



ST. HELENA

CHAPTER 13

LAY ADVOCATES ORDINANCE

Non-authoritative Consolidated Text

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Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown

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Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

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Ordinance 13 of 1986 .. in force 1 November 1986

Amended by Ordinance 15 of 1997

Amended by Ordinance 8 of 2004

Amended by Ordinance 17 of 2011 .. in force 1 January 2012

No Subsidiary Legislation has been made under this Ordinance

¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

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CHAPTER 13**LAY ADVOCATES ORDINANCE**

(Ordinance 13 of 1986 as amended by Ordinances 15 of 1997, 8 of 2004 and 17 of 2011)

AN ORDINANCE TO ESTABLISH A SCHEME TO PROVIDE LEGAL ADVICE AND ASSISTANCE TO MEMBERS OF THE PUBLIC, AND FOR RELATED PURPOSES.

Commencement

[1 November 1986]

**PART I
PRELIMINARY****Short title**

1. This Ordinance may be cited as the Lay Advocates Ordinance.

Interpretation

2. In this Ordinance, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

“**detrained person**” means a person detrained in due course of law in a prison or other place of lawful custody;

“**Financial Year**” means the period from the first day of April in any year to the thirty-first day of March in the following year;

“**Fund**” means the Legal Assistance Fund established under Part III;

“**Justices’ Meeting**” means any meeting of Justices of the Peace under Part IV;

“**Justice Trustee**” means a Justice of the Peace appointed by a Justices’ Meeting to be a Trustee of the fund;

“**Lay Advocate**” means a person holding the office of Lay Advocate under Part II; and

“**The Trustees**” means the trustees for the time being of the Fund.

**PART II
LAY ADVOCATES****Appointment of Lay Advocates**

3.² (1) The Public Solicitor, after receiving the advice of a Justices Meeting, may appoint any fit and proper person to hold the office of Lay Advocate.

(2) Any number of persons may hold the office of Lay Advocate simultaneously.

(3) Without prejudice to subsection (4), a Lay Advocate may resign his office at any time by notice in writing to the Public Solicitor.

(4) The Public Solicitor, with the approval of the Governor, may remove any person from the office of Lay Advocate.

² Section 3 amended by Ord. 15 of 1997

Rights of Lay Advocates and immunity from suit**4. (1)³** A Lay Advocate shall be entitled—

- (a) to appear and be heard on behalf of any party to proceedings before any court or tribunal exercising any lawful jurisdiction in St. Helena;
- (b) to receive the co-operation and assistance of the Public Solicitor and his office with regard to any research or enquiry concerning questions of law and access to law reports and legal text books, but to the extent only that such co-operation and assistance is consistent with the responsibilities and duties of that office and if at any time there is no subsisting appointment to the office of Public Solicitor or if the Public Solicitor is absent from St. Helena, Lay Advocates shall be entitled to receive at all reasonable times the co-operation and assistance of the Legal and Lands Department with regard to the several matters set out above;
- (c) to visit, at all reasonable times, any detained person who has asked to see a Lay Advocate for the purposes of obtaining legal advice; and to consult with such person in private, except in so far as such consultation would entail a risk to the security of the establishment in which the person is detained.

(2) A Lay Advocate may give advice and assistance on matters of law, to any person requesting such advice.

(3) No Lay Advocate shall be liable to be sued in any civil court for any act done by him in exercise of his powers, rights or duties under this Ordinance, provided that he did the act complained of in good faith in a manner in all respects consistent with the provisions of this Ordinance.

Obligations of Lay advocates**5.⁴ (1)** A Lay Advocate shall not—

- (a) charge or levy any charge or fee for services provided by him under section 4;
 - (b) give any advice or assistance, or appear as an advocate before any court or tribunal, in respect of any case or matter in which he has any personal interest which would or might conflict with the interests of the person whom he is assisting or representing.
- (2) Every Lay Advocate shall—
- (a) take all reasonable care to ensure that the advice and assistance which he gives to any person are founded upon an accurate understanding of the relevant law; and seek any necessary advice from the Public Solicitor's Office for that purpose;
 - (b) keep a written record of the name of every person to whom he renders any advice or assistance, together with a note of the general nature of the problem discussed and the advice given thereon; and supply a copy of such record, on request, to the person advised;
 - (c) treat all information received from any person by whom he is consulted in his capacity as a Lay Advocate as having been given in the strictest confidence, subject to the express provisions of this Ordinance or any other law; provided that information as to the identities of persons advised or assisted and as to the dates and times of consultations with such persons (but no further details of such consultations) may be disclosed to the Public Solicitor or to the Trustees.

³ Section 4(1) amended by Ord. 15 of 1997

⁴ Section 5 amended by Ord. 15 of 1997

Public Solicitor to supervise Lay Advocates

6.⁵ Every Lay Advocate shall comply with any lawful guidance or instructions issued from time to time by the Public Solicitor as to the performance of the duties and the exercise of the rights of a Lay Advocate; and with any request (not being a request for the disclosure of confidential information) for information similarly issued.

Court may order disclosure of information

7. (1) The Supreme Court or a Magistrates' Court may, subject to the provisions of this section, order a Lay Advocate to disclose information to which this section relates either to the Attorney General or to any other person named in the order.

(2) This section relates to any information received by a Lay Advocate in the course of his duties under this Ordinance.

(3) An order shall not be made under this section unless the Court is satisfied that the disclosure of the information is of such urgent and compelling necessity in the public interest as to justify over-ruling the principle of confidentiality established under section 5(2)(c).

(4) The Chief Justice may make rules to prescribe the procedure to be followed in respect of an application under this section.

PART III LEGAL ASSISTANCE FUND

Establishment of Fund

8.⁶ (1) There shall be and is hereby established a charitable trust fund to be known as "The Legal Assistance Fund".

(2) The trustees of the Fund shall be the Public Solicitor, the Clerk of the Peace, and at least one but not more than three Justice Trustees.

Constitution of Fund

9.⁷ (1) The Fund shall comprise all monies received by the trustees (whether by grant from public funds or otherwise) for the purposes of the Fund, together with all interest earned thereon and all property from time to time held by the Trustees on account thereof.

(2) The Trustees shall cause all monies belonging to the fund, excepting only sums required for the day to day running of the fund, to be deposited in the Bank of St. Helena.

Administration

10. (1) The Trustees may appoint some fit and proper person to be the Registrar of the Fund.

(2) The Registrar, if appointed, shall be the clerk to the Trustees and shall perform such duties as the Trustees may from time to time prescribe.

⁵ Section 6 amended by Ord. 15 of 1997

⁶ Section 8 amended by Ord. 15 of 1997

⁷ Section 9 amended by Ord. 8 of 2004

Objects of the Fund

11. The objectives of the Fund shall be—

To promote and encourage the establishment of schemes or arrangements for the dissemination of information about the law and its administration, and to ensure (so far as is practicable) that legal advice and assistance is available to members of the public by whom it is sought.

Powers of Trustees

12. In pursuit of the objectives of the Fund, the Trustees may from time to time, in their absolute discretion, cause any monies or property of the Fund to be laid out or applied—

- (a) in making awards to Lay Advocates, either by way of periodical honoraria or in recognition of particular work done;
- (b) in convening and holding meetings of persons interested or concerned in the administration of justice;
- (c) for the acquisition of stationery (including printing) and other equipment necessary for the effective furtherance of the objectives of the Fund;
- (d) in any other manner in which the Trustees are satisfied that the objectives of the Fund can be effectively advanced.

Accounts and Audit

13.⁸ (1) The Trustees shall cause to be kept such books, accounts, records, and minutes (in this section collectively called “accounts”) as may be necessary to maintain an accurate and complete record of the affairs of the Fund.

(2) As soon as practicable after the end of each financial year, the Trustees shall cause the accounts for that year to be audited by some fit and proper person approved by a Justices’ Meeting.

(3) Upon completion of the audit, the Trustees shall cause the audited accounts to be deposited in the office of the Clerk of the Peace, and notice of that deposit shall be published.

(4) Any person may, at any time during the normal office hours of the Clerk of the Peace, inspect the audited accounts of the Fund for the three years preceding the date of such inspection.

(5) Each set of audited accounts shall be placed before the Annual Justices’ Meeting next following the completion of the audit.

Decisions of Trustees

14. All decisions of the Trustees shall be by a simple majority of those present and voting; provided that no decision shall be valid unless made at a meeting at which at least one half of the Trustees are present.

⁸ Section 13 amended by Ord. 15 of 1997

PART IV
MANAGEMENT AND SUPERVISION OF THE FUND⁹

Meetings of Justices

15.¹⁰ ...

Business of Annual Justices' Meeting

16.¹¹ The Annual Justices' Meeting shall be held in accordance with section 11 of Magistrates' Court Ordinance, 2011, to—

- (a) determine, within the limits of section 8(2), the number of Justice Trustees to be appointed;
- (b) nominate or elect the number of Justice Trustees so determined;
- (c) approve an auditor for the Fund;
- (d) receive the audited accounts of the Fund for the previous financial year;
- (e) nominate, if thought appropriate, persons for appointment as Lay Advocates.

Justice Trustees

17. (1) Each Justice Trustee shall serve as such from the end of the Justices' Meeting at which he is appointed until the beginning of the next Annual Justices' Meeting, unless he earlier (by written notice to the Clerk of the Peace) indicates his wish to cease to act as a Justice Trustee.

(2) A retiring Justice Trustee shall be eligible to be re-appointed.

(3) When a Justice Trustee has given such a notice as is mentioned in subsection (1), the remaining Trustees may continue to act pending the appointment of a replacement Justice Trustee.

(4)¹² The person appointed as Chief Magistrate in accordance with section 7 of the Magistrates' Court shall be *ex officio* Justice Trustee.

⁹ Heading of Part IV substituted by Ord. 17 of 2011

¹⁰ Section 15 repealed by Ord. 17 of 2011

¹¹ Section 16 substituted by Ord. 17 of 2011

¹² Section 17(4) added by Ord. 17 of 2011