ST HELENA

REVISED EDITION OF THE LAWS, 2017

SECURITY & LAW ENFORCEMENT

IMMIGRATION ORDINANCE, 2011[1]

Ordinance 8 of 2011
In force 23 January 2012 (part)[2] and 1 May 2012 (remainder)[3]

Amended by Ordinances 2 of 2013, 4 of 2014, 6 of 2016 (in force 8 April 2016) and 14 of 2017 (in force 18 September 2017)

Subsidiary legislation:

ASYLUM RULES, 2012 *[Page 28]*
Legal Notice No. 1 of 2012

IMMIGRATION REGULATIONS, 2012 *[Page 32]*
Legal Notice No. 3 of 2012
Amended by L.N. 6 of 2013, L.N. 7 of 2014, L.N. 10 of 2016, L.N. 15 of 2018 L.N. 17 of 2019

WAIVER OF FEES (PASSENGERS AND CREW OF YACHTS), 2012 *[Page 42]*
Legal Notice No. 9 of 2012

IMMIGRATION (LANDHOLDING) REGULATIONS, 2012 *[Page 43]*
Legal Notice No. 16 of 2012

IMMIGRATION (VISA REQUIREMENT) ORDER, 2016 *[Page 49]*
Legal Notice 15 of 2016

IMMIGRATION (TEMPORARY MEASURES) REGULATIONS, 2018 *[Page 52]*
Legal Notice 19 of 2018

IMMIGRATION (PROHIBITED AND CONTROLLED ENTRY) REGULATIONS, 2020 *[Page 53]*
Legal Notice 9 of 2020
Amended by L.N. 10 of 2010, L.N. 18 of 2020 and L.N. 1 of 2021

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[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 4 January 2021.*
[2] L.N. 2/2012
[3] L.N. 15/2012

IMMIGRATION ORDINANCE, 2011

ARRANGEMENT OF SECTIONS

PART 1
PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Obligations of masters of vessels

PART 2
ADMINISTRATION AND CONTROL

4. Appointment of Immigration Officers
5. Powers and duties of Immigration Officers
6. Establishment of Immigration Control Board
7. Powers of the Board
8. Meetings of the Board
9. Disclosure of interest by Board members
10. Remuneration of members of the Board
11. Duty of confidentiality
12. Appeals from decisions of Immigration Officer
13. Appeals from decisions of Board
14. Appeals: supplemental

PART 3
ST HELENIAN STATUS

15. Person having by right or by grant St Helenian status
16. Deprivation and loss of status

PART 4
ENTRY AND RESIDENCE

17. General provisions for control of immigrants
18. Entry Permits
19. Short term entry permits
20. Long term entry permits
21. Landing permission
22. Revocation of entry permits

PART 5
EMPLOYMENT OF IMMIGRANTS

23. Restrictions on employment of immigrants
24. Work permits
25. Immigrant employment certificate
26. Effect of non-compliance with conditions

PART 6
LANDHOLDING BY IMMIGRANTS

27. Interpretation of Part
28. Cumulative landholding
29. Prohibited transactions
30. Prohibited trusts
31. Conditional instruments
32. Change of status
33. Applications for licences
34. Determination of applications
35. Breach of conditions
36. Investigation and discovery
37. Duties of Registrar of Lands

PART 7
SUPPLEMENTARY

38. General offences
39. Offences by corporate bodies
40. Evidence
41. Policy directions
42. Prohibited immigrants
43. Regulations
44. Asylum rules
45. Repeals and transitional provisions

Schedule I: Definition of "Islander"
Schedule II: Requirements for St Helenian status

AN ORDINANCE to control immigration of persons into St Helena and to provide for the status, rights, obligations and disabilities of immigrants; and for connected and incidental purposes.

PART 1
PRELIMINARY

Short title and commencement

1. (1) This Ordinance may be cited as the Immigration Ordinance, 2011, and comes into force on a date the Governor in Council appoints by Order in the *Gazette*.[4]

(2) An order under subsection (1) may appoint different dates for different provisions or for different purposes of the same provision, and may contain such incidental or transitional provisions as to the Governor in Council appear necessary or expedient.

Interpretation

[4] See notes 2 and 3 above

2. (1) In this Ordinance—

"approved form", or **"approved"** in relation to any form, means a form approved by the Chief Immigration Officer;

"Board" means the Immigration Control Board referred to in section 6;

"Chair" means the Chair of the Board;

"Chief Immigration Officer" means the Officer appointed under section 4(1)*(a)*;

"dependant", in relation to a person, means—

(a) the spouse or life partner of that person; and

(b) a child, step-child or adopted child of that person, who is under the age of 18 years or who is over that age and—

(i) in full time education; and

(ii) under the age of 25 years;

"entry permit" means a permit granted in accordance with sections 18 to 20;

"Human Rights Convention" means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4th November 1950, as applied to St Helena;

"immigrant" means a person in St Helena or seeking to enter St Helena who does not have St Helenian status in accordance with Part 3;

"Immigration Officer" means the Chief Immigration Officer or an Immigration Officer appointed under section 4(1)*(b)*;

"Islander" means—

(a) a person who immediately before 18th October 1999 was an islander under the Immigration Ordinance, 1972 (the meaning of which is set out in Schedule I);

(b) a British Citizen or a British Overseas Territories Citizen who was born, or one of whose parents was born, in St Helena after the 31st December, 1982 but before 18th October 1999;

(c) a British Citizen or a British Overseas Territories Citizen who, immediately before 18th October 1999, had been resident in St Helena for not less than 7 years:

Provided that any period of imprisonment for 6 months or more or any period during which the person concerned was in St Helena in breach of any law relating to immigration is to be excluded from computation of the qualifying period under this paragraph;

(d) the spouse of a person to whom any of the foregoing paragraphs applies, who is not separated from his or her spouse under a court order or a deed of separation, and who satisfies the definition of "islander" in the Immigration Ordinance, 1972 (as set out in Schedule I);

"landing permission" means permission to land granted in accordance with section 21;

"long term entry permit" means an entry permit granted under section 20;

"master", in relation to—

(a) a water-borne vessel - means any person (other than a pilot or Harbour Master) having charge, control or command of the vessel; and

(b) an aircraft - includes the person in command or in charge of it;

"passport" includes any other internationally recognised document verifying the holder's identity and nationality;

"Refugee Convention" means the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, and its protocols, as applied to St Helena;

"Secretary" means the Secretary of the Board appointed under section 6(7);

"short term entry permit" means an entry permit granted under section 19;

"vessel" includes every description of vessel used in navigation, including any and all craft and aircraft;

"work permit" means a permit granted in accordance with section 24.

(2) A person is not to be treated as the spouse of another person if those persons are living apart under a decree or order of a competent court or under a deed or agreement of separation.

Obligations of masters of vessels

3. (1) A master of a vessel who intends to land or put ashore on St Helena any thing or person must, prior to entering the territorial waters or the airspace of St Helena, obtain the permission of an Immigration Officer to do so.

(2) The master of a vessel must, upon being requested by an Immigration Officer to do so, provide him or her with—

(a) a list of the names, dates of birth, and nationalities of all passengers and other persons on board the vessel who intend to land on St Helena; or

(b) such other information as is required by the Immigration Officer to enable him or her to make a determination with respect to the admittance to St Helena of such passengers and persons referred to in paragraph *(a)*.

(3) If an immigrant arrives in St Helena without having first been granted an entry permit, and is not granted entry on arrival, the master of the vessel in or on which that immigrant arrived in St Helena must secure his or her removal from St Helena as soon as is practicable.

(4) Any order or warrant of the Governor for the deportation of an immigrant may include a requirement for the master of a named vessel to transport that immigrant from St Helena to a named destination and the master of that vessel must comply with such a requirement.

(4A) Subsection (4) is subject to the provisos that —

(a) the master may refuse to transport the immigrant if the Governor fails to make reasonable provision for the immigrant to be escorted in order to secure the safety of the vessel and persons on board;

(b) subject to paragraph *(c)*, the costs and expenses of and incidental to the removal of such immigrant from St Helena are to be charged upon the Consolidated Fund;

(c) the order or warrant for deportation may make provision for all or any of the property of the immigrant to be applied towards the costs and expenses mentioned in paragraph *(b)*; and

(d) in the case of an immigrant who arrived by aircraft, the named destination must be the point of departure prior to arriving in St Helena or other place where the inadmissible immigrant is admissible.

(5) A master of a vessel who fails to comply with the requirements of this section commits an offence.
Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

PART 2
ADMINISTRATION AND CONTROL

Appointment of Immigration Officers

4. (1) The Governor may appoint public officers to be—
(a) the Chief Immigration Officer; and
(b) Immigration Officers.

(2) An Immigration Officer, in the performance of his or her duties under this Ordinance, has the rights, powers, privileges and immunities of a police officer.

(3) Every police officer is deemed to have been appointed as an Immigration Officer.

Powers and duties of Immigration Officers

5. (1) It is the duty of every Immigration Officer to administer and enforce the provisions of this Ordinance.

(2) Without affecting the powers of the Board contained in this Ordinance, an Immigration Officer must initially determine whether any person who wishes to enter St Helena is to be allowed to do so.

(3) An Immigration Officer may board any vessel and search any part of it for the purpose of exercising or performing his or her powers or duties under this Ordinance.

(4) An Immigration Officer may question and search any person who arrives in St Helena for the purpose of establishing the person's nationality, identity and status: but no person is to be searched other than by an Immigration Officer of the same gender.

(5) Every person arriving in St Helena must produce to an Immigration Officer a valid passport: but this subsection does not apply to any person who produces valid proof that he or she is a crew member of the vessel on which the person arrived.

(6) An Immigration Officer who is not satisfied that the requirements of this Ordinance have been complied with may refuse any person seeking to enter St Helena permission to do so.

(7) The Chief Immigration Officer must maintain a record of all determinations of applications by persons seeking permission to enter St Helena and produce the record to the Secretary whenever required to do so.

(8) Without affecting any other power of arrest or detention, an Immigration Officer who reasonably suspects that the presence of any person in St Helena is in contravention of any provision of this Ordinance may detain the person for up to 48 hours and any person so detained is deemed to be in lawful custody.

Immigration Control Board

6. (1) There shall continue to be a Board to be known as the Immigration Control Board.

(2) The Board is to consist of a Chair, a Deputy Chair, and 3 other members, all of

whom must be persons who have St Helenian status.

(2A) Justices of the Peace, Immigration Officers, and members of the Legislative Council are not eligible to be members of the Board.

(3) Each member of the Board must be appointed by the Governor, for a term not exceeding 3 years, and notice of every such appointment must be published in the *Gazette*; but an appointment is not invalidated by failure to publish it in the *Gazette*.

(4) A member of the Board may resign from office by a notice signed by the member and submitted to the Governor.

(5) The Governor may revoke the appointment of a member of the Board on the grounds of disability, neglect of duty or misconduct; but section 93 of the Constitution applies to such revocation as if a member of the Board were a judicial officer.

(6) A member of the Board ceases to hold office as provided in subsection (4) or (5), or if the member—

(a) is absent from three consecutive meetings of the Board without the leave of the Chair;
(b) becomes a member of the Legislative Council;
(c) is appointed to be a Justice of the Peace or an Immigration Officer; or
(d) is adjudged bankrupt.

(7) The Governor must appoint a public officer to be the Secretary to the Board, who must—

(a) maintain minutes of the meetings, proceedings and decisions of the Board;
(b) maintain a register, containing prescribed particulars of all applications for—
(i) declarations of St Helenian status (under section 15(3));
(ii) long term entry permits (under section 20);
(iii) work permits (under section 24);
(iv) immigrant employment certificates (under section 25); and
(v) immigrant landholding licences (under section 34); and
(c) carry out any other duties provided for by this Ordinance.

Powers of the Board

7. The Board has the various powers and functions conferred upon it by this Ordinance or any other law, and such incidental powers as are necessary to enable it to exercise and perform its powers and functions.

Meetings of the Board

8. (1) Meetings of the Board are convened by the Chair, and a quorum is formed by not less than 3 of those entitled to be present.

(2) The Chair must convene a meeting of the Board as often as is necessary for the efficient and effective discharge of the Board's functions.

(3) The Chair must preside at meetings of the Board but, in his or her absence, the

Deputy Chair must preside. If both the Chair and the Deputy Chair are absent, the remaining members must elect a member to preside.

(4) All matters before the Board are to be determined by a majority; but if the members are equally divided the person presiding has a casting vote.

Disclosure of interests by Board members

9. (1) Any member of the Board who has a direct or indirect interest in any matter which is to be considered must, if present at the meeting, make full disclosure of the interest, and refrain from participation in discussion or voting on the matter.

(2) Any member of the Board who knowingly fails to comply with subsection (1) commits an offence.
Penalty: A fine of £2,500.

Remuneration of members of the Board

10. The members of the Board must receive such fees, allowances or other remuneration as the Governor from time to time determines.

Duty of confidentiality

11. (1) The members of the Board must treat as confidential all information presented to the Board in the exercise of its functions.

(2) Subject to subsection (2A), a member of the Board who wilfully discloses to any person any information as described in subsection (1) commits an offence.
Penalty: A fine of £2,500.

(2A) Subsection (2) does not prevent the disclosure of information to a person having lawful functions to perform in connection with—

(a) an appeal under section 13;

(b) any civil or criminal proceedings; or

(c) the investigation of any suspected offence against this Ordinance.

(3) The duty imposed by subsection (1) continues to apply to members of the Board after they have ceased for any reason to act as such.

(4) For the purposes of this section, the Secretary is deemed to be a member of the Board.

Appeals from decisions of Immigration Officer

12. (1) A person aggrieved by or dissatisfied with a decision of an Immigration Officer may appeal to the Board within 7 days of being notified of the decision.

(2) On an appeal under this section, subject to subsection (3), the appellant does not have a right to an oral hearing, but is entitled to make written submissions in support of his or her appeal, either personally or through a legal representative or other agent.

(3) The Board may (in its discretion) grant an appellant an oral hearing if it considers that the appeal can be more justly determined in that way.

Appeals from decisions of Board

13. (1) A person aggrieved by or dissatisfied with a decision of the Board (including a decision made on an appeal 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) Appeals under this section must be heard *in camera* unless the court, with the consent of the appellant, orders otherwise.

Appeals: supplemental

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

(2) On an appeal under section 12, the Board may either confirm the decision of the Immigration Officer, or substitute any decision which the Immigration Officer could lawfully have made.

(3) On an appeal under section 13, the court may either confirm the decision of the Board, or substitute any decision which the Board could lawfully have made.

PART 3
ST HELENIAN STATUS

Persons having by right or by grant St Helenian status

15. (1) A person has St Helenian status by right of birth if the person—

(a) is an islander; or

(b) was born in St Helena on or after 18th October 1999 and, at the time of his or her birth, his or her father or mother had St Helenian status.

(2) A person has St Helenian status by right of descent if he or she was born outside St Helena on or after 18th October 1999 and, at the time of his or her birth his father or mother had St Helenian status—

(a) by right of birth;

(b) by descent, or by virtue of a declaration made under subsection (3), and was ordinarily resident in St Helena; or

(c) by right of descent, which he or she acquired by having at least one parent who who had St Helenian status by right of birth.

(3) If, on an application for the grant of St Helenian status made by a person of full age and capacity, the Board is satisfied that the applicant fulfils the requirements of Schedule II, it must grant the person a declaration that he or she has such status.

(3A) If the Board issues, or has issued, a declaration under subsection (3) to an

applicant (**"the primary applicant"**) it may grant such a certificate also to a person who—

(a) is a child of the primary applicant and is under the age of 18 years;

(b) is or was, at the time the certificate is issued to the primary applicant, residing with the primary applicant in St Helena; and

(c) has or had so resided during the period of residence in St Helena which is the basis upon which the certificate is granted to the primary applicant.

(4) A person who claims to have St Helenian status under subsection (1) or (2) may apply to the Board for a declaration that he or she has such status, and the Board—

(a) if satisfied, after making such enquiries as the Board thinks fit, that the person has such status, must issue a declaration to that effect;

(b) in any other case, must refuse the application.

(5) An application may be made under subsection (4) by a parent or guardian of any minor whom the parent or guardian believes to have St Helenian status.

Deprivation and loss of status

16. (1) Subject to this section, the Board may, if it is satisfied that a declaration granted under section 15(3) or section 15(4) was obtained by means of fraud, false representation or the concealment of any material fact of a nature which, had the true facts been made known to the Board at the time of application, would, in the opinion of the Board, have justified refusal of such a declaration, revoke the declaration.

(2) Regulations made under section 43 must provide for the procedure to be adopted by the Board in relation to the power conferred by subsection (1), and such rules must, in particular, require that the person to whom the relevant declaration was granted must have an opportunity to make representations to the Board before the power is exercised.

(3) A person to whom a certificate of St Helenian status has been granted under section 15(3) or (3A) ceases to have such status if he or she is absent from St Helena for a continuous period of 10 years.

PART 4
ENTRY AND RESIDENCE

Visa requirement to travel to St Helena

16A. (1) Subject to subsection (2), no person holding a passport from a country specified by the Governor by order may travel to St Helena without first having obtained a visa prior to embarking on his or her journey to St Helena.

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

(a) has St Helenian status or a dependant of a person who has St Helenian status;

(b) holds a valid long term entry permit issued under section 20; or

(c) can produce valid proof that he or she will be a crew member on duty on the vessel on which he or she will be travelling to St Helena.

(3) Every application for a visa and every visa issued under subsection (1) must be in the approved form.

(4) A person who contravenes subsection (1) commits an offence.
Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

General provisions for control of immigrants

17. (1) Subject to subsection (2), no immigrant may enter or remain in St Helena unless he or she is authorised to do so by either—

(a) an entry permit;

(b) a landing permission; or

(c) special leave granted in accordance with regulations made under section 43 and subsection (1A) of this section.

(1A) Regulations may prescribe circumstances in which an Immigration Officer may give permission (to be known as a **"special leave"**) for an immigrant to enter (or remain in) St Helena though not authorised to do so by either an entry permit or a landing permission.

(2) Subsection (1) does not apply to—

(a) a dependant of a person who has St Helenian status;

(b) a person who is in the service of the Crown in right of the Government of St Helena, or who is in (or wishes to enter) St Helena primarily for the purpose of engaging in activities which are, by virtue of section 23(1)*(b)*, not to be regarded as employment or work for the purposes of Part 5;

(c) a dependant of a person referred to in paragraph *(b)*;

(d) 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;

(e) a consular officer within the meaning of the Vienna Convention on Consular Relations, 1963.

(2A) In respect of persons to whom subsection (2) 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 (2), such permission will be regarded as automatically revoked one month after the date upon which they no longer fall into such categories.

(3) 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 (2)*(d)*.

(4) A person who contravenes any provision of subsection (1) commits an offence.
Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

(5) A person is not to be regarded as having committed an offence against subsection (4) 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 he or she will apply for permission to enter and remain in St Helena at the first practicable opportunity to present himself or herself to an Immigration Officer for that purpose; and

(b) in fact so presents himself or herself.

(6) Regulations may provide that, in prescribed circumstances, an application for an entry permit may only be made by a person who is outside St Helena, and that a person who has entered the territorial waters or airspace is (in prescribed circumstances) to be treated as outside St Helena for the purposes of those regulations.

Entry permits

18. (1) Subject to this section and sections 19 and 20, an entry permit may be granted to authorise an immigrant to enter and remain in St Helena for a period not exceeding 5 years.

(1A) The Governor in Council may, in exceptional circumstances, authorise the Board to grant an entry permit for a period exceeding 5 years that the Governor in Council determines.

(2) Every application for an entry permit, and every entry permit, must be in the approved form.

(3) Regulations made under section 43 may prescribe the evidence to be produced by an immigrant as to any matter relevant to his or her application for an entry permit, and may (without limiting the power to make regulations) provide that a declaration made by the immigrant (either in the application for an entry permit, or separately) is acceptable as sufficient evidence of any fact.

(4) Regulations made under section 43 may prescribe circumstances in which an entry permit may not be granted or may be granted only subject to prescribed conditions; and, without limiting the power to make them, such regulations may provide that—

(a) an entry permit must not be granted to citizens of, or to immigrants who have arrived from or travelled through, prescribed countries or places;

(b) in prescribed circumstances, a person may not be granted permission to enter St Helena unless it has been granted prior to embarking on his or her travel to St Helena;

(c) in prescribed circumstances, an entry permit must be granted only for a prescribed period (being less than the maximum period mentioned in section 18(1) or 19(1)*(a)*, as the case may be.)

(5) In a case to which regulations of the kind described in subsection (4)*(b)* apply, an entry permit may not be granted after the immigrants leaves his or her country of origin.

Short term entry permits

19. (1) An Immigration Officer may grant an entry permit (a **"short term entry permit"**) to an immigrant who –

(a) applies, in the approved form, for permission to visit St Helena for a period not exceeding 183 days;

(b) produces a passport which is valid on the date of entry into St Helena and will remain valid for at least 6 months after the expiry of the entry permit;

(c) establishes to the satisfaction of the Immigration Officer that he or she has the intention to leave St Helena within 183 days and has the means to provide for—

(i) the accommodation, food, clothing, health and welfare of himself or herself and any dependants throughout the duration of the entry permit;

and

(ii) his or her and their repatriation to their place of domicile.

(2) A short term entry permit is valid for a period (not exceeding 183 days) specified in it.

(3) At any time before the expiry of a short term entry permit, the person to whom it was granted may apply to an Immigration Officer for the duration of the permit to be extended and the Immigration Officer may grant the application if satisfied that—

(a) the immigrant's passport is valid until a date which is at least 6 months after the extended period of validity of the entry permit;

(b) the immigrant will continue to have the means to provide for the matters referred to in subsection (1)*(c)* throughout the extended duration of the entry permit; and

(c) the total duration of the entry permit will not thereby exceed 183 days.

Long term entry permits

20. (1) The Board may grant an entry permit (a **"long term entry permit"**) to an immigrant who—

(a) applies, in the approved form, for permission to enter, or remain in, St Helena for a period exceeding 183 days;

(b) is in possession of a passport which is valid on the date of commencement of the entry permit and will remain valid for at least 6 months after the expiry of the permit;

(c) establishes to the satisfaction of the Board that he or she has the means to provide for—

(i) the accommodation, food, clothing, health and welfare of himself or herself and any dependants throughout the duration of the entry permit; and

(ii) his or her and their repatriation to their place of domicile; and

(d) makes a declaration, in an approved form, concerning his or her character and antecedents.

(2) At any time not exceeding 3 months before the expiry of a long term entry permit, the person to whom it was granted may apply to the Board for renewal of the permit and the Board (after such enquiries in the matter as it thinks fit to make) must renew the permit (for a period not exceeding 5 years) unless it is satisfied that 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.

Landing permission

21. (1) The Chief Immigration Officer may issue to the master of a vessel to which this section applies a landing permission authorising a specified number of passengers and crew of that vessel to enter St Helena without obtaining an entry permit.

(2) This section applies to any vessel in respect of which the Chief Immigration Officer is satisfied that—

(a) the total number of passengers and crew onboard the vessel exceeds 20;

(b) the vessel will remain in St Helena for less than 24 hours;

(c) all of the passengers and crew onboard at the time of arrival will be leaving on the vessel when it departs, and adequate arrangements are or will be made to ensure this; and

(d) dispensing with the requirement for entry permits is not, in all the circumstances, against the public interest.

(3) There is payable, in respect of each landing permission, such fee as is prescribed, being a fee calculated *per capita* upon the number of persons authorised to enter St Helena by that permission.

(4) A person who enters St Helena on the authority of a landing permission and who remains in St Helena after the departure of the vessel on which he or she arrived commits an offence.
Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

(5) It is an offence for the master of a vessel to whom a landing permission has been issued, without the prior permission of an Immigration Officer, to cause or permit the vessel to leave St Helena without having ensured that all the passengers and crew members who arrived on the vessel are onboard at the time of departure.
Penalty: A fine, or imprisonment for 2 years, or both.

(6) *Omitted*

Revocation of entry permits

22. (1) An entry permit may be revoked by the Board if it is satisfied that the holder of the permit—

(a) obtained the permit by means of fraud, false representation or concealment of any material fact;

(b) has been convicted anywhere of an offence and sentenced to imprisonment;

(c) has contravened any of the provisions of this Ordinance or regulations made under it, or

(d) has breached any condition of the permit, or failed to do anything which (in or in connection with the application for the permit) the holder undertook to do;

or in any other prescribed circumstances.

(2) The Secretary must give notice in writing to the holder of a permit which is revoked pursuant to subsection (1). The notice must state the grounds of revocation, and inform the holder of the right of appeal under section 13.

PART 5
EMPLOYMENT OF IMMIGRANTS

Restrictions on employment of immigrants

23. (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—

(a) in the course of his or her duties in the service of the Crown;

(b) in fulfilment of the provisions of a contract entered into on behalf of Her Majesty (whether in right of Her Government of the United Kingdom or in right of Her Government of St Helena) whereby goods or services are provided to Her Government of St Helena; or

(c) who has been present in St Helena for less than 183 days in the period of one year preceding the day on which the work is done.

(2) No immigrant, other than a dependant of a person who has St Helenian status, may lawfully work in St Helena unless his or her presence in St Helena is authorised by an entry permit (or the person is not required to have an entry permit by virtue of his or her falling within section 17(1)*(c)* or 17(2)*(c)*) and his or her employment being authorised—

(a) in the case of a person doing work on a self-employed basis (either alone or in partnership) - by a work permit issued under section 24;

(b) in any other case - by an immigrant employment certificate issued under section 25.

(3) If a person who holds more than10% of the issued shares in a company performs any work in the course of the company's business, the person is deemed (for the purposes of this Part) to be employed by the company even if he or she receives no payment other than dividends.

(4) If, in any proceedings for an offence under this Part, it is proved that an immigrant performed work of a type for which and in circumstances in which payment would normally be made, the court may draw an inference (for the purposes of this Part) either—

(a) that a relationship of employer and employee exists; or

(b) that he is employed on a self employed basis,

as the case may be.

(5) *(a)* An immigrant who engages in employment other than as authorised in accordance with subsection (2) commits an offence.
Penalty: A fine of £2,500 or imprisonment for 3 months, or both.

(b) A person who employs an immigrant other than as authorised in accordance with subsection (2) commits an offence.
Penalty: A fine of £10,000 or imprisonment for 12 months, or both.

(c) In the case of self-employment, proceedings must be commenced under paragraph *(a)* but the maximum penalty on conviction is as provided in paragraph *(b).*

(6) The Governor in Council may by order amend subsection (1)*(c)* by substituting for the number '183' such lower number as may be prescribed in the order.

Work permits

24. (1) An application for a work permit must be made to the Board in the approved form, and the Board may require the applicant to provide additional information, or to provide evidence to substantiate any information provided, to enable the Board to be satisfied as to the matters listed in subsection (2).

(2) If the Board, having regard to—

(a) the condition of the local labour market generally; and

(b) any special skills or experience of the applicant relevant to the work to be undertaken,

is satisfied that it would not be against the public interest to do so, it must (subject to any regulations made under section 43(l)) grant a work permit to the applicant for such period (subject to subsection (5)) not exceeding 5 years as it determines.

(3) Section 22 applies to a work permit as it applies to an entry permit.

(4) Any permit granted under this section ceases to be valid if the holder—

(a) is absent from St Helena for a continuous period of more than 6 months; or

(b) ceases to be the holder of a valid entry permit or, having been exempt from the requirement to have an entry permit, ceases to be so exempt.

(5) The Governor in Council may, in exceptional circumstances, authorise the Board to grant a work permit for a period exceeding 5 years that the Governor in Council determines**.**

(6) Every work permit must specify—

(a) the period of its operation;

(b) the nature of the work in which the immigrant may be engaged;

(c) a condition that the holder of the permit must immediately inform the Secretary of any change in his or her circumstances; and

(d) any other conditions the Board in its discretion sees fit to impose.

(7) At any time not exceeding 3 months before the expiry of a work permit, the person to whom it was granted may apply to the Board for renewal of the permit and the Board (after such enquiries in the matter as it thinks fit to make) must renew the permit for a period not exceeding 5 years), unless the Board is satisfied that 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.

Immigrant employment certificate

25. (1) An application for an immigrant employment certificate may be made by any person engaged in any trade, profession or vocation in St Helena who wishes to employ one or more immigrants in that business, and must be made to the Board in the approved form.

(2) The Board may require the applicant to provide additional information, or to provide evidence to substantiate any information provided, in order to satisfy itself as to the matters listed in subsection (3).

(3) If the Board, having regard to—

(a) the condition of the local labour market generally and the extent of any specialist skills or experience which the prospective employer seeks to recruit; and

(b) the arrangements made or proposed to be made by the employer in relation to—

(i) living accommodation, health and welfare of immigrant employees; and

(ii) repatriation of each employee (and any dependants) on completion of the period of employment,

is satisfied that it would not be against the public interest to do so, the Board must (subject to any regulations made under section 43(l)) grant an immigrant employment certificate.

(4) Every immigrant employment certificate issued must specify—

(a) the name of the employer and the period (which must not exceed 5 years) of its operation;

(b) the nature of the work in which the employer may employ immigrants;

(c) the number of immigrants that may be employed;

(d) any other conditions the Board in its discretion sees fit to impose.

Effect of non-compliance with conditions

26. (1) If a work permit or an immigrant employment certificate is issued subject to conditions, anything done in contravention of any condition renders the permit or certificate void with effect from the date of the contravention.

(2) The Board may revoke a work permit or an immigrant employment certificate—

(a) if it is satisfied that the holder has failed to do anything which, in or in connection with his or her application for the permit), the holder undertook to do; or

(b) in any other prescribed circumstances.

PART 6
LANDHOLDING BY IMMIGRANTS

Interpretation of Part

27. (1) In this Part, unless the context otherwise requires—

"controlled immigrant" means—

(a) a natural person who is an immigrant, other than one who is the spouse or life partner of a person who has St Helenian status ; or

(b) a body corporate other than—

(i) the Crown;

(ii) the Governor;

(iii) a charity registered under the Charities Ordinance, 2005;

(iv) a corporation established by an Ordinance;

(v) an exempt corporate body, as defined in subsection (2); or

(vi) the Lord Bishop of St Helena;

"cumulative landholding" has the meaning given in section 28;

"land" includes every interest in land, whether legal or equitable, other than an exempt interest as defined in subsection (3);

"licence" means a licence granted or deemed to have been granted under this Part;

"transaction" means any transfer, lease or other instrument, contract or transaction the effect (or an effect) of which is to vest any land in a controlled immigrant.

(2) A corporate body is an exempt corporate body if it is—

(a) a society registered under the Co-operative Societies Ordinance, 1932;

(b) a mutual organisation registered under the Mutual Organisations Ordinance, 2008; or

(c) a company incorporated under the Companies Ordinance 2004,

and the structure and control of the corporate body is such that—

(i) the total number of votes capable of being cast by controlled immigrants in a

general meeting of the members does not exceed 45% of the total number of votes capable of being so cast; and

(ii) on a dissolution of the body, not more than 45% of the funds or assets available for distribution to the members would become payable or due to controlled immigrants.

(3) The following interests in land are exempt interests:

(a) a mortgage or similar charge upon land granted as *bona fide* security for a loan;

(b) an interest acquired by a controlled immigrant as *bona fide* purchaser of land sold by a mortgagee in exercise of the mortgagor's power of sale;

(c) a lease, periodic tenancy, or licence which is incapable of subsisting for longer than 99 years and which does not contain an option to renew or extend the lease, or to purchase the freehold; and

(d) an interest acquired by a controlled immigrant as a result of being the successful bidder or tenderer in an approved process.

(4) In subsection (3*)(d)*, **"approved process"** means a process for the disposal or creation of an interest in land, being a process of sale by way of auction or tender which has been approved (prior to its commencement) by the Governor in Council as an approved process for the purposes of this section.

Cumulative landholding

28. (1) The **"cumulative landholding"** of any person is the total area of land in St Helena which that person owns or is deemed, by this section, to own.

(2) For the purposes of the definition of "cumulative landholding", a person is deemed to own all land in St Helena which is owned by any associated person of the person.

(3) The associated persons of a natural person are—

(a) the person's grandparents, parents, siblings, spouse or life partner, children, and grandchildren;

(b) the spouses or life partners of the person's siblings, children and grandchildren; and

(c) any corporate body the activities of which the person (either alone or in association or combination with any of the persons mentioned in paragraph *(a)* and *(b)*) is able to direct.

(4) The associated persons of a body corporate are—

(a) any person (either natural or corporate) who is able to direct the activities of the corporate body;

(b) the grandparents, parents, siblings, spouse or life partner, children, and grandchildren of any natural person within paragraph *(a)*; and

(c) any corporate body the activities of which it (either alone or in association or combination with any of the persons mentioned in paragraphs *(a)* and *(b)*) is able to direct.

(5) For the purposes of subsections (3) and (4), a person (or a group of associated persons) is able to direct the activities of a corporate body if —

(a) the person is a director, secretary, or similar officer of the corporate body;

(b) the person or group is entitled to cast more than 25% of the votes which can be cast at a general meeting (or any meeting, however described or entitled, similar in nature to a general meeting of shareholders in a company); or

(c) the person or group is entitled to more than 1/3 of net assets available for distribution on a dissolution of the corporate body.

Prohibited transactions

29. (1) It is an offence for a controlled immigrant, except under the authority of a licence granted under this Part, to be a party to a transaction which has the effect (or an effect) that the cumulative landholding of the controlled immigrant exceeds 2 acres.
Penalty: A fine, or imprisonment for 5 years, or both.

(2) *Omitted*

(3) On conviction on indictment of an offence against subsection (1), the Supreme Court may (in addition to any penalty imposed under subsection (2)) order that any land or interest in land owned by the offender is forfeit to Her Majesty.

(4) An order under subsection (3)—

(a) must not be made unless the court has allowed an opportunity for all persons likely to be affected by it to make representations to the court;

(b) is sufficient authority for the Registrar of Lands to register the land or interest in land as Crown Land.

(5) The Governor in Council may, by order, amend subsection (1) by substituting for the words '2 acres' any smaller area prescribed by the Order.

Prohibited trusts

30. (1) It is an offence for any person, except under the authority of a licence granted under this Part, to hold any land in St Helena in trust for a controlled immigrant.
Penalty: A fine, or imprisonment for 5 years, or both.

(2) *Omitted*

(3) On conviction on indictment of an offence against subsection (1), the Supreme Court may (in addition to any penalty imposed under subsection (2)) order that both the legal and beneficial interests in the land unlawfully held in trust are forfeit to Her Majesty.

(4) An order under subsection (3)—

(a) must not be made unless the court has allowed an opportunity for all persons likely to be affected by it to make representations to the court;

(b) is sufficient authority for the Registrar of Lands to register the land or interest in land as Crown Land.

(5) A person does not commit an offence against this section by reason only of the fact that the person is the executor or administrator of the estate of a deceased person and the beneficiaries of the estate include a controlled immigrant.

Conditional instruments

31. For the avoidance of doubt, parties to any instrument do not commit an offence against this Part if the instrument is so expressed that the granting of a licence under this Part is a condition precedent to the instrument taking effect.

Change of status

32. (1) This section applies when—

(a) an exempt corporate body ceases to be exempt; or

(b) a natural person who was a spouse or life partner of a person having St Helenian status ceases to have that relationship;

and the corporate body or natural person (as the case may be) owns land at the time of the change of status.

(2) Every director, secretary or other similar officer of a corporate body to which this section applies, and every natural person to whom this section applies must, within 21 days of any event which causes this section to apply, notify the Attorney General of the occurrence of the event, and supply any other any other-prescribed information in relation to it.

(3) Subject to subsection (3A), a person who fails to comply with subsection (2) commits an offence.

Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

(3A) A person is not liable to be convicted of an offence under subsection (3) if the

person shows that he or she was unaware of (and could not by reasonable diligence have been aware of) the facts giving rise to the duty under subsection (2).

(4) In relation to a controlled immigrant to whom this section applies, section 29(1) applies to that controlled immigrant on and after the change of status as if the reference to '2 acres' were a reference to the cumulate landholding of that person at the date of the change.

Applications for licences

33. (1) Every application for a licence must be in writing, in the approved form, and delivered to the Secretary to the Board accompanied by—

(a) the prescribed fee; and

(b) any additional documents or information prescribed.

(2) Regulations made under section 43 must provide —

(a) for enquiries to be made by or on behalf of the Board before making a decision on the application;

(b) for publication of information about the application and arrangements for members of the public to comment or object; and

(c) generally for the effective processing of applications,

and different provisions may be made for different circumstances.

Determination of applications

34. (1) The Board may grant a licence authorising—

(a) a controlled immigrant to acquire any land even if the cumulative landholding of the controlled immigrant will as a result exceed 2 acres; or

(b) a person to hold land in trust for a controlled immigrant.

(2) Every licence must be in the approved form and may be either unconditional or subject to prescribed conditions.

(3) The Board must grant a licence unless it is satisfied that it would be against the public interest to do so.

(4) Policy guidance[5] issued under section 41 may include guidance as to the matters which the Board is to take into consideration when making a decision under this section.

Breach of conditions

35. (1) The holder of a licence granted under this Part who fails to comply with any condition in it commits an offence.

(2) The maximum penalty on conviction for an offence under subsection (1) is imprisonment for 5 years or a fine of £5,000, or both.

(3) On conviction on indictment of an offence against subsection (1), the Supreme Court may (in addition to any penalty imposed under subsection (2)) order that any interests in land in relation to which the offence was committed are forfeit to Her Majesty.

(4) An order under subsection (3)—

(a) must not be made unless the court has allowed an opportunity for all persons likely to be affected thereby to make representations to the court;

(b) is sufficient authority for the Registrar of Lands to register the land or interest in land as Crown Land.

Investigation and discovery

36. (1) The Attorney General may in writing appoint any public officer to carry out an investigation as to whether anything has been done in contravention of this Part, and a person so appointed is in this section referred to as an "i**nvestigator"**.

(2) An investigator may, by written notice, require any person in St Helena to—

(a) appear before him or her at a time and place stated in the notice;

(b) produce any document or thing; and

(c) answer any question relating to any matter which the investigator is investigating.

(2A) It is an offence for a person—

(a) to fail to comply with a requirement under subsection (2); or

(b) knowingly to give false information in response to such a requirement.

Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

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[5] *Policy Guidance on Immigrant Landholding Control issued in Gazette Notice No. 66 of 10 May 2012*

(3) A statement made by a person in compliance with a requirement under subsection (2) may be used in evidence against the person in—

(a) any civil proceedings, including any proceedings under this Ordinance; and

(b) criminal proceedings for an offence of perjury or for an offence contrary to subsection (2).

(4) *Omitted*

Duties of Registrar of Lands

37. (1) If it appears to the Registrar of Lands that any instrument presented to him or her for registration is or might be (or be part of) a forbidden transaction, the Registrar must –

(a) enquire into the matter; and

(b) refuse to proceed with the registration of the transaction unless satisfied that it has been lawfully effected in conformity with this Ordinance.

(2) For the purposes of enquiries under this section, the Registrar may exercise any of the powers vested in the Registrar by or under the Registered Land Ordinance, 1980.

(3) In this section **"forbidden transaction"** means any transaction which is prohibited by section 29 or section 30.

PART 7
SUPPLEMENTARY

General offences

38. (1) It is an offence for a person—

(a) without lawful authority or reasonable excuse (which the person must prove) to refuse to supply any information lawfully required by an Immigration Officer or the Board;

(b) to supply any information to the Board or to an Immigration Officer which the person knows or believes is false.

Penalty: A fine of £5,000 or imprisonment for 12 months, or both.

(2) It is an offence for a person to—

(a) harbour or otherwise give comfort and assistance to any person whom the person knows or believes is in St Helena in contravention of this Ordinance;

(b) assault or wilfully obstruct or impede an Immigration Officer or a member of the Board acting in the execution of his or her duty under this Ordinance or any regulations made under it.

Penalty: A fine, or imprisonment for 5 years, or both.

Offences by corporate bodies

39. Subject to subsection (2), if an offence under this Ordinance is committed by a corporate body, every director, manager, secretary or other similar officer of the body commits the like offence and is liable to be proceeded against, convicted and punished accordingly.

(2) A person is not liable to be convicted under this subsection if the person shows that he or she was unaware (and could not by reasonable diligence have been aware) of the acts or omissions which constituted the offence.

Evidence

40. (1) Every document purporting to be a permit, licence, certificate or other authority given, issued, granted or made under this Ordinance—

(a) may be received in evidence in any proceedings before a court;

(b) is deemed, unless the contrary is proved, to have been validly given, issued, granted or made; and

(c) is *prima facie* evidence of its contents.

(2) Every stamp or imprint in or on any passport or other travel document produced in evidence is deemed to have been validly affixed or imprinted unless the contrary is proved.

(3) A copy, certified by an Immigration Officer or by the Secretary (as the case may be) of an entry made in any record or register required to be kept or maintained by or under this Ordinance is receivable as evidence in any proceedings before a court and is sufficient evidence of the matters stated in the entry.

(4) In any proceedings the burden of proving that a person has St Helenian status, or that any provisions of this Ordinance do not apply to the person, or that the person is the holder of a permit, licence, certificate or other authority is on that person.

Policy directions

41.[6] **(1)** The Governor, acting in his or her discretion, may from time to time issue policy directions for guidance to the Chief Immigration Officer and Immigration Officers.

(2) The Governor in Council may from time to time issue policy directions for guidance to the Board.

(3) The Chief Immigration Officer, all Immigration Officers, and the Board, in the exercise of their respective powers and performance of their respective duties under this Ordinance, must comply with any policy directions issued pursuant to this section.

Prohibited immigrants

42. (1) If, after consultation with the Chief Immigration Officer and any other person or authority the Governor considers appropriate, the Governor is satisfied that the entry or presence in St Helena of any person not having St Helenian status is not conducive to the public interest, or is prejudicial to the maintenance of public order or the interests of security, the Governor may in writing declare that person to be a prohibited immigrant.

(2) Notice of a declaration under subsection (1) must be—

(a) served on the person named in it as soon as practicable after it is made; and

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[6] Notice of Policy Directions published in Gazette Notice No. 3 of 23 January 2012

(b) published in the *Gazette*,

and may be served before or after publication.

(3) Any person declared to be a prohibited immigrant under this section –

(a) if not in St Helena - must not enter St Helena;

(b) if already in St Helena - must be detained in a place the Governor designates and be removed from St Helena at the earliest opportunity.

(4) Any person liable to be detained under subsection (3) may be—

(a) arrested without warrant by a police officer or an Immigration Officer; and

(b) forthwith conveyed to the place of detention designated,

and is thereupon deemed to be in lawful custody.

Regulations

43. The Governor in Council may make regulations for the further and better execution of this Ordinance. Without limiting that power, such regulations may provide for—

(a) anything which by this Ordinance is required or permitted to be prescribed;

(b) the amount and nature of any security, by way of cash deposit or otherwise, to be given before a permit or pass is issued, for the due carrying out of any conditions attached to any permit or pass, and for the repatriation of the person in respect of whom the permit or pass is issued;

(c) the enforcement of any security given and the forfeiture and repayment of any cash deposit;

(d) requiring immigrants to submit to medical examination;

(e) the forms of permits and passes issued under this Ordinance, the conditions which may be attached to them, and the variation of such conditions;

(f) the information to be supplied and documents to be produced in connection with any application for a permit, licence, certificate or other form of permission, or any variation of it;

(g) the extension or variation of any of the powers and duties of either an Immigration Officer or the Board specified in this Ordinance;

(h) any additional measures considered necessary for the landing, detention and removal of illegal immigrants on any vessel calling at St Helena;

(i) the imposition of duties on and the recovery of expenses from the masters, owners and agents of vessels;

(j) the fees to be charged in respect of anything required or permitted to be done under this Ordinance;

(k) the documents necessary, and the procedure, for making appeals under sections 12 and 13, including the determination and notification of such appeals;

(l) requiring that no entry permit, residence permit, work permit, or immigrant employment certificate is to be granted to prescribed categories of persons or in prescribed circumstances;

(m) the exemption from all or any of the provisions of this Ordinance of any immigrant or class of immigrant for a period and in circumstances prescribed;

(n) the matters referred to in paragraph 3 of Schedule II.

Asylum Rules

44. The Governor, acting in his or her 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;

and such rules may modify the provisions of this Ordinance in their application to such matters.

Repeals and transitional provisions

45. (1) The Immigration Control Ordinance, 2008 (**"the old Ordinance"**) is repealed.

(2) The Chair, Deputy Chair, and members of the Immigration Control Board who held office immediately before the commencement of this Ordinance are deemed to have been duly appointed to their respective offices under section 6(3) of this Ordinance and, subject to subsections (4) to (6) of section 6, remain in office until the expiry of their respective appointments.

(3) The persons who, immediately before the commencement of this Ordinance, held office as Chief Immigration Officer, Immigration Officer, and Secretary to the Board, are deemed to have been appointed to their respective offices under the corresponding provisions of this Ordinance.

(4) Every permit, licence, certificate, or declaration issued under the old Ordinance and remaining in force or having effect immediately prior to the commencement of this Ordinance remains in force and has effect as if it had been made under a corresponding provision of this Ordinance.

(5) Regulations made under section 43 may make transitional arrangements for the conclusion of any application, appeal or other proceeding or process commenced under the old Ordinance and remaining unresolved at the commencement of this Ordinance.

(6) This Ordinance is to be treated (for the purposes of section 10(2) of the Interpretation Ordinance, 1968) as repealing and re-enacting the old Ordinance.

SCHEDULE I
(Section 2)

DEFINITION OF "ISLANDER" IN THE IMMIGRATION ORDINANCE, 1972

Section 2 (Interpretation):
"islander" means—

(a) a British Dependent Territories citizen—

(i) who was born, registered or naturalised in St. Helena; or

(ii) who was adopted in St. Helena; or

(iii) whose father or mother was born, registered or naturalised in St. Helena; or

(iv) whose father or mother became a British Dependent Territories citizen by virtue of his or her adoption in St. Helena; or

(v) whose grandfather or grandmother was born, registered or naturalised in

St. Helena; or

(vi) who is, or has at any time been, married[#] to a person who is an islander by virtue of any of the subparagraphs above, or who would have been so but for his death.

For the purposes of this paragraph, references to registration or naturalisation are shall be construed as references to registration or naturalisation as a citizen of the United Kingdom and Colonies, in relation to a time before commencement of the British Nationality Act 1981, and to registration and naturalisation as a British Dependent Territories citizen, in relation to a time after commencement of that Act;

(b) a British citizen or a British Overseas citizen—

(i) who was born in St. Helena, whether before or after the commencement of the British Nationality Act 1981; or if not so born;

(ii) who was adopted in St. Helena; or

(iii) whose father or mother was born in St. Helena; or

(iv) whose father or mother became a British Dependent Territories citizen by virtue of having been adopted in St. Helena;

(c) a British citizen, a British Overseas citizen or a British Dependent Territories citizen (otherwise than is mentioned in paragraph *(a)* above) who has been ordinarily resident in St. Helena for a period of seven years or more; provided that any period during which he is serving a sentence of imprisonment exceeding six months or during which he is lawfully detained as a criminal lunatic or during which his presence in the Island is unlawful shall not be reckoned as ordinary residence in the Island;

(d) the wife or husband[#] of a person to whom either of the foregoing paragraphs *(b)* or *(c)* applies not living apart from such person under a decree of a competent court or a deed of separation;

(e) a child (including an adopted or illegitimate child or step-child), under the age of eighteen years, of a person to whom any of the foregoing paragraphs applies;

(f) a person in respect of whom the Governor—

(i) is satisfied that such person has, by reason of descent, kinship, residence or interest, a close and substantial connexion with the Island; and

(ii) has by order under his hand declared to have the status of islander for the purposes of this Ordinance.

[[#]Ordinance 5 of 1987 provided that no marriage celebrated after 1 January 1987 shall be recognized or taken into account.]

SCHEDULE II

(Section 15(3))

REQUIREMENTS FOR ST HELENIAN STATUS

1. Except where paragraph 2 applies, and subject to paragraphs 3 and 4, the requirements for the grant of St Helenian status are that the applicant—

(a) is of good character;

(b) intends, in the event of a certificate being granted to him or her, that his or her home or (if he or she has more than one) his or her principal home will be in St Helena; and

(c) was in St Helena at the beginning of a period of 5 years ending with the date of

the application, and—

(i) the total number of days on which he or she was absent from St Helena in that period does not exceed 500;

(ii) the number of days on which he or she was absent from St Helena in the period of 12 months so ending does not exceed 100; and

(iii) he or she was not in either of those periods undergoing a sentence of imprisonment nor in breach of any of the laws relating to immigration;

or the Governor in Council has granted (under paragraph 4) a dispensation from the requirements of sub-paragraphs (i) and (ii) (or either of them) of this paragraph.

2. Subject to paragraphs 3 and 4, the requirements for the grant of St Helenian status in the case of a person who is the spouse or life partner of a person having St Helenian status are that—

(a) the marriage or life partnership has been in existence for at least 3 years;

(b) the applicant is of good character;

(c) the applicant was in St Helena at the beginning of a period of 3 years ending with the date of the application and that—

(i) the total number of days on which the applicant was absent from St Helena in that period does not exceed 150;

(ii) the number of days on which the applicant was absent from St Helena in the period of twelve months so ending does not exceed 100; and

(iii) the applicant was not in either of those periods undergoing a sentence of imprisonment nor in breach of any of the laws relating to immigration;

or that the Governor in Council has granted (under paragraph 4) a dispensation from the requirements of sub-paragraphs (i) and (ii) (or either of them) of this paragraph;

but nothing in this paragraph prevents a person who is the spouse or life partner of a person having St Helenian status from applying for status under paragraph 1.

3. Regulations made under section 43 may provide that—

(i) periods of time spent in St Helena are to be counted as time spent outside St Helena; or

(ii) periods of time spent outside St Helena are to be counted as time spent in St Helena.

4. The Governor in Council may grant a dispensation from the requirements of paragraph 1 or 2 (as the case may be) as to the number of days absent from St Helena, if he or she is satisfied that—

(i) that the applicant for the dispensation has a substantial economic, social or historical connection with St Helena;

(ii) there are exceptional circumstances (such as, but not limited to, shipping schedules or illness) why strict compliance with the requirements should be dispensed with; and

(iii) it would be in the public interest to grant the dispensation.

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IMMIGRATION ORDINANCE, 2011

ASYLUM RULES, 2012

(Section 44)

TABLE OF CONTENTS

1. Citation and commencement
2. Interpretation
3. Claim for asylum
4. Consideration of claim
5. Grant of refugee status and rights of a recognised refugee
6. Removal of asylum claimant to a safe third country
7. Limitations on rights of appeal
8. Assisting asylum seeker to enter St Helena
9. Appeal
10. Person not required to leave St Helena pending application or appeal

Citation and commencement

1. These Rules may be cited as the Asylum Rules, 2012, and come into force on 23rd January 2012.

Interpretation

2. (1) Any word or expression to which a meaning has been assigned in the Ordinance, bears the meaning so assigned and –

"asylum seeker" means a person who makes a request to be recognised as a refugee under the Refugee Convention on the basis that it would be contrary to St Helena's obligations under that Convention for the person to be removed from or required to leave St Helena;

"refugee" means any person who—

(a) owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or

(b) not having a nationality and being outside the country of his or her former habitual residence, is unable or, owing to a well-founded fear of being persecuted for reasons of race, religion, membership of a particular social group or political opinion, is unwilling to return to it,

but does not include any person referred to in sub-rule (2) or (3);

(2) A person must not be recognised as a refugee for purposes of these Rules if—

(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in any international instrument to which the United Kingdom is a party by virtue of its extension to St Helena and which has been drawn up to make provision in respect of such crimes;

(b) he or she has committed a serious non-political crime outside St Helena prior to his or her admission to St Helena as a refugee;

(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations Organisation; or

(d) having more than one nationality, the person has not availed himself or herself of the protection of one of the countries of which the person is a national and has no valid reason, based on well founded fear of persecution, for not having availed himself or herself of such protection.

(3) A person ceases to be a refugee in St Helena if—

(a) the person voluntarily re-avails himself or herself of the protection of the country of his or her nationality;

(b) having lost his or her nationality, the person voluntarily reacquires it;

(c) the person is granted status in St Helena or acquired the nationality of another country and enjoys the protection of the country of his or her new nationality;

(d) the person voluntarily re-establishes himself or herself in the country which he or she left, or outside which remained, as the case may be;

(e) the circumstances in connection with which the person was recognised as a refugee have ceased to exist;

(f) the person continues to refuse to avail himself or herself of the protection of his or her country of nationality; or

(g) if the person has lost his or her nationality, continue to refuse to return to the country of his or her former habitual residence.

Claim for asylum

3. (1) A person who is within St Helena (whether he or she has entered St Helena lawfully or otherwise) and who wishes to remain in St Helena as a refugee may, within 7 days of his or her arrival in St Helena, or within such further period as the Board allows on good cause shown to its satisfaction, apply to the Board for recognition of his or her status as a refugee in terms of the Refugee Convention either on the approved form or in person.

(2) A person who is required to leave St Helena due to a decision of the Board or an Immigration Officer may within 7 days of the date of decision make an application to the Board for recognition of his or her status as a refugee on the approved form or in person.

(3) A person is eligible to apply for asylum under these Rules if the person is —

(a) in St Helena; and

(b) at least 18 years of age or an unaccompanied minor.

(4) If a minor who is not accompanied by his or her parents submits an application for asylum, the rights and lawful interests of the minor must be represented during the asylum procedure by an independent representative nominated by the Board, and such representative must act objectively in the interest of the minor.

(5) The Board or an Immigration Officer must refer an unaccompanied minor to the Social Works Manager as soon as reasonably practicable.

(6) A minor who is not accompanied by parents has the right to receive legal assistance free of charge during the asylum procedure.

(7) The minor children of an asylum seeker are entitled to education in conformity with the laws in force.

(8) When an asylum claim is made to the Board, it must be recorded by the Secretary of the Board.

(9) If the Chief Immigration Officer is satisfied that the claim under paragraph (8) was made as soon as reasonably practicable after the applicant's arrival in St Helena, he or she must—

(a) if satisfied that for obvious and compelling reasons the applicant cannot be returned to his country of origin or nationality, grant him special leave to remain in St Helena; and

(b) make arrangements for the applicant's support, accommodation and maintenance.

(10) The grant of special leave under this rule does not confer any rights to gainful occupation in St Helena and may be revoked by the Chief Immigration Officer or the Board.

(11) If an asylum seeker is to be deported to a country of which he or she is a national or citizen and—

(a) the country to which he or she is to be deported requires identification data in respect of the applicant as a condition of the admission of the applicant to the country; and

(b) the applicant does not possess a passport or other travel document,

the Chief Immigration Officer must provide the requested data to such country but must not disclose that the applicant has sought asylum in St Helena.

Consideration of claim

4. (1) Unless it is impossible or inexpedient to do so, the Board must consider every application for asylum within 30 days of the application being made and may, either within that period of 30 days or thereafter, make any inquiry or investigation into the application the Board thinks necessary.

(2) The Board may for the purpose of inquiring or investigating any application seek—

(a) the assistance of any expert as an advisor;

(b) the assistance of the British Government; or

(c) the assistance or cooperation of United Nations High Commissioner for Refugees or any non-governmental organisation.

Grant of refugee status and rights of a recognised refugee

5. (1) After the inquiry or investigation into the application under rule 4, the Board may recognise or refuse to recognise the applicant as a refugee and must notify the applicant of their decision in writing.

(2) If a person is recognised as a refugee, he or she must be granted—

(a) a long term entry permit carrying permission to stay in St Helena for 5 years after which time he or she may apply for St Helenian status; and

(b) the right to work for any employer in St Helena.

(3) Any person whose claim for asylum has been successful may also apply for asylum for persons present in St Helena who are the person's—

(a) spouse or life partner;
(b) dependent children under the age of 18 years; and
(c) children over the age of 18 who are wholly dependent on the person.

(4) Every recognised refugee in St Helena—
(a) is entitled to the rights and subject to the duties contained in the Refugee Convention as if the references therein to refugee were references to a recognised refugee;
(b) is subject to all laws in force in St Helena; and
(c) must be afforded a reasonable opportunity to work and contribute to the development of St Helena.

Removal of asylum claimant to a safe third country

6. (1) A person may not bring an appeal under rule 9 if the Board certifies that—
(a) it is proposed to remove the person to a country of which he or she is not a national or citizen; and
(b) there is no reason to believe that the person's rights under the Human Rights Convention will be breached in that country,
and in such cases the Board must certify that the applicant can be deported to a particular country.

(2) In determining whether a person in relation to whom sub-rule (1) applies may be removed from St Helena, the country specified must be regarded as a place—
(a) where a person's life and liberty is not threatened by reason of his or her race, religion, nationality, membership of a particular society or group, or political opinion; and
(b) from which a person will not be sent to another country otherwise than in accordance with the Refugee Convention.

(3) The person in respect of whom the certificate referred to in sub-rule (2) was issued may appeal to the Magistrates' Court against the decision to remove on the grounds that any of the conditions applicable to that certificate was not satisfied when it was issued or has since ceased to be satisfied.

Limitations on rights of appeal

7. Rule 9 does not entitle a person to appeal against a refusal of an asylum application if—
(a) there are reasonable grounds for regarding such person as a person who is a danger to the security of St Helena, or who, having been convicted by a final judgement of a crime, constitutes a danger to the community of St Helena;
(b) the Governor has certified the person to be a prohibited immigrant; or
(c) the reason for the refusal was that he or she was a person to whom the Refugee Convention does not apply by reason of Article 1*(f)* of that Convention.

Assisting asylum seeker to enter St Helena

8. A person who—
(a) knowingly and for gain facilitates the arrival in St Helena of an individual; and

(b) knows, or has reasonable cause to believe, that the individual intends to apply for asylum,

commits an offence.
Penalty: A fine, or imprisonment for 5 years, or both.

Appeal

9. A person who is aggrieved by—
(a) a decision of the Board under rule 5; or
(b) any decision of the Board or an Immigration Officer which invokes St Helena's duties under the Human Rights Convention,

may appeal against the decision to the Supreme Court within 14 days of being notified of the decision.

Person not required to leave St Helena pending application or appeal

10. (1) A person awaiting a decision on an application for asylum under rule 3 or who has appealed against the decision of the Board or an Immigration Officer invoking St Helena's duties under the European Convention of Human Rights is not required to leave St Helena pending the outcome of the application or appeal.

(2) For the purposes of sub-rule (1), an application or appeal is pending with effect from the date on which it is submitted or instituted up until the date on which the claimant or appellant is either formally notified of the outcome of the application or appeal or withdraws or abandons the application or appeal.

IMMIGRATION ODINANCE, 2011

IMMIGRATION REGULATIONS, 2012

(Section 43)

TABLE OF CONTENTS

PART 1
PRELIMINARY

1. Citation and commencement
2. Interpretation

PART 2
ST HELENIAN STATUS AND DECLARATION

3. Application for declaration of status
4. Application for St Helenian status
5. Periods counted as time spent outside St Helena
6. Deprivation and loss of status

PART 3
ENTRY AND RESIDENCE

7. Application to enter St Helena
8. Short term entry permit
9. Long term entry permit
10. Persons claiming exemption from entry permit requirement
11. Landing permission
12. Special leave to enter or remain in St Helena
13. Grounds for refusal of a permit or permission to enter
14. Grounds for revocation of entry permit or permission
15. Refusal of entry and removal

PART 4
WORK PERMITS AND EMPLOYMENT

16. Work permits
17. Immigrant employment certificates

PART 5
APPEALS

18. Appeal procedures
Schedule I
Schedule II

PART 1
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Immigration Regulations, 2012, and come into force on 23rd January 2012.

Interpretation

2. **(1)** Any word or expression to which a meaning has been assigned in the Ordinance bears the meaning so assigned, and for the purpose of these Regulations—

"public funds" means—

(a) housing where rent or contributions to the rent are paid for by the Government, either directly or indirectly, or where the house is owned by the government and no rent is paid;

(b) any government allowances;

(c) publicly provided or subsidised healthcare, unless otherwise stated;

"terrorist activity" means any act committed, or the threat of action, designed to influence a government or intimidate the public and made for the purposes of advancing a political, religious or ideological cause and which—

(a) involves serious violence against a person;

(b) may endanger another person's life;

(c) creates a serious risk to the health or safety of the public;

(d) involves serious damage to property; or

(e) is designed to seriously disrupt or interfere with an electronic system,

and **"terrorist"** and **"terrorism"** have a corresponding meaning.

(2) For the purpose of these Regulations, an organisation is concerned with terrorism if it commits or participates in acts of terrorism, prepares for terrorism, promotes or encourages terrorism (including the unlawful glorification of terrorism), or is otherwise involved in terrorism.

PART 2
ST HELENIAN STATUS AND DECLARATION

Application for declaration of status

3. (1) A person applying for declaration of his or her St Helenian status under section 15(4) of the Ordinance must complete the approved form and provide documentary or other evidence of—

(a) in the case of status obtained by right of birth—

(i) his or her Islander status as referred to in Schedule I of the Ordinance; or

(ii) proof of his or her birth in St Helena and details of the St Helenian status of his or her parent or parents; or

(b) in the case of status obtained by right of descent, the relationship with his or her parent with St Helenian status and details of such parent's status and—

(i) if section 15(2)*(b)*of the Ordinance applies, proof of such parent's residence in St Helena; or

(ii) if section 15(2)*(c)*of the Ordinance applies, details of the St Helenian status of his or her grandparent referred to in that section.

(2) A declaration of status issued by the Board must be in the approved form.

Application for St Helenian status

4. (1) A person applying for St Helenian status under section 15(3) of the Ordinance, with reference to paragraph (1) of Schedule II thereto, must apply in the approved form and provide documentary or other evidence that the applicant is eligible to be granted St Helenian Status in accordance with section 15(3) of, and Schedule II to, the Ordinance.

(2) An applicant applying for St Helenian status under section 15(3) of the Ordinance as the spouse or life partner of a person with St Helenian status must apply in the approved form and provide documentary or other evidence that the applicant is eligible to be granted St Helenian status in accordance with section 15(3) of, and Schedule II to, the Ordinance.

(3) A declaration of St Helenian status granted by the Board must be made in the approved form and state details of how the applicant qualified for such status.

Periods counted as time spent outside St Helena

5. For the purpose of regulation 4, any period of time spent in St Helena in fulfilment of any contract entered into on behalf of Her Majesty, for goods or for services, to be provided to Her Government of St Helena is to be counted as time spent outside St Helena.

Deprivation and loss of status

6. (1) If the Board intends to revoke a declaration of St Helenian status, it must notify the person in writing of the intention.

(2) A person who has received notification under paragraph (1), may make written representations to the Board within 14 days from the date of service of the notification and the Board must consider such representations prior to exercising its power to revoke the declaration.

PART 3
ENTRY AND RESIDENCE

Application to enter St Helena

7. (1) All persons landing in St Helena must complete an arrival declaration in the approved form and present it to an Immigration Officer prior to entering St Helena.

(2) An entry permit issued in accordance with section 19 or 20 of the Ordinance may be in the form of an endorsement in the immigrant's passport.

(3) Any person seeking to enter St Helena must—

(a) fully and truthfully answer all questions and enquiries put to the person by an Immigration Officer relating directly or indirectly to establishing the person's identity, nationality or occupation or bearing on any of the matters contained in the Ordinance; and

(b) disclose and produce to an Immigration Officer on demand all documents in the person's possession relating to such matters.

(4) An Immigration Officer who has reasonable grounds to suspect that a person seeking to enter St Helena may be suffering from a mental disorder or an infectious disease may require the person to undergo a medical examination by a Government medical officer before granting entry into St Helena.

(5) An Immigration Officer who has reasonable grounds to suspect that a person seeking to enter St Helena in contravention of the Ordinance or any regulations may refuse entry to such a person and require him or her to depart immediately or as soon as reasonably practicable thereafter.

(6) Any costs associated with removing an immigrant who does not have an Entry Permit and is not exempt from the requirement for obtaining an Entry Permit, may be claimed from the master of the vessel on which such immigrant arrived.

Short term entry permit

8.[7] **(1)** A person applying to enter St Helena for a period of 183 days or less under section 19 of the Ordinance must—

(a) …

[7] *Regulation 8 amended by L.N. 17 of 2019*

(b) complete the approved form;
(c) either—
(i) hold a valid onward ticket for travel from St Helena to the person's next destination or otherwise satisfy the Immigration Officer in accordance with section 19(1)*(c)*(ii) of the Ordinance with regard to his or her repatriation; or
(ii) arrive on a vessel of which the person is the owner, master or a crew member and intend to-leave on that vessel;
(d) provide evidence of a valid address where the person will be staying in St Helena; and
(e) make a declaration that he or she does not have any outstanding fines or unspent convictions which are multiple or serious in nature.

(2) A person applying to extend a short term entry permit under section 19(4) of the Ordinance must apply in the approved form and provide proof that he or she continues to meet the requirements of this regulation.

(3) For the purposes of this regulation, a person who has entered the territorial waters or airspace in the circumstances set out in section 17(5) of the Ordinance, and has presented himself or herself to an Immigration Officer at the first practicable opportunity after so entering, must be treated as being outside St Helena.

Long term entry permit

9.[8] **(1)** A person applying to enter or remain in St Helena for a period exceeding 183 days under section 20 of the Ordinance must—
(a) …
(b) apply in the approved form;
(c) provide an undertaking that the person does not intend taking up employment in St Helena, or if he or she will be taking up such employment, make a declaration that he or she has made or will be making an application for a work permit under section 24 of the Ordinance;
(d) provide proof of a valid address where he or she will be staying in St Helena; and
(e) make a declaration that he or she does not have any outstanding fines or unspent convictions which are multiple or serious in nature.

(2) A person applying to extend or renew a long term entry permit under section 20(2) of the Ordinance must apply in the approved form and provide proof that he or she continues to comply with the requirements of this regulation.

(3) The Board must, if satisfied that the applicant qualifies for a long term entry permit, issue a permit in the approved form.

(4) Regulation 8(3) applies to this regulation as it applies to regulation 8.

[8] *Regulation 9 amended by L.N. 17 of 2019*

Persons claiming exemption from entry permit requirement

10. (1) If a person is exempt from the requirement to obtain an Entry Permit under section 17(2)*(b)* of the Ordinance (because the person is in, or wishes to enter, St Helena primarily for the purpose of engaging in activities which are, by virtue of section 23(1)*(b)* of the Ordinance, not to be regarded as employment or work for the purposes of Part 5 of the Ordinance) and such person will be in St Helena for a period of 6 months or more, the person or organisation employing such person must complete the approved form and submit it to an Immigration Officer in advance of arrival.

(2) A person claiming exemption from the requirement to hold an Entry Permit under section 17(2)*(a)* of the Ordinance as the spouse or life partner of a person with St Helenian status must—

(a) complete the approved form to declare the exemption; and

(b) provide proof that he or she has been in a subsisting relationship of marriage, or akin to marriage, with the person with St Helenian status for a period of at least 3 months immediately preceding the date of application and intends to continue the relationship, living together in St Helena.

(3) If the person claiming exemption from the requirement to hold an Entry Permit under section 17(2)*(a)* is a dependant (other than the spouse or life partner) of the person with St Helenian status) the person with St Helenian status must, on behalf of such dependant, complete the approved form to declare the exemption.

(4) The Board must, if satisfied that the applicant qualifies for exemption from holding an Entry Permit, issue a certificate of exemption in the approved form which remains valid as long as all the conditions listed in paragraph (1), (2) or (3), as the case may be, remain satisfied.

Landing permission

11. (1) The master of a vessel seeking to obtain a landing permission under section 21 of the Ordinance for the crew and passengers of his vessel must—

(a) apply for such permission on the approved form;

(b) ensure that passengers and crew present to the Immigration Officer upon entering St Helena a valid passport or an adequate alternative for determining nationality and identity which must be agreed in advance with the Chief Immigration Officer; and

(c) accept responsibility for any health requirements, emergency medical evacuation and emergency repatriation that the passengers and crew may require;

(d) at least14 days in advance of arrival, or a shorter period with permission of an Immigration Officer, provide to an Immigration Officer a complete list of all passengers and crew members who have or will have the master's permission to land in St Helena.

(2) The Chief Immigration Officer will issue a landing permission which will be valid for one visit of the vessel.

Special leave to enter or remain in St Helena

12. (1) The Chief Immigration Officer or a person acting under his or her authority may grant special leave to an immigrant to enter or remain in St Helena if the immigrant—

(a) does not immediately meet the requirements of the Ordinance or regulations, but for a compelling reason should be allowed to enter St Helena temporarily either to make provision to meet the requirements of the Ordinance or regulations or to make arrangements for onward passage to another destination;

(b) requires temporary admittance for medical assessment or treatment;

(c) unknowingly allows his or her permit or other permission to stay on St Helena to lapse and alerts an Immigration Officer or the Board at the earliest practicable opportunity;

(d) has submitted an application for an extension of his or her permit or other permission to stay in St Helena, but the decision of the Board or Immigration Officer has not been made by the date of expiry of the permit or other permission;

(e) following a decision by the Board or Immigration Officer to deny an application for an extension, is left without a valid entry permit or other permission to stay in St Helena, in which case any special leave is valid only—

(i) pending further representations to the Board or Immigration Officer;

(ii) pending an appeal to the Magistrates Court;

(iii) pending departure on the next available vessel;

(iv) *Repealed by Ord. 14 of 2017* or

(f) despite not strictly complying with the definition of a consular officer, nor being directly in the service of the Crown, is serving in or supporting Her Majesty's forces or those of any other United Nations member nation.

(1A) Special leave as contemplated by sub-regulation (1) may also be granted if a claim for asylum under the Asylum Rules, 2012 is refused and the claimant's appeal rights are exhausted, but it is impossible for the asylum seeker to return to his or her country of origin.

(2) Special leave granted under sub-regulation (1) or (1A) must be indicated by way of endorsement in the immigrant's passport and applies for a specified period not exceeding 3 months which does not count as time spent on St Helena for purposes of Schedule II of the Ordinance.

Grounds for refusal of a permit or permission to enter

13. The Board or an Immigration Officer, as the case may be, may refuse an application for an entry permit or may refuse an immigrant permission to enter St Helena, if—

(a) the immigrant fails to make a declaration confirming that he or she is of good character or the Board or Immigration Officer is satisfied on the balance of probabilities that the immigrant could not truthfully make this declaration;

(b) the Governor has declared the person to be a prohibited immigrant under section 42(1);

(c) the Board or Immigration Officer has reason to believe that the immigrant—

(i) has an adverse immigration history in St Helena or elsewhere;

(ii) is a terrorist, has links to any terrorist organisation, supports or encourages terrorist activity or has ever expressed views that justify or glorify terrorist activity;

(iii) has been involved in or associated with war crimes, crimes against humanity or genocide;
(iv) has an infectious disease which he or she was aware of but failed to inform an Immigration Officer about;
(v) has a conviction for an offence under section 38 of the Ordinance; or
(vi) has committed crimes that are multiple or serious in nature.

Grounds for revocation of entry permit or permission

14. The Board or an Immigration Officer, as the case may be, may revoke an entry permit or other permission of a person—

(a) on any of the grounds mentioned in regulation 13*(b)* or *(c)* as justifying the refusal of an entry permit or permission to enter;
(b) if the person is unable to show that he or she has financial means to adequately maintain and accommodate himself or herself and any dependants for the duration of their intended stay in St Helena and pay for their repatriation (including in a medical emergency);
(c) the person fails to notify an Immigration Officer as soon as is reasonably practicable of any change in circumstances which may affect the person's permit or permission to stay in St Helena.

Refusal of entry and removal

15. (1) An Immigration Officer or the Board may refuse entry to St Helena of any person if the person does not comply with any condition of entry imposed by or under the Ordinance or these Regulations.

(2) In the case of a refusal under sub-regulation (1), the Immigration Officer or the Board, as the case may be, must provide reasons for refusal in the approved form and provide all details that are available to the Immigration Officer or the Board at the time of refusal.

(3) The Board may direct that an immigrant be deported from St Helena if the immigrant—

(a) does not comply with or has not complied with any condition imposed by or under the Ordinance or these Regulations.
(b) previously complied with the condition imposed by or under the Ordinance and Regulations, but as a result of any change in circumstances does not now comply; or
(c) remains in St Helena beyond the period for which his or her entry permit or any other permission to be in St Helena is valid; or
(d) deliberately facilitates the illegal entry into St Helena of any other person.

(4) The Board must provide a notice of intention to deport under paragraph (3) in the approved form .

PART 4
WORK PERMITS AND EMPLOYMENT

Work permits

16. (1) A person applying under section of 24 of the Ordinance to work in St Helena, must apply in the approved form.

(2) ...

(3) ...

Immigrant employment certificates

17. (1) An employer who intends to employ immigrants in St Helena must apply in the approved form for an immigrant employment certificate under section 25 of the Ordinance

(2) If the Board grants an immigrant employment certificate to the employer it must be in the approved form.

(3) If the circumstances so require, the Board may vary the conditions attached to an immigrant employment certificate.

PART 5
APPEALS

Appeal procedure

18. (1) A person who wishes to appeal to the Board against a decision of an Immigration Officer under section 12 of the Ordinance must submit written representations in the approved form.

(2) A person who wishes to appeal to the Magistrates' Court against a decision of the Board under section 13 of the Ordinance must appeal by notice to the court and set out—

(a) the decision against which the appeal is made;

(b) the grounds of the appeal; and

(c) whether the appellant wishes to be heard personally or by a representative.

(3) On receipt of a notice of appeal under sub-regulation (2), the Clerk of the Peace must —

(a) notify the Board of the decision against which the appeal is being made with the grounds of such appeal and the Board has 28 days (or any longer period the Chief Magistrate may, on good cause shown, allow) to provide a written response to the appeal; and

(b) if the appellant has indicated that the appellant wishes to be heard, whether personally or by a representative, fix a date and time for the hearing and notify the appellant and the Board accordingly.

Fees

19. (1) The fees specified in Schedule II are payable in respect of the several matters set out in it.

(2) The Governor in Council may waive or reduce the fees, or any of them, in any particular case or class of case.

SCHEDULE I

Repealed

SCHEDULE II[9]

(Regulation 19)

FEES

Fee No.	Matter	Fee (£)
1	Issue of a short term entry permit	
	(Person under 12 years of age are exempt from these fees)	
	Valid for up to 183 days	20.00
1A	Landing permission	
	Per capita fee for purposes of section 21(3)	12.00
2	Issue of a long term entry permit	
2a	Valid for up to12 months	25.00
2b	Valid for up to 2 years, other than in 2a	40.00
2c	Valid for over 2 years, for each year or part of a year exceeding 2 years	10.00
3	Issue of a work permit	
3a	Valid for up to12 months	50.00
3b	Valid for up to 2 years, other than in 3a	90.00
3c	Valid for over 2 years, for each year or part of a year exceeding 2 years	30.00
4	Issue of an immigrant employment certificate	
4a	For each employee-year (where the number of employee-years is the number of employees authorised multiplied by the number of years or part years of the validity of the certificate)	
	First 2 employee years	60.00
	Each additional employee year	40.00
5	In relation to applications for grant of St Helenian status	
5a	On lodging an application for grant	50.00

[9] *Schedule II amended by L.N. 15 of 2018*

5b	Granting of status	100.00
6	Application for a certificate of status under section 15(4)	
6a	On the lodging of an application	20.00
6b	On granting a certificate	20.00
7	Immigrant landholding licence	
7a	On an application for a licence	100.00
7b	On the granting of a licence	100.00
8	Appeals	
8a	On lodging an appeal with the Board under section 12	10.00
8b	On lodging an appeal to the Magistrates Court under section 13	30.00

These fees are refundable in the event of the appeal being allowed.

IMMIGRATION ORDINANCE, 2011

IMMIGRATION REGULATIONS, 2012

(Regulation 19(2))

NOTICE OF WAIVER OF FEES IN RESPECT OF PASSENGERS AND CREW MEMBERS OF YACHTS

(Legal Notice 9 of 2012)

IN exercise of the power conferred by regulation 19(2) of the Immigration Regulations, 2012, the Governor in Council waives the fees payable under Item 1 of the Second Schedule to the Regulations in respect of the issue of a short term entry permit to any person who arrives on St Helena on or after 1st April 2012 as a passenger or crew member of a yacht and who will depart from St Helena on such yacht within 72 hours after so arriving.

For purposes of this notice, “yacht” means any vessel which is so constructed or adapted that it can be propelled by wind power, whether or not it is fitted with one or more engines.

IMMIGRATION ORDINANCE, 2011

IMMIGRATION (LANDHOLDING) REGULATIONS, 2012

(Sections 43 and 45(5))

TABLE OF CONTENTS

1. Citation and commencement
2. Application for a landholding licence
3. Applicant to have opportunity to comment on objections
4. Decisions to be made promptly
5. Form of licence, and conditions
6. Fees
7. Transitional provisions

Schedule I: Form LH1
Schedule II: Form LH2
Schedule III: Form LH3

Citation and commencement

1. These Regulations may be cited as the Immigration (Landholding) Regulations, 2012, and come into force on 1st May 2012.

Application for a landholding licence

2.[10] **(1)** Every application for a licence under Part 6 of the Ordinance must be in the form set out in Schedule 1, and be delivered to the Secretary to the Board together with the relevant fee.

(2) Upon receiving an application, the Secretary must—

(a) cause notice thereof to be published in the *Gazette*, and in any other way required by policy guidance issued under section 41 of the Ordinance, stating that any person may submit comments or objections to the Secretary within 14 days of the date of publication of the notice;

(b) send a copy of the application to the Registrar of Lands, requesting a report as to whether or not the information given in the application is consistent with the information held in the Land Register; and

(c) send a copy of the application to the Chief Immigration Officer, requesting a report as to whether or not any information given in the application about the applicant visiting, or being in, St Helena is consistent with immigration records.

(3) The Registrar of Lands and the Chief Immigration Officer must each provide a report to the Secretary within 14 days from the date on which the request was received.

Applicant to have opportunity to comment on objections

3. (1) If the Secretary receives comments upon, or objections to, the application, the applicant must be given an opportunity to comment on them.

[10] *Regulation 2 correction by Gazette Notice No. 2019 of 3 December 2019*

(2) For the purposes of sub-regulation (1), it is sufficient if the applicant is informed of the general nature of each comment or objection, without being told the identity of the commentator or objector, and invited to submit any comments on it (in writing) within 7 days.

Decisions to be made promptly

4. (1) The Board must make a decision on each application within 42 days of the date on which it was delivered to the Secretary.

(2) If the application was incomplete in any material way, or was not accompanied by the fee, the period specified in paragraph (1) runs from the date on which the deficiency was fully rectified.

(3) This regulation does not prevent the Board from seeking additional information from the applicant or other persons and delaying a decision until such information has been supplied.

Form of licence, and conditions

5. (1) Every licence must be in the form appearing in Schedule 2.

(2) The Board, when granting a licence, may grant it unconditionally or subject to any conditions that appear to the Board to be necessary or desirable to secure that the acquisition of the land by an immigrant is not contrary to the public interest.

(3) Notwithstanding the generality of sub-regulation (2), conditions may not relate to matters which are not matters to be taken into consideration either under the Ordinance or under policy guidance issued pursuant to section 34(4) of the Ordinance.

Fees

6. There are payable in respect of the several matters listed in the first column of Schedule 3 the fees respectively specified in the second column of that Schedule.

Transitional provisions

7. Following the repeal on 1st May 2012 of the remaining provisions of the Immigration Control Ordinance, 2008 by the Immigration Ordinance, 2011, any application received under section 28 of the former Ordinance on or before 30th April 2012, which—

(a) had not been placed before the Governor in Council by that date - must be delivered to the Secretary to the Board and thereafter be considered and determined by the Board under the Immigration Ordinance, 2011, with any necessary modifications; or

(b) was placed before the Governor in Council before 31st March, 2012, but had not been finally determined by that date - must be considered and determined by the Governor in Council in accordance with the Immigration Control Ordinance, 2008, as if that Ordinance had not been repealed.

SCHEDULE 1
(Regulation 2(1))

ST HELENA
IMMIGRATION ORDINANCE, 2011

IMMIGRATION (LANDHOLDING) REGULATIONS, 2012

Form LH1
APPLICATION FOR: IMMIGRANT LANDHOLDING LICENCE
(Regulation 2(1))

Do not complete this form until you have read the notes section at the end of this form

1. Surname:
2. Forenames:
3. Date of birth (dd/mm/yyyy):
4. Current address:
   Telephone:
   E-mail
5. Is this a joint application?

□ Yes (please provide details of any other joint applicants on a separate attached sheet)
□ No

6. If applying for a landholding licence on behalf of a corporate body (see section 27(1) of the Ordinance) please give details of the corporate body below:

Name of corporate body:
Country of incorporation:
Registration No:
Address:
Telephone:
E-mail:
Your position (e.g. Director):

7. Details of proposed landholding:
Location (including land registry section, block and parcel number):
Zone (I.e. Green Heartland / Coastal / Intermediate):
Freehold / Leasehold (Please specify length of any lease):
Intended land-use (e.g. agriculture / industry / residential – please add further detail as appropriate):
Size (acres):

7b. Please provide details of the seller:

Name:
Address:
Telephone:
E-mail:

8. Do you have development permission for the intended land-use(s) outlined above? (Note: A grant of a landholding licence does not guarantee a grant of development permission).

- □ Yes (Please attach evidence of development permission to this application)
- □ No, I am not changing the land-use or use of any buildings on it or intending to construct or alter any buildings
- □ No

Note: The Immigration Control Board may make enquiries with other Government Directorates

9. Do you already reside or intend to reside in St Helena?

- □ Yes, I live in St Helena already (Please attach a copy of your entry permission)
- □ Yes, I intend to reside in St Helena and am at the same time applying for an entry permit (Please attach entry permit applications for you and accompanying dependents)
- □ No

If you have ticked 'No' please provide details of the purpose of your intended land-holding in St Helena:

10. Are you aware of any other persons or corporate bodies undertaking similar activity to your proposed land-use in St Helena (excluding owner-occupying residential)?

- □ Yes, Please specify below:
- □ No

11. Details of current landholding(s) by applicant and associated persons:

<u>Applicant:</u>
Owner (E.g. Self / spouse / sibling):
Location (including Land Registry section, block and parcel number):
Freehold / Leasehold (Please specify length of lease):
Land-use (e.g. Agriculture / industry / residential: – please add further detail as appropriate)
Size (acres):

<u>Associated persons:</u>
1.
2.
3. etc.

12. Declaration:

□ I authorise the decision maker to conduct background checks via credit checking organizations and other government departments prior to the grant of any landholding certificate.

 I have not been involved in or associated with terrorist activity or organisation, war crimes, crimes against humanity or genocide.
 I have read and understood the notes section of this form.
 I do not have any outstanding fines or unspent criminal convictions in any country.
Please specify all outstanding fines or unspent convictions if you have any here:

 To the best of my knowledge and belief all particulars supplied by me are correct and complete.

You may be asked to provide evidence in support of the statements above.

13. Signature
14. Date (dd/mm/yyyy)

Notes:
1) It is unlawful, subject to defined exceptions, for any person who does not have St Helenian status to own land in St Helena. Please refer to Part 6 of the Immigration Ordinance 2011 for further detail.

2) Under the Land Development Control Plan, St Helena is divided into 3 zones for the purpose of regulating land use and development; these are;
Green Heartland:
Some strictly controlled tourism development is allowed and some existing or derelict dwellings can be rebuilt and extended. Development necessary for agriculture and forestry may also be permitted. In summary:-
- In principle, built development is discouraged in the Green Heartland
- Traditional houses and cottages which have fallen in to disrepair may be carefully restored without damaging the visual quality of the area.
- Extensions are controlled to prevent erosion of the area's character

Coastal Zone
Extensive tourism development is encouraged, as well as some housing development provided that, in both cases, the sites for development are carefully chosen to maintain the natural character of the landscape. Development must be in hollows and valleys not on ridges or exposed slopes and the layout and design of buildings must respect their natural setting. Agricultural development may be permitted and agricultural land is strictly protected from other development.
Intermediate Zone
All types of development are normally permitted providing it is in accordance with good planning principles. New buildings must be sited and planned so that they relate properly to each other and to existing buildings both in appearance and use. There is an emphasis on working with natural levels rather than creating flat sites by large excavations and emphasis on planting to blend development into the landscape. Agricultural development is normally allowed and agricultural land is strictly protected from other development.

3) A presumption in favour of development does not mean that developments will always be permitted and such development will always be subject to planning policies to achieve acceptable standards.

4) It is a criminal offence to give false information.

SCHEDULE 2
(Regulation 5(1))

ST HELENA
IMMIGRATION ORDINANCE, 2011

IMMIGRATION (LANDHOLDING) REGULATIONS, 2012

Form LH2
IMMIGRANT LANDHOLDING LICENCE
(Regulation 5(1))

IN exercise of the powers conferred upon it by section 34(1) of the Immigration Ordinance, 2011, the Immigration Control Board hereby grants unto ……. (hereinafter called the "licensee") a licence to hold a freehold/leasehold* interest in the following land:

This licence to hold land is subject to the following conditions:

Dated this day of 20 .

…….
Chair of the Board
(*delete whichever is not applicable)

Notes:
1) This licence is not a document of title, nor does it imply any warranty as to the title of any person.
2) This licence does not entitle the licensee to work in St Helena, nor does it permit entry into St Helena, for which there are separate requirements.

SCHEDULE 3
(Regulation 6)

FEES

1	Immigrant Landholding	
	(a) On an application for a licence	£100.00
	(b) On the granting of a licence	£100.00
2	Appeals	
	On lodging an appeal to the Magistrates' Court under section 13	£30.00

IMMIGRATION ORDINANCE, 2011

IMMIGRATION (VISA REQUIREMENT) ORDER, 2016

(Section 16A)

Citation

1. This Order may be cited as the Immigration (Visa Requirement) Order, 2016.

Countries for which travel visa required

2. The following persons are required under section 16A of the Immigration Ordinance, 2011, to obtain a travel visa prior to embarking on his or her journey to St Helena:

(a) Nationals or citizens of the following countries or territorial entities:

Afghanistan
Albania
Algeria
Angola
Armenia
Azerbaijan
Bahrain
Bangladesh
Belarus
Benin
Bhutan
Bolivia
Bosnia Herzegovina
Burkina Faso
Burma
Burundi
Cambodia
Cameroon
Cape Verde
Central African Republic
Chad
People's Republic of China
Colombia
Comoros
Congo
Cuba
Democratic Republic of the Congo
Djibouti
Dominican Republic
Ecuador
Egypt
Equatorial Guinea
Eritrea
Ethiopia
Fiji

Gabon
Gambia
Georgia
Ghana
Guinea
Guinea Bissau
Guyana
Haiti
India
Indonesia
Iran
Iraq
Ivory Coast
Jamaica
Jordan
Kazakhstan
Kenya
Korea (North)
Kosovo
Kuwait
Kyrgyzstan
Laos
Lebanon
Lesotho
Liberia
Libya
Macedonia
Madagascar
Malawi
Mali
Mauritania
Moldova
Mongolia
Montenegro
Morocco
Mozambique
Nepal
Niger
Nigeria
Oman
Pakistan
Palestinian Territory
Peru
Philippines
Qatar
Russia
Rwanda
Sao Tome e Principe
Saudi Arabia
Senegal

Serbia
Sierra Leone
Somalia
South Sudan
Sri Lanka
Sudan
Surinam
Swaziland
Syria
Taiwan
Tajikistan
Tanzania
Thailand
Togo
Tunisia
Turkey
Turkmenistan
Uganda
Ukraine
United Arab Emirates
Uzbekistan
Venezuela
Vietnam
Yemen
Zambia
Zimbabwe
The territories formerly comprising the socialist Federal Republic of Yugoslavia

(b) Persons who hold passports or travel documents issued by the former Soviet Union or by the former Socialist Federal Republic of Yugoslavia.

(c) Stateless persons.

(d) Persons travelling on any document other than a national passport, regardless of whether the document is issued by, or evidences nationality of, a state not listed in paragraph *(a)*, except where that document has been issued by St Helena or the United Kingdom.

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IMMIGRATION ORDINANCE, 2011

IMMIGRATION (TEMPORARY MEASURES) REGULATIONS, 2018

(Section 43*(m)*)

Citation and commencement

1. These Regulations may be cited as the Immigration (Temporary Measures) Regulations, 2018, and come into force on 16 November 2018.

Temporary exemption for persons formerly providing goods or services to or on behalf of Government

2. (1) A person who complies with the provisions of sub-regulation (3) on the date that these Regulations come into force, is exempt from the requirement to hold an entry permit and from the restriction on employment under section 23 of the Immigration Ordinance, 2011, for a period of 3 months from the date on which his or her exemption under section 17(2)*(b)* of that Ordinance ceased to have effect.

(2) A dependant of a person referred to in sub-regulation (3) is exempt from the requirement to hold an entry permit for a period of 3 months from the date on which his or her exemption under section 17(2)*(c)* of the Immigration Ordinance, 2011, ceased to have effect by virtue of the circumstances referred to in sub-regulation (3).

(3) The exemptions in sub-regulations (1) and (2) apply where—

(a) a person was, at the time of his or her entry into St Helena, exempt from the requirement to obtain an entry permit by virtue of section 17(2)*(b)* of the Immigration Ordinance, 2011, and was excluded from the restriction on employment under section 23 of that Ordinance due to his or her work being performed in fulfilment of a contract as referred to in section 23(1)*(b)*; and

(b) that person ceased to be so exempt and excluded from the restrictions, as referred to in paragraph *(a)*, but he or she continues to provide the same or similar services or goods to or on behalf of an entity which is fully owned by the St Helena Government.

(4) An employer who employs a person to whom sub-regulation (3) applies who does not hold an immigration employment certificate under section 25 of the Immigration Ordinance, 2011, with respect to that person, must apply in the approved form for such immigration employment certificate within the 3 month period referred to in sub-regulation (1).

(5) Despite the provisions of regulation 9(1)*(a)* of the Immigration Regulations, 2012, a person or dependant referred to in sub-regulation (1) or (2) who applies for a long term entry permit during the period of 3 months referred to in that sub-regulation is exempt from the requirement to be outside St Helena at the time of application.

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IMMIGRATION ORDINANCE, 2011

IMMIGRATION (PROHIBITED AND CONTROLLED ENTRY) REGULATIONS, 2020

(Section 43)

Citation and expiry

1. (1) These Regulations may be cited as the Immigration (Prohibited and Controlled Entry) Regulations, 2020 and shall cease to have effect at the end of the period of two years beginning on the day on which the Regulations come into force[11].

(2) Subsection (1) does not affect the validity of anything done pursuant to these Regulations before the Regulations cease to have effect.

Interpretation

2.[12] **…**

Prohibited or exempted entry

3.[13] …

Temporary controlled and exempted entry

4.[14] (1) Subject to sub-regulation (2), an Immigration Officer may only permit entry by aircraft or ship to—

(a) a person who is an Islander;
(b) a person who has St Helenian status and a dependant of the person;
(c) an immigrant who has been granted a long term entry permit;
(d) a person who is in the service of the Crown in right of the Government of St Helena and a dependant of the person;
(e) a person who will be entering St Helena as a transit passenger solely for the purpose of onward travel to or from Ascension.

(2) The Governor in Council may direct the Chief Immigration Officer that a person other than a person to whom sub-regulation (1) applies is to be permitted entry.

(3) A direction under sub-regulation (2) may be made orally or in writing and if made orally must be reduced into writing as soon as is reasonably possible thereafter and published by notice in the Gazette.

Detention

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[11] *In force on 13 March 2020*
[12] *Regulation 2 amended by L.N. 10 of 2020 and revoked by L.N. 1 of 2021*
[13] *Regulation 3 revoked by L.N. 10 of 2020*
[14] *Regulation 4 substituted by L.N. 10 of 2020 and L.N. 1 of 2021*

5.[15] …

Offences

6.[16] A person who enters St Helena in contravention of these Regulations commits an offence.

Penalty: A fine of £5,000.

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[15] *Regulation 5 revoked by L.N. 10 of 2020*
[16] *Regulation 6 amended by L.N. 1 of 2021*