S.P. 10/23



St Helena
Government

ST HELENA GOVERNMENT

A BILL FOR AN ORDINANCE

FORESTRY (AMENDMENT) BILL, 2023



ST HELENA

A BILL

FOR

AN ORDINANCE

to amend the Forestry Ordinance, 1954, to revise administrative provisions and for incidental and connected purposes.

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

Short title, commencement and interpretation

1. **(1)** This Ordinance may be cited as the Forestry (Amendment) Ordinance, 2023.

(2) In this Ordinance, "the principal Ordinance" means the Forestry Ordinance, 1954.

Amendment of section 2 - Definitions

2. The principal Ordinance is amended in section 2 as follows—

(a) by repealing the definition of the word "Committee" and substituting the following definition—

"Chief Forestry Officer" means a person appointed as such in accordance with section 3;";

(b) by repealing the definitions of the terms "forestry assistant" and "forest guard";

(c) by inserting in the appropriate alphabetical sequence, the following definitions—

""**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;" and

""**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;".

Substitution of the word "Committee" with the word "Minister"

3. The principal Ordinance is amended by repealing the word "Committee" wherever this word appears and substituting the word "Minister".

Amendment of section 3 - administrative provisions

4. The principal Ordinance is amended in section 3 as follows—

(a) in subsection (1) by inserting the word "Chief" before the words "Forestry Officer";

(b) by repealing subsection (2) and substituting the following subsection—

"**(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.";

(c) in subsection (3) by repealing the words "one or more persons to be forest guards and forestry assistants" and substituting the words "a person to be a forestry officer"; and

(d) in subsection (4) by repealing the word "Directorate" and substituting the word "Portfolio".

Amendment of section 4 - Governor in Council may constitute forests

5. The principal Ordinance is amended in section 4*(b)* by inserting the word 'Chief" before the words "Forestry Officer".

Amendment of section 6 - Objections may be lodged

6. The principal Ordinance is amended in section 6 by inserting the word 'Chief" before the words "Forestry Officer".

Amendment of section 7 - Minister to consider objections

7. The principal Ordinance is amended in section 7 by inserting the word 'Chief" before the words "Forestry Officer".

Amendment of section 12 - amendment, variation or revocation of order

8. The principal Ordinance is amended in section 12 as follows—

(a) in subsection (1) by repealing the words "The Governor" and substituting the words "Subject to subsection (1A) the Governor";

(b) by inserting after subsection (1) the following subsections—

"**(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.

(c) in subsection (2) as follows—

(a) by repealing the words "Notice of intention to amend" and substituting the words "A Notice to amend"; and

(b) in paragraph (c) and (d) by repealing the words "6 weeks" and substituting the words "28 days";

(d) in subsection (3)*(b)* by inserting the word 'Chief" before the words "Forestry Officer";

(e) by inserting after subsection (3) the following subsection—

"**(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)*.".

Amendment of section 14 - protection of forests

9. The principal Ordinance is amended in section 14 as follows—

(a) in subsection (1) as follows—

(i) by inserting the word 'Chief" before the words "Forestry Officer"; and

(ii) by repealing paragraph *(e)* and substituting the following—

"*(e)* 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; and

(b) by repealing subsection (3) and substituting the following—

"**(3)** 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.".

Amendment of section 15 - control of forests

10. The principal Ordinance is amended in section 15 by inserting the word 'Chief" before the words "Forestry Officer" wherever these words appear in this section.

Amendment of section 16 - power of Forestry Officer to enter upon any land in St Helena

11. The principal Ordinance is amended by repealing section 16 and substituting the following section—

"**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 repass over any land in St Helena for the purposes of this Ordinance or of any order or rule made under it.".

Amendment of section 17 - obstruction

12. The principal Ordinance is amended by repealing section 17 and substituting the following section—

"**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.".

Amendment of section 20 - protection of controlled areas

13. The principal Ordinance is amended in section 20 by inserting the word 'Chief" before the words "Forestry Officer" wherever these words appear in this section.

EXPLANATORY NOTE
(This note is not part of the Ordinance)

This Bill would amend remove obsolete terms no longer used in the Ordinance, modify terms currently used in the Ordinance and revise the process prescribed in section 12 of the Ordinance of amending, varying or revoking an Order.