

S.P. 21/17



ST. HELENA

GOVERNMENT OF SAINT HELENA  
STATUTORY REPORT ON ENGLISH LAW: 2016

*Laid Upon the Table, 12<sup>th</sup> May 2017*



## **St. Helena**

### **Statutory Report on English Law: 2016**

This report is prepared pursuant to section 8 of the English Law (Application) Ordinance, 2005 ('the Ordinance'), which requires the Attorney General to make an annual report about developments in English law.

Under the Ordinance, relevant English law can be used in St Helena to deal with matters for which there is no local law. In relation to Acts of Parliament, those enacted after 1 January, 2006, only apply to St Helena if we take action locally to adopt them.

The mechanism of the annual report was conceived as a way of ensuring that there is a structured examination of new English Acts to assess whether or not they might need to be adopted.

In this year's report, as previously, there are a number of Acts which are clearly not relevant to St Helena; but there are some that deserve, and will receive, closer scrutiny.

The main part of the report is presented in tabular form, starting on the next page.

J Angelo Berbotto  
Attorney General  
20 March 2017.

No	Short Title, purpose and effect	Remarks
1	<p><b>Cities and Local Government Devolution Act</b>  This Act deals with the election and functions of mayors for the areas of combined authorities under the Local Democracy, Economic Development and Construction Act 2009, and deals with other matters related to local authority governance and functions as well as sub-national transport bodies.</p>	<p>Not applicable to St Helena.</p>
2	<p><b>Psychoactive Substances Act</b>  This Act deals with psychoactive substances. The Act prescribes the offences relating to psychoactive substances and provides for exceptions to those offences. It also contains powers for dealing with prohibited activities in respect of psychoactive substances, in particular powers to give prohibition notices and make prohibition orders.    [This Act amends the Armed Forces Act 2006 in relation to the power of service policeman to stop and search persons, vehicles etc. Section 62(4) of the Psychoactive Substances Act also provides that the power under section 384(2) of the Armed Forces Act 2006 (which makes provision to apply that Act to OT's) may be exercised so as to modify that Act (as amended by this Act) when extending it to a British Overseas Territory. Also see notes under Act 21 below]</p>	<p>Law Officers will consider whether this Act has implications for the administration of justice on St Helena; and report, in the first instance, to the appropriate Council Committee.  There may be value in applying this Act to St Helena. The Drugs (Prevention of Misuse) Ordinance covers controlled drugs only so there is not anything for other types of substances, other than the prohibition on importation of psychoactive substances in the Customs provisions.</p>
3	<p><b>Supply and Appropriation (Anticipation and Adjustments) Act</b>  This Act authorises the use of resources and the issue of sums out of the Consolidated Fund for the years ending 31 March 2015, 31 March 2016 and 31 March 2017.</p>	<p>Not applicable to St Helena.</p>
4	<p><b>Charities (Protection and Social Investment) Act</b>  This Act provides stronger protection for charities in England and Wales from individuals who are unfit to be charity trustees and equips the Charity Commission with new or</p>	<p>Not applicable to St Helena.</p>

strengthened powers to tackle abuse of charity more effectively and efficiently. The Act gives charities a new power to make social investments (investments that pursue both a financial and social return) and reinforces trustee responsibility and accountability for fund-raising and strengthens the Government's reserve powers to regulate fund-raising.

## **5 Childcare Act**

This Act makes provision for free childcare for young children of working parents. It also requires publication of information about childcare and related matters by local authorities to ensure parents are able to access information about the additional free childcare being introduced and about other childcare provision/services which may help them to meet their childcare needs.

Not applicable to St Helena.

## **6 Education and Adoption Act**

This Act regulates schools in England that are causing concern, including provision about their conversion into academies and introduces intervention powers. It also deals with joint arrangements for carrying out local authority adoption functions in England.

Not applicable to St Helena.

## **7 Welfare Reform and Work Act**

This Act requires Government to publish reports on progress towards employment and apprenticeships targets and on the effect of certain support for troubled families. The Act also further regulates life chances and reduces the benefit cap. It also deals with social security and tax credits and makes provision for loans for mortgage interest and other liabilities. The Act also amends the provisions relating to social housing rents.

Not applicable to St Helena.

## **8 Riot Compensation Act**

This Act repeals the Riot (Damages) Act 1886 and creates a new scheme which allows compensation to be claimed for property that is damaged, destroyed or stolen in the course of a riot. Claims for compensation may be made in respect of property that was not insured, or was not adequately insured, against such loss or damage. The Act also allows an insurance company which has settled a claim in respect of loss or damage to property during a riot to reclaim the compensation they have paid out.

Not applicable to St Helena.

- 9 Access to Medical Treatments (Innovation) Act**  
This Act promotes access to innovative medical treatments including the off-label use of medicines and the use of unlicensed medicines. The Act provides for the establishment of a database of innovative medical treatments, and for access to information contained in that database. The database would provide doctors with the ability to record details about innovative treatments and enable other doctors to access that information to improve the sharing of knowledge about innovations.  
Not applicable to St Helena.
- 10 NHS (Charitable Trusts Etc) Act**  
This Act removes the Secretary of State's powers under the National Health Service Act 2006 to appoint trustees. It also makes provision to transfer to Great Ormond Street Hospital Children's Charity the right to a royalty conferred by the Copyright, Designs and Patents Act 1988, in relation to performances or publications of the play "Peter Pan" by JM Barrie.  
Not applicable to St Helena.
- 11 Scotland Act**  
This Act amends the Scotland Act 1998 and sets out the powers that are being transferred to the Scottish Parliament and/or the Scottish Ministers. The Act rebalances the devolved and reserved responsibilities between the administrations and includes provisions which set out the constitutional relationship of the Scottish Parliament and Scottish Government within the United Kingdom's constitutional arrangements, but does not amend this relationship.  
Not applicable to St Helena.
- 12 Enterprise Act**  
This Act deals with a range of Government commitments which are intended to support the growth of enterprise in the UK. The Act *inter alia* establishes a Small Business Commissioner, to enable small businesses to resolve disputes with larger businesses and avoid future issues. It reforms the business rates appeals system and reduces the burdens for businesses when dealing with local authorities in relation to business rates and also requires insurers to pay insurance claims within a reasonable time. The Act also introduces

measures to ensure that apprentices have access to high quality training and extends the rights of shop workers working on Sundays.

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| <b>13</b> | <b>Northern Ireland (Stormont Agreement and Implementation Plan) Act</b><br>This Act gives effect to a number of commitments contained in ' <i>A Fresh Start: The Stormont Agreement and Implementation Plan</i> ' ("the Fresh Start Agreement"). These include provisions aimed at ending continued paramilitary activity and measures to promote fiscal transparency. | Not applicable to St Helena.  |
| <b>14</b> | <b>Bank of England and Financial Services Act</b><br>This Act deals with matters relating to the Bank of England and further regulates financial services. The Act also makes provision about the issue of banknotes.   | Not applicable to St Helena.  |
| <b>15</b> | <b>Trade Union Act</b><br>This Act deals with matters relating to industrial action, trade unions, employers' associations and the functions of the Certification Officer.  | Not applicable to St Helena.  |
| <b>16</b> | <b>Driving Instructors (Registration) Act</b><br>This Act amends the Road Traffic Act and Road Safety Act and deals with matters relating to the registration of driving instructors.   | Law Officers will consider whether this Act has implications for the administration of justice on St Helena; and report, in the first instance, to the appropriate Council Committee. |
| <b>17</b> | <b>Criminal Cases Review Commission (Information) Act</b><br>This Act extends the Criminal Cases Review Commission's powers to obtain information.  | Not applicable to St Helena.  |
| <b>18</b> | <b>House of Commons Members' Fund Act</b><br>This Act consolidates and amends the provisions relating to the House of Commons   | Not applicable to St Helena.  |

Members' Fund.

**19 Immigration Act**

This Act further regulates immigration and asylum and contains measures to tackle illegal working, enhance the enforcement of labour market rules and denies illegal migrants access to services including housing and banking. The Act provides new powers for immigration officers, as well as other measures to improve the security and operation of the immigration system. The purpose of the Act is to tackle illegal immigration by making it harder to live and work illegally in the United Kingdom. The intention behind the Act is that without access to work, illegal migrants will depart voluntarily, but where they do not, the Act contains other measures to support enforced removals. The Act also makes provision about the enforcement of certain legislation relating to the labour market and deals with language requirements for public sector workers. The Act also make further provision about fees for passports and civil registration.

Law Officers will consider whether this Act has implications for the administration of justice on St Helena; and report, in the first instance, to the appropriate Council Committee.

**20 Energy Act**

This Act establishes the Oil and Gas Authority and provides for its functions. It also enables more comprehensive charging of the offshore oil and gas industry for permits and licences for environmental and decommissioning activity. The Act also deals with rights to use upstream petroleum infrastructure and makes provision about the abandonment of offshore installations, submarine pipelines and upstream petroleum infrastructure. The Act extends Part 1A of the Petroleum Act 1998 to Northern Ireland and also deals with the disclosure of information for the purposes of international agreements. The Act also deals with matters relating to wind farms.

Not applicable to St Helena.

**21 Armed Forces Act**

This Act deals with the following:

- Duration of the Armed Forces Act 2006
- Testing for alcohol and drugs
- Investigation and charging of service offences
- Suspended sentences of service detention

Law Officers will consider whether this Act has implications for the administration of justice on St Helena; and report, in the first instance, to the appropriate



**Council Committee.**

- Offenders assisting investigations and prosecutions
- The Armed Forces Act 2006 outside the United Kingdom
- Repeals relating to discharge for homosexual acts
- War pensions committees
- Ministry of Defence fire-fighters

[Section 13 of the Act expressly applies the Armed Forces Act 2006 to British Overseas Territories (that Act having previously expired in the OT's under section 382 thereof as originally enacted).]

**22 Housing and Planning Act**

This Act deals with housing, estate agents, rent charges, planning and compulsory purchase.

Not applicable to St Helena.

**23 Supply and Appropriation (Main Estimates) Act**

This Act authorises the use of resources and the issue of sums out of the Consolidated Fund for the year ending with 31 March 2017.

Not applicable to St Helena.

**24 Finance Act**

This Act amends the tax laws and the law relating to the National Debt and the Public Revenue.

Not applicable to St Helena.

**25 Investigatory Powers Act**

This Act provides an updated framework for the use (by the security and intelligence agencies, law enforcement and other public authorities) of investigatory powers to obtain communications and communications data. These powers cover the interception of communications, the retention and acquisition of communications data, and equipment interference for obtaining communications and other data. It is not lawful to exercise such powers other than as provided for by the Act. The Act also makes provision relating to the security and intelligence agencies' retention and examination of bulk personal datasets. The Act governs the powers available to the state to obtain communications and

Ascertain if to be extended to BOTs.

communications data. It provides consistent statutory safeguards and clarifies which powers different public authorities can use and for what purposes. It sets out the statutory tests that must be met before a power may be used and the authorisation regime for each investigative tool, including a new requirement for Judicial Commissioners to approve the issuing of warrants for the most sensitive and intrusive powers. The Act also creates a new IPC to oversee the use of these powers. Finally, the Act provides a new power for the Secretary of State to require, by notice, communications services providers to retain internet connection records.

[Section 272(6) of the Act provides that Her Majesty may by Order in Council provide for any of the provisions of this Act to extend, with or without modifications, to any of the British Overseas Territories.]



