section 19;”;
  - (f) omit the definition of “short term entry permit”;
  - (g) omit the definition of “work permit”.

#### **Insertion of section 2A (payment of fees)**

4. After section 2 insert—

**“Payment of fees**

**2A. (1)** Where a fee is prescribed by this Ordinance, or by regulations made under it, in respect of an application, appeal, or any other process or service, such application, appeal, or process shall not be deemed to have been made, lodged, or received by the relevant authority until the full amount of the prescribed fee has been paid.

**(2)** For the purposes of any statutory time limits or deadlines prescribed in this Ordinance, the date of the application or appeal shall be the date on which the payment is received by the relevant authority.

**(3)** If a fee remains unpaid for a period exceeding 14 days from the date of the initial submission of documentation, the application or appeal shall be treated as withdrawn and no further action shall be taken in respect thereof.”.

**Substitution of the terms “long term entry permit” and “short term entry permit”**

5. **(1)** For “long term entry permit”, in each place it occurs in the Ordinance, substitute “permission to stay and work permit”.

**(2)** For “short term entry permit”, in each place it occurs in the Ordinance, substitute “holiday permit”.

**Amendment of fines**

6. **(1)** For “A fine of £2,500” wherever it occurs substitute “A fine of £4,000”.

**(2)** For “A fine of £5,000” wherever it occurs substitute “A fine of £8,000”.

**(3)** In section 23(5)(b) for “A fine of “£10,000” substitute “A fine of £15,000”.

**Amendment of section 3 (obligations of masters of vessels)**

7. In section 3(2)(a) after “dates of birth,” insert “passport numbers, passport dates of validity,”.

**Amendment of section 4 (appointment of immigration officers)**

8. For section 4(2) substitute—

“(2) The Chief Immigration Officer may delegate any of their powers and duties under this Ordinance to any other Immigration Officer.”.

**Amendment of section 5 (powers and duties of immigration officers)**

9. **(1)** In section 5(2), for “Without affecting the powers of the Board contained in this Ordinance, an” substitute “An”.

**(2)** After section 5(8) insert—

“(9) The Chief Immigration Officer may authorise detention under subsection (8) to be extended if—

- (a) the person being detained is awaiting removal from St Helena,
- (b) the person being detained cannot be removed from St Helena on a commercial flight within 48 hours of their detention, and
- (c) the Chief Immigration Officer has reasonable grounds to believe that the person being detained will attempt to evade removal from St Helena.

**(10)** The Chief Immigration Officer must record an authorisation under subsection (9) in writing, including the reasons for their decision, and must keep such decision under review while the person is being detained.”.

#### **Amendment of section 6 (Immigration Control Board)**

- 10. (1)** In section 6(2A), after “Immigration Officers,” insert “Customs Officers, Police Officers,”.
- (2)** In section 6(6)(c), after “Justice of the Peace” insert “, a Customs Officer, a Police Officer”.
- (3)** Omit sections 6(7)(b)(i), (ii), (iii) and (iv).

#### **Amendment of section 9 (disclosure of interests by board members)**

- 11. (1)** In section 9, from the heading omit “by Board members”.
- (2)** After section 9(2) insert—
  - “(3)** An Immigration Officer who has a direct or indirect interest in any matter which is being considered by the Immigration Officer must make full disclosure of the interest and refrain from participation on the matter.”.

#### **Amendment of section 11 (duty of confidentiality)**

- 12. (1)** For subsection 11(1) substitute—
  - “(1)** The members of the Board and Immigration Officers must treat as confidential all information presented to them in the exercise of their functions.”.
  - (2)** In subsection 11(3) after “Board” insert “and Immigration Officers”.

#### **Amendment of section 12 (appeals from decisions of Immigration Officer)**

- 13.** For section 12 substitute—

##### **“Administrative review of decisions of Immigration Officer**

**12. (1)** A person aggrieved by or dissatisfied with a decision of an Immigration Officer may, in the manner specified by the Chief Immigration Officer, submit an application for administrative review of the decision within 7 days of being notified of the decision.

**(2)** On an administrative review under this section, the appellant does not have a right to an oral hearing, but is entitled to make written submissions in support of their appeal, either personally or through a legal representative or other agent.

**(3)** This section does not apply to a decision of the Chief Immigration Officer made in respect of a matter related to asylum.”.

**Amendment of section 13 (appeals from decisions of Board)**

14. For section 13 substitute—

**“Appeals**

**13. (1)** A person aggrieved by or dissatisfied with a decision of the Board or an Immigration Officer (including a decision made on administrative review under section 12) may appeal to the Magistrates’ Court within 14 days (or any longer period the court, in exceptional circumstances, allows) of being notified of the decision.

**(2)** If a decision may be subject to administrative review under section 12, no appeal may be made to the Magistrates’ Court against that decision until it has been subject to administrative review.

**(3)** Appeals under this section must be heard *in camera* unless the court, with the consent of the Appellant, orders otherwise.

**(4)** This section does not apply to a decision of the Chief Immigration Officer made in respect of a matter related to asylum.”.

**Amendment of section 14 (appeals: supplemental)**

15. For section 14 substitute—

**“ Appeals: supplemental**

**14. (1)** Subject to sections 12 and 13, and this section, the procedure relating to appeals as prescribed in regulations made under section 43.

**(2)** On an administrative review under section 12, the initial decision in any matter may be confirmed or substituted by the Immigration Officer assigned to review the matter.

**(3)** On an appeal under section 13, the Magistrates’ Court may either confirm a decision of and Immigration Officer or the Board, or substitute any decision which an Immigration Officer or the Board could lawfully have made.”.

**Amendment of section 15 (persons having by right or by grant St Helenian status)**

16. In section 15 for “Board”, in each place it occurs, substitute “Chief Immigration Officer”.

**Amendment of section 16 (deprivation and loss of status)**

17. In section 16 for “Board”, in each place it occurs, substitute “Chief Immigration Officer”.

**Amendment of section 16A (visa requirement to travel to St Helena)**

18. In section 16A, for subsection (2) substitute—

**“(2)** Subsection (1) does not apply to any person who—

(a) has St Helenian status or a dependent of a person who has St Helenian Status,

(b) holds a valid permission to stay and work permit, or

- (c) can produce proof—
  - (i) that they will be a crew member on duty on the vessel on which they will be travelling to St Helena,
  - (ii) that they will be leaving St Helena on the same or a different vessel, and
  - (iii) that, if they are leaving St Helena on a different vessel to the one they arrived on, their departure has been confirmed for no later than seven days after their arrival.”

### **Amendment of section 17 (general provisions for control of immigrants)**

19. For section 17 substitute—

#### **“General provisions for control of immigrants**

**17. (1)** Subject to subsection (3), no immigrant may enter or remain in St Helena unless they are authorised to do so by either—

- (a) an entry permit,
- (b) a landing permission, or
- (c) discretionary leave granted in accordance with regulations made under section 43 and subsection (2).

**(2)** Regulations may prescribe circumstances in which an Immigration Officer may give permission (to be known as “discretionary leave”) for an immigrant to enter (or remain in) St Helena.

**(3)** Subsection (1) does not apply to—

- (a) a dependant of a person who has St Helenian status;
- (b) the Governor or a person arriving in St Helena to take up the role of Governor;
- (c) a person who is employed by the Government of the United Kingdom and who is on duty in St Helena;
- (d) a dependant of a person referred to in paragraph (b) or (c);
- (e) a person who, upon arrival in St Helena, is an officer or a member of the crew of a vessel which has been approved by the Chief Immigration Officer for the purposes of this subsection, and who is under an engagement requiring him or her to leave on that vessel;
- (f) a consular officer within the meaning of the Vienna Convention on Consular Relations, 1963.

**(4)** In respect of a person to whom subsection (3) applies, such persons are deemed to have permission to enter St Helena and, if they no longer for any reason fall into any of the categories listed under subsection (3), such permission will be regarded as automatically revoked one month after the date upon which the person no longer falls into such category unless the person applies for and obtains a holiday permit or a permission to stay and work permit.

**(5)** Policy directions given under section 41 must specify the circumstances in which the Chief Immigration Officer may approve a vessel for the purposes of subsection (3)(e).

**(6)** A person who contravenes any provision of subsection (1) commits an offence. Penalty: A fine of £8,000 or imprisonment for 12 months, or both.

**(7)** A person is not to be regarded as having committed an offence against subsection (6) by reason of entering the territorial waters or airspace if the person—

- (a) does so with the *bona fide* intention (which the person must prove) that they will apply for permission to enter and remain in St Helena at the first practicable opportunity to present themselves to an Immigration Officer for that purpose, and
- (b) in fact so presents themselves.

(8) Regulations may provide that, in prescribed circumstances, an application for an entry permit may be made by a person who is inside or outside St Helena.

(9) It is a defence to the offences in sections 16A(4) and 17(6) for a person to show that—

- (a) they have arrived in St Helena from a country where their life or freedom was threatened (within the meaning of the Refugee Convention),
- (b) presented themselves to the authorities in St Helena without delay,
- (c) showed good cause for their illegal entry or presence, and
- (d) made a claim for asylum as soon as was reasonably practicable after their arrival in St Helena.”.

### **Amendment of section 18 (entry permits)**

20. (1) Omit section 18(1A).

(2) After section 18(2) insert—

“(2A) The Chief Immigration Officer may grant a person discretionary leave to remain in St Helena—

- (a) in an emergency situation,
- (b) where the person is unable to leave St Helena upon the expiration of their entry permit and the Chief Immigration Officer considers it impractical to issue a further entry permit to the person, or
- (c) where a person is required to be in St Helena to carry out short term essential work.

(2B) Discretionary leave to remain granted under subsection (2A)—

- (a) may be granted, as the case may be, for the duration of the emergency, until it is practical for the person to leave St Helena or for the duration of the essential work, and
- (b) must comply with any regulations made in respect of discretionary leave under section 43.”.

(3) Omit section 18(4)(b).

(4) Omit section 18(5).

### **Amendment of section 19 (short term entry permits)**

21. (1) In section 19(1)—

- (a) in paragraph (a) after “183 days” insert “or, where the initial permit is extended, for a total period not exceeding 365 days”;
- (b) in paragraph (c) after “183 days” insert “, or 365 days if an extension was granted,”.

(2) For section 19(2) substitute—

“(2) A holiday permit is valid for the period (not exceeding 183 days initially, or not exceeding 365 days if extended) specified on it.”.

**(3)** In subsection (3)(c) for “183” substitute “365”.

**(4)** After subsection (3) insert—

“(4) A person who is granted a holiday permit may not work or be employed in St Helena.

**(5)** A person who is granted a holiday permit does not breach subsection (4) if they undertake voluntary work on St Helena provided that the voluntary work—

- (a) is undertaken for a registered charity or not for profit organisation,
- (b) is unpaid other than for the reimbursement of reasonable expenses during the work, and
- (c) does not exceed a cumulative total of 30 days during the person’s stay in St Helena.

**(6)** A person who is granted a holiday permit may, before the expiration of the holiday permit, apply for a permission to stay and work permit and, if one is granted, may work or be employed in accordance with any such conditions as may be attached to the permit.”.

#### **Amendment of section 20 (long term entry permits)**

**22. (1)** In section 20(1)—

- (a) in paragraph (a) for “The Board” substitute “An Immigration Officer”;
- (b) in paragraph (b) for by “exceeding 183 days” substitute “of up to five years”;
- (c) in paragraph (c) for “the Board” substitute “an Immigration Officer”.

**(2)** After subsection (1) insert—

“(1A) Asylum rules made in accordance with section 44 may provide circumstances in which a permission to stay and work permit may be granted to an asylum seeker.

**(1B)** Subject to section 19(5), an immigrant may not work or be employed in St Helena unless the person has been granted a permission to stay and work permit.”.

**(3)** For subsection (2) substitute—

“(2) At any time not exceeding three months before the expiry of a permission to stay and work permit, the person to whom it was granted may apply for a renewal of the permit and an Immigration Officer, after such enquiries into the matter as the Immigration Officer considers appropriate to make, must renew the permit (for a period not exceeding 5 years) unless—

- (a) the applicant no longer satisfies the relevant criteria for a permission to stay and work permit, or
- (b) the Immigration Officer is satisfied that the circumstances have changed since the permit was granted or last renewed in such a way that it would be contrary to the public interest to renew the permit.”.

#### **Amendment of section 21 (landing permission)**

**23.** In section 21—

- (a) in subsection (2)(b) for “24 hours” substitute “72 hours”;

- (b) in subsection 3 for “persons authorised to enter St Helena by that permission” substitute “passengers on board the vessel”;
- (c) in subsection (5) after “A fine” insert “of £15,000”.

**Amendment of section 22 (revocation of entry permits)**

24. In section 22—

- (a) in subsection (1) for “the Board if it is” substitute “the Chief Immigration Officer if they are”;
- (b) in subsection (2) for “Secretary” substitute “Chief Immigration Officer”.

**Insertion of section 22A (material change in circumstances)**

25. After section 22 insert—

**“Material change in circumstances**

**22A. (1)** For the purpose of this section a “**material change in circumstances**” includes—

- (a) a change in personal finances that renders a person unable to satisfy the person’s financial requirements,
- (b) a change in employment, or
- (c) any change in circumstance wherever such circumstance may be that may hinder a person from leaving St Helena or present any form of impediment to a person returning to the person’s place of origin, citizenship or similar status.

**(2)** Subject to subsection (5) where there is a material change in the circumstances of a person granted an entry permit, such person must as soon as is reasonably possible notify the Chief Immigration Officer of such change.

**(3)** Where a notification is made to the Chief Immigration Officer under subsection (2) the Chief Immigration Officer—

- (a) may investigate the basis of the notification,
- (b) may require any documentation which for such investigation may reasonably be required,
- (c) is only entitled to request such information necessary for the investigation,
- (d) must notify the person from whom the information is being requested of the reason that the information is being requested and provide such period of time that the Chief Immigration Officer considers reasonable in which to provide the information being requested, and
- (e) for the avoidance of doubt is bound by the duty of confidentiality specified in section 11 in respect of such information.

**(4)** A person in possession of documentation required pursuant to subsection (3) must when requested provide such documentation to the Chief Immigration Officer.

**(5)** A person to whom subsection (2) applies may, instead of making a notification to the Chief Immigration Officer under this section, within 7 days of the person becoming aware of the material change in the person’s circumstances, of the person’s own volition, leave St Helena.

**(6)** A person who leaves St Helena pursuant to subsection (5) is deemed not to be in violation of subsection (2).

**(7)** Upon investigation of a notification of material change of circumstances or in

circumstances where, in the Chief Immigration Officer’s reasonable opinion, such notification should have been made but was not, the Chief Immigration Officer may reassess the basis upon which an entry permit was granted and may—

- (a) revise the conditions upon which the entry permit was granted,
- (b) revise the type of entry permit granted, or
- (c) revoke the entry permit.

(8) The Chief Immigration Officer must, as soon as reasonably possible, notify a person making a notification under this section of the outcome of the Chief Immigration Officer’s investigation and decision pursuant to subsection (7).

(9) A person may in accordance with section 13 appeal a decision of the Chief Immigration Officer made under this section.”.

#### **Amendment of section 23 (restrictions on employment of immigrants)**

26. (1) For section 23(1) substitute—

“(1) In this Part, “**employment**” and “**work**” means to carry on or to be employed in any profession, trade, business or vocation for gain or reward, whether as an employee, agent, director or other officer of a corporate body, or as a self-employed person, in partnership or otherwise, but does not include any work done by a person who—

- (a) is employed by the Government of the United Kingdom and who is on duty in St Helena;
- (b) is required to be present in St Helena as a matter of urgency, and such urgency is to be determined by the Chief Immigration Officer;
- (c) is a consular officer within the meaning of the Vienna Convention on Consular Relations 1963, and as recognised by St Helena, or
- (d) has been granted discretionary leave to remain where such leave includes permission for the person to work.”.

(2) For section 23(2) substitute—

“(2) No immigrant, other than a dependent of a person who has St Helenian status, may lawfully work in St Helena unless they hold a valid permission to stay and work permit.”.

#### **Amendment of section 24 (work permits)**

27. Omit section 24.

#### **Amendment of section 25 (immigrant employment certificate)**

28. Omit section 25.

#### **Amendment of Amendment of section 26 (effect of non-compliance with conditions)**

29. Omit section 26.

#### **Amendment of section 29 (prohibited transactions)**

30. (1) In section 29(1) after “A fine” insert “of £8,000”.

(2) In section 29(5) for “Governor in Council” substitute “Governor on the advice of the Executive Council”.

**Amendment of section 30 (prohibited trusts)**

31. In section 30(1) after “A fine” insert “of £8,000”.

**Amendment of section 38 (general offences)**

32. In section 38(2) after “A fine” insert “of £15,000”.

**Amendment of section 41 (policy directions)**

33. (1) In section 41(1) for “The Governor, acting in his or her discretion” substitute “The Governor on the advice of the Executive Council”.
- (2) In section 41(2) for “The Governor in Council” substitute “The Governor on the advice of the Executive Council”.

**Amendment of section 42 (prohibited immigrants)**

34. For section 42(2) substitute—

“(2) Notice of a declaration under subsection (1) must be served on the person named in the declaration as soon as practicable after the declaration is made.”.

**Amendment of section 43 (regulations)**

35. In section 43—
- (a) for “The Governor in Council” substitute “The Governor on the advice of the Executive Council”;
- (b) in paragraph (1) omit “work permit.”.

**Amendment of section 44 (asylum rules)**

36. For section 44 substitute—

“44. (1) The Governor, acting in their discretion but after consulting the Executive Council, may make rules for securing St Helena’s obligations under—

- (a) the Refugee Convention,  
 (b) Article 3 of the Human Rights Convention, and  
 (c) section 7 of the Constitution protecting a person from being subject to torture or to inhuman or degrading treatment or punishment.

(2) Rules made under subsection (1) may modify the provisions of this Ordinance in their application to the matters specified in that subsection.

(3) The Chief Immigration Officer is responsible for the implementation and application of rules made pursuant to this section.”.

**Amendment of section 45 - repeals and transitional provisions**

37. After subsection 45(6) insert—

“(7) An entry permit issued to a person who was issued with a work permit or immigrant employment certificate which was valid prior to the repeal of provisions relating to work permits or immigrant employment certificates is not to be considered invalid or revoked as a consequence of such repeal, and any

such person or an immigrant who is validly employed but was not required to be issued with a work permit or immigrant employment certificate is deemed to have been granted a permission to stay and work permit and may remain in St Helena for the duration of the period that the person is employed at the time of the repeal of the provisions relating to work permits or immigrant employment certificates and under such applicable conditions of such employment.”.

## Amendment of Schedule II

38. In Schedule II for “Governor in Council” wherever it occurs substitute “Governor on the advice of the Executive Council”.

## Savings and transitional provisions

39. (1) Every entry permit, landing permission, work permit, or other permission granted under the principal Ordinance which is in force immediately before the commencement of this Ordinance shall, on and after such commencement, continue in force for the remainder of the period for which it was granted as if it had been granted under the principal Ordinance as amended by this Ordinance.
- (2) Where an application for a permit or permission has been made before the commencement of this Ordinance but has not been determined by that date, such application shall be dealt with and determined in accordance with the provisions of the principal Ordinance as amended by this Ordinance.
- (3) Except where a contrary intention appears, the amendment or repeal of any provision by this Ordinance does not affect—
- (a) the previous operation of the provision so amended or repealed or anything duly done or suffered thereunder,
  - (b) any right, privilege, obligation, or liability acquired, accrued, or incurred under the provision so amended or repealed, or
  - (c) any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, or liability.
- (4) Any person appointed to an office or board under the principal Ordinance and holding that office immediately before the commencement of this Ordinance shall continue to hold that office as if appointed under the principal Ordinance as amended by this Ordinance.
- (5) In this section, “**the principal Ordinance**” means the Immigration Ordinance 2011.

## Repeal

40. The Immigration (Amendment) Ordinance 2025 is repealed.

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### EXPLANATORY NOTE

*(This note is not part of the Ordinance)*

This Bill would increase penalties, remove the authority to make decision regarding entry into and employment in St Helena from the Board, remove the requirement for a work permit and an immigrant employment certificate, require immigrants employed by the Government to be issued with a permission to stay and work permit, permit the Chief Immigration officer to reassess an entry permit where there is a material change in the circumstances of a person to whom an entry permit was issued and grant discretionary leave in specified circumstances. The Bill would also make the Chief Immigration Officer responsible for matters related to asylum.