



ST HELENA

REVISED EDITION OF THE LAWS, 2017

CRIME AND CRIMINAL PROCEDURE

SUMMARY OFFENCES ORDINANCE, 1975¹

Ordinance 6 of 1975

In force 10 October 1975

*Amended by Ordinances 19 of 1985, 12 of 1994, 7 of 1997, 10 of 1997
1 of 2001 and 14 of 2017*

No subsidiary legislation to 1 November 2017

SUMMARY OFFENCES ORDINANCE, 1975

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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 1 November 2017.

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AN ORDINANCE to make further and better provision for certain offences triable summarily.

Preliminary

Short title

- 1. This Ordinance may be cited as the Summary Offences Ordinance, 1975.

Interpretation

- 2. (1) In this Ordinance, unless the context otherwise requires—
 - “**lawful authority**” extends to and denotes any permission which is lawfully given by a public officer or department or by a private person;
 - “**public meeting**” includes any meeting in a public place and any meeting which the public or a section of it are permitted to attend, whether on payment or otherwise;
 - “**public officer**” or “**public department**” extends to and includes the Governor and every officer or department invested with or performing duties of a public nature;
 - “**public place**” includes any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise;
 - “**town area of Jamestown**” means an area within 500 metres each side of the Run and extending the length of the Run from New Bridge Pond to the shore, including the whole wharf area.

- (2) Where no specific description is given of the ownership of any property, the word “**property**” applies to all such property of the kinds specified, whether owned by the Crown or a private person.

Delegation of power

- 3. Where under this Ordinance any public officer is empowered to permit or consent to the doing of anything or to issue any licence in respect of anything, the power may be exercised by any public officer in the same department as that of the officer to whom the power is granted who is authorised in writing in that behalf by the officer.

Summary offences

Nuisances committed in public places, etc.

- 4. (1) It is an offence for a person to—
 - (a) indecently or in public view obey any call of nature;
 - (b) cause any annoyance or obstruction in any public place by exposing anything for sale in or upon, or so as to hang over any street, road or footway, or on the outside of any house, shop or building, or by allowing any pole, blind, awning, line or other projection from any window, parapet or other part of any house, shop or building;
 - (c) suffer to be at large any unmuzzled ferocious dog or other animal; or set on or urge any dog or other animal to attack, worry or put in fear any person or animal;
 - (cc) keep any animal which is an unreasonable source of annoyance to any neighbour or

- passer-by;
- (d) without lawful authority or excuse, lead any large animal, or draw or propels any vehicle, truck or barrow upon any footpath, or fasten any animal so that it can stand across or upon any footpath;
 - (da) allow any cattle, donkey, goat or sheep to wander upon or into any public place;
 - (e) in, near or adjoining any public place wantonly or unnecessarily blow any horn, beat any gong or drum or make any other noise calculated to annoy or alarm any person or to frighten any animal;
 - (f) wantonly or negligently discharge any firearm or throw or discharge any stone or other missile, or make any bonfire, or throw or sets fire to any firework, to the damage or danger of any person;
 - (g) without lawful authority or excuse, play at any game or pastime to the annoyance of the inhabitants or passers-by;
 - (ga) play at any game or loiter in any public place, so as to obstruct it or create a noisy assembly in it;
 - (h) use, in any public place to the annoyance of the public, any loud speaker, megaphone or other device or instrument for magnifying sound;
 - (i) without the consent of the owner or occupier, affix any posting bill, or other paper against or upon any building, wall, fence, tree or pole, or write upon, soil, deface or mark the same with chalk, paint or in any other way whatsoever;
 - (j) use any profane, indecent or obscene language, or be guilty of any riotous or indecent behaviour to the annoyance of other persons;
 - (k) in any manner cause any breach of the peace, other than as provided for in the foregoing provisions of this section;
 - (l) within the town area of Jamestown—
 - (i) place or hang out to dry any clothes, linen or other property on the beach or in public roads or streets;
 - (ii) fly a kite; or
 - (iii) throw or leave any litter or refuse in any public place or in or by the Run;
 - (m) in any public place exhibit any poster, badge, drawing, model, symbol or other representation which in any way is indecent or offends or may offend ordinary members of the public or which could corrupt public morals having special regard to the morals of children and young persons;
 - (n) play any musical instrument, radio or sound reproducer in any public road or street to such a volume as to be an annoyance to the public;
 - (o) organise, equip or take part in—
 - (i) the sale of emblems or collections of money, in any public road or street; or
 - (ii) the sale of raffle tickets, or bingo cards, in any private or public place, except under and in accordance with conditions of a general or special permit issued by the Director of Police, but subject to subsection (2).

Penalty: A fine of £100 or imprisonment for 2 months, or both.

(2) An applicant for a permit contemplated by subsection (1)(o) may appeal in writing to the Governor in Council against the decision of the Director of Police not to issue a permit within 7 days of being notified of the decision, and the Governor in Council may direct the Director of Police to issue a permit subject to any conditions that may be appropriate,

Obstruction of public places

5. A person who without lawful authority or excuse sets out or leaves, or causes to be set out or left, any matter or thing which obstructs, inconveniences or endangers, or may obstruct, inconvenience or endanger, any person or vehicle in a public place commits an offence.

Penalty: A fine of £200 or imprisonment for 3 months, or both.

Drunkenness and drinking in public places

6. (1) A person who is found drunk in any public place or on any premises licensed under any Ordinance relating to intoxicating liquor licences commits an offence.

Penalty: A fine of £100.

(2) A person who while drunk behaves in a riotous or disorderly manner in any public place commits an offence.

Penalty: A fine of £150 or imprisonment for 2 months, or both.

(3) It is an offence for a person, within the town area of Jamestown, to consume any intoxicating liquor otherwise than on—

- (a) private property with the consent of the owner or occupier of the property; or
- (b) licensed premises duly licensed for the sale and consumption of such liquor.

Penalty: A fine of £40.

(4) *Omitted*

Suspicion of having or conveying stolen property

7. *Repealed by Ord. 1 of 2001*

Person soliciting for immoral purposes

8. *Omitted*

Touting

9. (1) A person ('A') who, in a public place, to the annoyance of or in a manner likely to annoy any other person ('B'), importunes B to buy any article or thing or to give B's custom to any business, whether or not the article or thing is offered for sale, or the business is carried on, by A, commits an offence.

Penalty: A fine of £80.

(2) In subsection (1) "**business**" includes any services provided by way of trade or business.

Suspected persons and loiterers

10. It is an offence for a person to be found—

- (a) between sunset and sunrise - loitering in any public place, if the person cannot give

- a satisfactory account of himself or herself when called upon to do so;
- (b) at any time - in or upon any dwelling house, warehouse, stable, garage, outhouse, private enclosure or garden for any unlawful purpose; or
 - (c) at any time - loitering in, at or upon, or frequenting any quay, wharf or warehouse near or adjoining to, any public place or place of public resort, or any street or highway or any place adjacent to any street or highway, with intent to commit an arrestable offence.

Penalty: A fine of £200 or imprisonment for 3 months.

11. *Repealed by Ord. 1 of 2001*

Noise abatement

- 12.** (1) A police officer acting—
- (a) on his or her own initiative; or
 - (b) on the complaint of any person,

who is satisfied that the volume of noise coming from any premises is in the circumstances existing at the time unreasonably causing or likely to cause an annoyance or nuisance to occupiers of nearby premises may order the person in apparent control of the premises from which the noise is coming to reduce the level of the noise to a volume that will not cause such annoyance or nuisance.

(2) A person who fails to comply with an order given under subsection (1) commits an offence.

Penalty: A fine of £100.

(3) In deciding whether a noise coming from premises is unreasonably causing or likely to cause annoyance or nuisance to occupiers of nearby premises, the police officer must take into account—

- (a) the time of day;
- (b) the source of the noise and the reason for it noise;
- (c) the event (if any) giving rise to the noise; and
- (d) the duration of the noise.

(4) It is a defence to a charge under subsection (2) for the accused to show that—

- (a) in the circumstances existing at the time the volume of the noise was not unreasonable; or
- (b) at the relevant time the accused was not in control of the premises from which the noise was coming.

Firing near dwelling house or road

13. A person who,—

- (a) without lawful authority or excuse discharges any firearm within 200 metres of any dwelling house or any motor road, to the annoyance of any inhabitant or passerby; and

(b) after being warned of such annoyance, again so discharges any such weapon, commits an offence.

Penalty: A fine of £80.

Removing landmark

14. *Repealed by Ord. 1 of 2001*

Possession of offensive weapon, etc with intent

15. A person who has in his or her possession any bludgeon or other offensive weapon, or any crowbar, picklock, skeleton-key or other instrument fit for unlawful purposes and—

- (a) intends to use the instrument for any unlawful purpose; or
 - (b) is unable to give a satisfactory account of his or her possession of the instrument,
- commits an offence.

Penalty: A fine of £200 or imprisonment for 3 months, or both.

Possession of simulated bomb

16. (1) A person who without lawful authority or reasonable excuse has in his or her possession, custody or control any simulated bomb commits an offence.

Penalty: A fine of £500 or imprisonment for 5 months.

(2) In this section—

“**simulated bomb**” means any object whatsoever, including anything attached to it, which if found in any street or public place would be likely to give rise to a reasonable apprehension that the object might be a bomb or other explosive device.

Incitement to racial hatred

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

- (a) publish or distribute written matter which is threatening, abusive or insulting; or
- (b) use in any public place or at any public meeting words which are threatening, abusive or insulting,

in a situation where, having regard to all the circumstances, hatred is likely to be stirred up against any racial group in St Helena by the matter or words in question.

Penalty: A fine of £400 or imprisonment for 6 months, or both.

(2) Subsection (1) does not apply to the publication or distribution of written matter consisting of or contained in—

- (a) a fair and accurate report of proceedings publicly heard before any court or tribunal exercising judicial authority, being a report which is published contemporaneously with those proceedings or, if it is not reasonably practicable or would be unlawful to publish a report of them contemporaneously, is published as soon as publication is reasonably practicable and (if previously unlawful) lawful; or
- (b) a fair and accurate report of proceedings in the Legislative Council.

(3) In any proceedings for an offence under this section alleged to have been committed by the publication or distribution of any written matter, it is a defence for the accused to prove that the accused was not aware of the content of the written matter in question and neither suspected nor had reason to suspect it of being threatening, abusive or insulting.

(4) Subsection (3) does not prejudice any defence which it is open to a person

charged with an offence under this section to raise apart from that subsection.

(5) *Omitted*

(6) A prosecution for an offence under this section must not be instituted except by or with the consent of the Attorney General.

(7) In this section—
“publish” and **“distribute”** mean publish or distribute to the public at large or to any section of the public not consisting exclusively of members of an association of which the person publishing or distributing is a member;
“racial group” means a group of persons defined by reference to colour, race, nationality or ethnic or national origins, and in this definition **“nationality”** includes citizenship;
“written matter” includes any writing, sign or visible representation.

Procedural provisions

Summary proceedings

18. Summary proceedings under this Ordinance may be commenced on the information of any complainant.

Saving of liability of offender to civil action

19. This Ordinance does not prevent any person from being liable to civil proceedings in respect of any hurt or damage caused by the person; but in any such civil proceedings any order for damages made by the court must take into consideration any compensation which may have already been awarded in the preceding criminal proceedings.

Acts done by lawful authority

20. This Ordinance does not operate to restrain or punish any act or thing done under or sanctioned by lawful authority.

Recovery of penalties

21. Any offence against this Ordinance is punishable on summary conviction, and the penalties imposed by this Ordinance are recoverable according to the provisions of the Magistrates' Court Ordinance, 2011.
