

S.P. 09/18



**St Helena
Government**

ST HELENA GOVERNMENT

STATUTORY REPORT ON ENGLISH LAW: 2017

Laid on the table 23rd March 2018

Statutory Report on English Law: 2017

St. Helena

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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.

Sara O’Donnell
Attorney General
21 March 2018.

No	Short Title, purpose and effect	Remarks
1	<p>Small Charitable Donations and Childcare Payments Act This Act amends the Small Charitable Donations Act 2012 and the Childcare Payments Act 2014 and deals with payment schemes established by these Acts.</p>	Not applicable to St Helena
2	<p>Savings (Government Contributions) Act This Act deals with government bonuses in respect of additions to savings accounts and investment plans</p>	Not applicable to St Helena
3	<p>Policing and Crime Act This Act contains a number of measures to support the delivery of commitments to complete police reform, enable closer collaboration with other emergency services, enhance accountability of police forces and fire and rescue services and build public confidence in policing. The Act also strengthens the protections for persons under investigation or who come into contact with the police. It ensures that the police and other law enforcement agencies have the powers they need to prevent, detect and investigate crime and safeguard children and young people from sexual exploitation. The Act is divided into nine parts:</p> <p>Part 1 places a duty on police, fire and rescue and ambulance services to collaborate, and enables Police and Crime Commissioners (PCCs) to take on responsibility for the governance of fire and rescue services. This part also strengthens the inspection powers under the Fire and Rescue Services Act 2004.</p> <p>Part 2 reforms the police complaints and disciplinary systems and confers new protections on police whistle-blowers.</p>	<p>An omnibus act which deals with diverse issues divided into 9 parts.</p> <p>Part 1 Not applicable to St Helena</p> <p>Part 2 Not applicable to St Helena. The SCDC may wish to consider similar reforms through the amending of local ordinances.</p>

Part 3 enables chief officers of police to confer a wider range of policing powers on police civilian staff and volunteers and also updates the core purpose of the Police Federation for England and Wales and makes it subject to the Freedom of Information Act 2000.

Part 3 is not applicable to St Helena

Part 4 contains a number of reforms to police powers, including in relation to: pre-charge bail to introduce a presumption in favour of release without bail and statutory time limits and judicial oversight of extensions of bail beyond three months; a new offence of breaching pre-charge bail conditions that relate to travel restrictions in terrorism cases; powers to enable the retention of DNA profiles and fingerprints of those convicted outside of England and Wales; the powers under sections 135 and 136 of the Mental Health Act 1983 in respect of persons experiencing a mental health crisis, including banning the use of police cells for the detention of under-18s and reducing the maximum period of detention; the extension of police powers to investigate offences committed on vessels operating at sea where UK courts have jurisdiction; amendments to the Police and Criminal Evidence Act 1984 ("PACE") to ensure that 17 year olds who are detained in police custody are treated as children for all purposes, and to enable greater use of video-link technology; and cross-border powers of arrest to enable a person who commits an offence in one UK jurisdiction to be arrested without warrant by an officer in another jurisdiction.

Part 4- Mostly not applicable to St Helena. However SCDC may wish to consider adopting similar reforms through the amending of local ordinances in relation to bail, provision of safe places for people experiencing a mental health crisis and the treatment of 17 years olds in police custody.

Part 5 deals with matters related to the term of office of Deputy PCCs.

Part 5 is not applicable to St Helena.

Part 6 seeks to better protect the public by amending the Firearms Acts to close loopholes that can be exploited by criminals and terrorists and by ensuring that, through statutory guidance, there is a consistent approach by chief officers of police to the consideration of applications for firearm and shotgun certificates. This part also provides for the full cost recovery (through the levying of fees) of the Home Office's licensing functions in respect of companies trading in prohibited weapons, museums with firearms collections and shooting clubs. In addition, this part criminalises the possession of pyrotechnic articles at

Part 6 is not applicable. However SCDC may wish to consider adopting the reforms which seek to better protect the public by closing loopholes that can be exploited by criminal and terrorists in respect of firearms.

musical events.

Part 7 amends the Licensing Act 2003 to improve the effectiveness of the alcohol licensing regime in preventing crime and disorder, including provision for cumulative impact assessments and amendments to the late night levy.

Part 7 is not applicable to St Helena

Part 8 strengthens the enforcement regime for financial sanctions by increasing the maximum custodial sentence on conviction for breaching sanctions, expanding the range of enforcement options, including a new system of monetary penalties, and by providing for the immediate implementation of UN-mandated sanctions.

Part 8 -Ascertain whether it is to be extended to BOTs

Part 9 contains miscellaneous and general provisions, including: to provide pardons for individuals, living or deceased, who were convicted of now repealed gay sex offences; an amendment to the Sexual Offences Act 2003 to provide that the offences in relation to child sexual exploitation cover the streaming or transmission of indecent images of children; introducing lifelong anonymity for victims of forced marriage; increases in the maximum sentence for more serious stalking and harassment offences; and a power to issue statutory guidance to local taxi and private hire vehicle licensing authorities in relation to the safeguarding of children and vulnerable individuals. This Part also contains provision to require arrested persons to state their nationality, for suspected foreign nationals to produce their nationality documents following arrest and for defendants in criminal proceedings to provide their name, date of birth and nationality to the court. It extends powers to seize cancelled British passports away from ports to invalid foreign passports and travel documents and restores littering powers for Scottish local authorities to issue litter abatement notices and street litter control notices.

Part 9- Law Officers will consider whether certain provisions have implications for the administration of justice in St Helena. The SCDC may wish to consider whether to adopt certain provisions such as streaming and transmission of indecent images of children and the provisions regarding proof of identity and nationality of defendants in criminal proceedings.

4 Wales Act

This Act deals with the functions of the Welsh Ministers and Welsh tribunals.

Not applicable to St Helena

5 Commonwealth Development Corporation Act

- This Act amends section 15 of the Commonwealth Development Corporation Act 1999 to raise the limit on government financial assistance that can be provided to CDC Group plc (formerly the Commonwealth Development Corporation) and its associated companies. Not applicable to St Helena
- 6 Cultural Property (Armed Conflicts) Act**
 This Act enables the UK to implement the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 1954 and the Protocols to that Convention of 1954 and 1999. The Act extends to England and Wales, Scotland and Northern Ireland only, but section 31(2) provides that Her Majesty may by Order in Council provide for any of the provisions of the Act to extend, with or without modifications, to any British overseas territory. Ascertain whether it is to be extended to BOTs
- 7 High Speed Rail (London - West Midlands) Act**
 This Act confers the power to construct a proposed new national high speed rail network. Not applicable to St Helena
- 8 Supply and Appropriation (Anticipation and Adjustments) Act**
 This Act authorises the use of resources and the issue of sums out of the Consolidated Fund for the financial years ending 31 March 2015 to 2017. Not applicable to St Helena
- 9 European Union (Notification of Withdrawal) Act**
 This Act confers power on the Prime Minister to notify the United Kingdom's intention to withdraw from the EU under Article 50(2) of the Treaty on European Union. Not applicable to St Helena
- 10 Finance Act**
 This Act introduces the annual tax changes and amends the law relating to the national debt and the public revenue and other matters relating to finance. Not applicable to St Helena
- 11 Parking Places (Variation of Charges) Act**
 This Act deals with the procedure to be followed by local authorities when varying the charges to be paid in connection with the use of certain parking places. Not applicable to St Helena

- 12 Broadcasting (Radio Multiplex Services) Act**
 This Act seeks to allow the Office of Communications ("Ofcom") a degree of flexibility on the areas to be covered by small scale radio multiplex licences. It introduces a power to modify the various procedures, provisions and conditions that are attached to the award of radio multiplex licences to create a lighter touch licensing regime suitable for the new small scale radio multiplex services.
 Not applicable to St Helena
- 13 Homelessness Reduction Act**
 This Act amends the Housing Act 1996 and the Homelessness (Suitability of Accommodation) (England) Order 2012 to introduce measures for reducing homelessness.
 Not applicable to St Helena
- 14 Intellectual Property (Unjustified Threats) Act**
 This Act amends the law relating to unjustified threats to bring proceedings for infringement of patents, registered trade marks, rights in registered designs, design right or Community designs.
 Not applicable to St Helena
- 15 National Citizen Service Act**
 This Act deals with matters relating to the National Citizen Service Trust, including transfer of staff, property, rights and liabilities from the NCS Trust Community Interest Company to the NCS Trust. The Act also deals with payment of grants to the Trust and prescribes the requirements for accounting and audits, annual reports, etc.
 Not applicable to St Helena
- 16 Children and Social Work Act**
 This Act deals with matters relating to looked after children and other provision in relation to the welfare of children. The Act seeks to improve decision making and support for looked after and previously looked after children. It also improves joint work at the local level to safeguard children and enable better learning at the local and national levels to improve practice in child protection. The Act promotes the safeguarding of children by providing for Relationships and Sex Education in schools. It also enables the establishment of a new regulatory regime specifically for the social work profession in England.
 The Act as a whole is not suitable for St Helena. However, the SCDC may wish to consider whether the corporate parenting principles should be adopted and whether support for previously looked after children should be placed on a statutory basis. The

Education Committee may also wish to consider whether the provision of relationship and sex education and PSHE should be placed on a statutory basis. The reorganisation of the responsibilities of the Safeguarding Children Boards and the replacement of the regulatory regime for social work is not relevant to St Helena.

- 17 Pension Schemes Act**
This Act aims to ensure that those saving into a Master Trust (a form of multi-employer occupational pension scheme) are protected. The Act also amends existing legislation to support the Government's intention to cap early exit charges and ban member-borne commission charges in certain occupational pension schemes.

Not applicable to St Helena

- 18 Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Act**
This Act deals with the ratification by the UK of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention). The Act requires the Secretary of State to lay a report before each House of Parliament setting out the steps required to be taken to enable the UK to ratify the Istanbul Convention and the timescale within which the SoS would expect the UK to be able to ratify the Convention.

Not applicable to St Helena

- 19 Technical and Further Education Act**
This Act implements policies relating to Technical and Further Education. It deals with post-16 technical education and matters relating to apprenticeships and further education.

Not applicable to St Helena

- 20 Neighbourhood Planning Act**
 This Act amends a number of Acts that deal with neighbourhood planning, local development plans and planning conditions. The Act also makes further changes to the law on compulsory purchase, including clarifying the statutory framework for compensation, introducing a general power to obtain temporary possession of land and a requirement to bring compulsory purchase orders into operation within a set period of time.
 Not applicable to St Helena
- 21 Bus Services Act**
 This Act deals with matters relating to bus services.
 Not applicable to St Helena
- 22 Criminal Finances Act**
 This Act give law enforcement agencies and partners new capabilities and powers to recover the proceeds of crime, and to tackle money laundering, corruption and terrorist financing. The Act deals with the proceeds of crime, money laundering, civil recovery, enforcement powers and related offences and creates a range of new powers for law enforcement agencies to request information and seize monies stored in bank accounts and mobile stores of value. The Act also ensures that relevant investigatory, money laundering and civil recovery powers are extended to the Terrorism Act 2000 and the Anti-terrorism, Crime and Security Act 2001, as well as the Proceeds of Crime Act 2002. It creates two new corporate offences of failure to prevent facilitation of tax evasion.
 The Act is not suitable for St Helena. The SCDC may wish to consider whether some of the provisions should be adapted and the Money Laundering Ordinance amended to provide greater powers to investigate and recover the proceeds of crime.
- 23 Health Service Medical Supplies (Costs) Act**
 This Act extends the provisions of the National Health Service Act 2006. It deals with matters relating to controlling of the cost of health service medicines and other medical supplies. It also deals with the provision of pricing and other information by those manufacturing, distributing or supplying those medicines and supplies, and other related products, and the disclosure of that information
 Not applicable to St Helena
- 24 Northern Ireland (Ministerial Appointments and Regional Rates) Act**

	This Act deals with matters relating to Ministerial appointments and makes provision about the regional rate in Northern Ireland for the year ending 31 March 2018	Not applicable to St Helena
25	Local Audit (Public Access to Documents) Act This Act extends public access to certain local audit documents under section 26 of the Local Audit and Accountability Act 2014	Not applicable to St Helena
26	Merchant Shipping (Homosexual Conduct) Act This Act repeals sections 146(4) and 147(3) of the Criminal Justice and Public Order Act 1994 which deal with homosexual acts as grounds for dismissal from the crew of merchant ships	Not applicable to St Helena
27	Guardianship (Missing Persons) Act This Act deals with the property and affairs of missing persons and makes provision for matters relating to guardianship orders and the appointment of guardians.	Not applicable to St Helena
28	Farriers (Registration) Act This Act deals with the constitution of the Farriers Registration Council and its committees.	Not applicable to St Helena
29	Higher Education and Research Act This Act creates a new regulatory body overseeing the English higher education sector (the Office for Students (OfS)) and sets out its powers and duties. The Act also seeks to facilitate new high-quality providers to start up and achieve degree awarding powers, and subsequently secure university title. The Act also creates a single research and innovation funding body, United Kingdom Research and Innovation (UKRI), enshrining the Haldane principle and protections for the dual support system of research funding.	Not applicable to St Helena
30	Digital Economy Act This Act contains measures related to providing a broadband universal service for the UK, granting additional powers to Ofcom in respect of information provision, consumer	Not applicable to St Helena

switching and automatic compensation in relation to communication matters. The Act makes provision for a new Electronic Communications Code and other communications infrastructure matters, introducing better controls on online pornography and protecting citizens from nuisance calls, digital intellectual property, powers to share data between public authorities and some measures relating to the BBC. The Act aims to enable access to fast digital communication services for citizens and businesses, to enable investment in digital communications infrastructure, to shape the emerging digital world for the benefit of children, consumers and businesses, and to support the digital transformation of government, enabling the delivery of better public services, world leading research and better statistics.

31 Supply and Appropriation (Main Estimates) Act

The Act makes provision for the use of resources for the year ending with 31 March 2018 and to authorise the issue of sums out of the Consolidated Fund and the application of income and appropriate the supply authorised for that year.

Not applicable to St Helena

32 Finance (No. 2) Act

This Act makes further provision for tax related matters and amends the law relating to the national debt and the public revenue, and other matters relating to finance.

Not applicable to St Helena

33 Air Travel Organisers' Licensing Act

This Act amends sections 71, 71A and 84 of the Civil Aviation Act 1982 which deal respectively with the regulation of provision of accommodation in aircraft, contributions by licence holders to the Air Travel Trust and provision of information for the CAA and Secretary of State.

Not applicable to St Helena

34 Northern Ireland Budget Act

This Act deals with budgetary matters and authorises Northern Ireland departments and certain other bodies to incur expenditure and use resources for the financial year ending on 31 March 2018

Not applicable to St Helena

35 European Union (Approvals) Act

This Act approves draft decisions under Article 352 of the Treaty on the Functioning of the European Union dealing with the participation of Albania and Serbia in the work of the European Union Agency for Fundamental Rights. The Act also covers the signing and conclusion of an agreement between the EU and Canada regarding the application of their competition laws.

Not applicable to St Helena

