



ST HELENA

REVISED EDITION OF THE LAWS, 2017

INFRASTRUCTURE & PUBLIC UTILITIES

HIGHWAYS ORDINANCE, 1881¹

*Ordinance 3 of 1881
In force 21 April 1881*

*Amended by Ordinances 4 of 1885, 1 of 1888, 2 of 1919, 8 of 1920, 9 of 1933,
2 of 1946, 5 of 1955, 13 of 1961, 2 of 1989, 1 of 2001, 7 of 2003
and 14 of 2017 and L.N. 4/1967*

No subsidiary legislation to 1 November 2017

HIGHWAYS ORDINANCE, 1881

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AN ORDINANCE to provide for the maintenance and use of highways and streets in St Helena, and for other matters.

Short title and definition

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 1 November 2017.

1. (1) This Ordinance may be cited as the Highways Ordinance, 1881.

(2) In this Ordinance, “**public road**” means any highway and any other road to which the public has access, and includes bridges over which the road passes.

Highways and streets under whose superintendence

2. The highways and public streets in the Island of St Helena are to be under the care and superintendence of the Council Committee.

Control of access to highways

3. (1) In this section —
“**controlled works**” means any building, demolition, excavation, or other works by which any means of access is created, closed, laid out or modified in any way;
“**means of access**” means any road, path, bridge or other passage or way by which persons (with or without vehicles or animals) may gain access to or egress from any highway or other road maintained at the public expense.

(2) A person who carries out or causes to be carried out any controlled works, without the consent of the Council Committee having been first obtained, commits an offence.

Penalty: A fine of £200.

(3) A court which convicts a person for an offence under this section may, in addition to any penalty imposed for the offence, make any order that the court considers just (whether for the closure of the means of access or otherwise) for securing the safety of users of the highway or road concerned.

(4) If a person against whom an order is made under subsection (3) fails to comply with the order, the Council Committee may cause any works to be carried out that are necessary to comply with the order, and may recover the costs of the works from that person as a civil debt.

(5) Subsection (4) does not affect any power of the court to enforce its order or to punish a person for failing to comply with the order.

Repair of fences adjoining a public road

4. (1) A person whose fences enclose the person’s property adjoining a public road or highway must -

- (a) maintain the fences in the state of repair necessary to prevent risk of injury to the road or to any person passing on it; and
- (b) keep all trees and shrubs from overhanging the highway.

(2) If fences as mentioned in subsection (1) are not maintained and kept in a state of repair as there mentioned, or if any trees or shrubs overhang the highways, the Council Committee may give the occupier of the land upon which the fences, trees or shrubs are or to which they belong, 7 days’ notice in writing to amend or repair the fences or lop, remove or cut down the trees or shrubs.

After notice, Committee to cause the fences to be repaired

5. (1) If fences are not amended or repaired, or trees and shrubs not lopped, removed or cut down, as required by a notice under section 4(2), the occupier of the land commits an offence.

Penalty: A fine of £100.

- (2)** If an occupier of land commits an offence under subsection (1) –
- (a)* the Council Committee may order the work to be done at the expense of the occupier; and
 - (b)* if the occupier refuses to pay such expense it is recoverable in the Magistrates' Court as a civil debt.

Who is to repair damages to highways by horses, etc.

6. (1) Any damage or injury done or committed upon the highway by any motor vehicle or by any horse, ass, mule, cattle or sheep passing along, trespassing or being in the highroad either in the night or in the day, must be made good and repaired by and at the expense of the proprietor or owner of the vehicle or animal.

(2) If default is made by the proprietor or owner of the vehicle or animal in repairing or making good the damage mentioned in subsection (1), the proprietor or owner, as the case may be, commits an offence.

Penalty: A fine of £100.

- (3)** If a proprietor or owner commits an offence under subsection (1) –
- (a)* the Council Committee may, within 7 days after giving a notice in writing for that purpose to the proprietor or owner, repair or cause to be repaired the damage at the expense of the proprietor or owner; and
 - (b)* if the amount of the damage is not paid to the Council Committee within 7 days after a demand for it has been made under subsection (2A), it is recoverable in the Magistrates' Court as a civil debt.

No new gates to be erected across highway

7. (1) A proprietor or tenant of lands through which a public road passes or any other person, must not, without lawful authority, erect or set up any gate across any part of a public road where no gate had previously existed.

(2) A person who, without lawful authority, sets up or erects any gate on a public road where no gate previously existed commits an offence.

Penalty: A fine of £200.

Magistrate may order gates to be removed

8. A Magistrate, on the complaint of the Council Committee, or of any other person, of any gate being erected contrary to section 7, may order the gate to be taken down and removed at the expense of the person or persons who erected it, and if the person refuses to pay such expense it may be levied by order of a Magistrate as a civil debt.

Replacement gates to be of a certain construction

9. (1) Any replacement gate erected across a public road, in parts where gates had previously existed, must be 8 feet 6 inches in width, and 3 1/2 feet in height at the least, and be hung above the road sufficiently high to prevent its opening being obstructed by dragging on the road.

(2) No palisade or upright may project above the top bar or rail of any gate erected as contemplated by subsection (1).

(3) Any latch attached to a gate erected as contemplated by subsection (1) must be at least 15 inches in length, and made with a handle projecting at least 3 inches above the top bar or rail.

Neglect of gates

10. (1) If any person without lawful authority -

- (a)* erects any gate across a public road less than the width or height prescribed in section 9(1);
- (b)* makes or attaches any latch to such a gate otherwise than as described in section 9(3);
- (c)* diminishes the height or width of such a gate; or
- (d)* permits any such gate to be or continue out of repair,

the Council Committee may require the occupier of the land adjoining the road where the gate is, or the person liable for the maintenance of the gate, to widen, repair, or amend the gate or its latch.

(2) If the occupier or person liable as mentioned in subsection (1) refuses or neglects to comply with a requirement under that subsection, the Council Committee may cause the work to be done at the cost of such occupier or person liable.

(3) If an occupier or person liable as aforesaid refuses to pay the cost within 2 months after notice of it in writing for that purpose has been given by the Council Committee, the occupier or person commits an offence.

Penalty: A fine of £200, together with the expense of such widening, amending, and repairing as mentioned in subsection (1).

Damaging gates, etc.

11. It is an offence for any person unlawfully or maliciously to break down or otherwise destroy, deface or remove any gate, post, hook, hinge or latch appertaining to any gate across any public road.

Penalty: A fine of £200.

Galloping through the street

12. (1) A person who gallops or rides furiously in the streets of Jamestown commits an offence.

Penalty: A fine of £100, and payment of the cost of any damage caused by the offence.

(2) A person who rides upon or places any horse, mule, ass, sheep or cattle, upon the footpath of any public street of Jamestown commits an offence.

Penalty: A fine of £100, and payment of the cost of any damage caused by the offence.

Horses, etc., being loose about the streets

13. (1) The Governor in Council may make regulations prohibiting the standing of horses, cattle, mules or asses on any road or roads except at places and times prescribed in such regulation.

(2) A person who permits any animal to stand on any road in contravention of regulations made under subsection (1) or to stray on any road commits an offence.

Penalty: A fine of £100.

(3) A person who fails to secure a horse or mule, or any cattle or entire male ass so as to prevent it from getting loose and annoying the public commits an offence.

Penalty: A fine of £100.

Reeds and bushes on the banks of the Run

14. *Repealed by Ord. 14 of 2017*

Reeds or bushes may be destroyed and removed at the expense of the occupier

15. *Repealed by Ord. 14 of 2017*

Discharging drainage, etc.

16. It is an offence for a person -

(a) to discharge or cause the discharge of any refuse, rubbish, drainage, filth, dirt or offensive matter whatsoever into the streams known as Bishops' and Hunts Gut, or into any part of the Run; or

(b) being in occupation of any land or house or other premises, to permit upon or from the land or premises any such discharge.

Penalty: A fine of £100.
