



**ST HELENA**

**A BILL**

**FOR**

**AN ORDINANCE**

**to amend the Environmental Protection Ordinance, 2016, to make provision for the regulation of the use of artificial light at night for the protection of the natural environment and the night sky and for the reduction of energy waste and carbon emissions; and for connected and incidental purposes.**

---

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

**Short title, commencement and interpretation**

**1. (1)** This Ordinance may be cited as the Environmental Protection (Amendment) Ordinance, 2020, and comes into force on a date or dates fixed by the Governor by Order.

**(2)** An order under subsection (1) may—

- (a)** appoint different dates for different provisions or for different purposes of the same provision; and
- (b)** contain such transitional or consequential provisions as appear to the Governor to be necessary or convenient.

**(3)** In this Ordinance “the principal Ordinance” means the Environmental Protection Ordinance, 2016.

**Amendment of the Long Title**

**2.** The principal Ordinance is amended in the Long Title by inserting after the words “the regulation of” the words “the use of artificial light at night and”.

**Amendment of section 2 - Interpretation**

**3.** Section 2 of the principal Ordinance is amended by inserting in the appropriate alphabetical order the following definitions—

- “**advertisement**” includes any representation, sign, device or artefact employed wholly or partly for the purposes of advertising, announcement or direction and includes any supporting structure thereto;
- “**airport**” has the same meaning as that provided for this word in the Airport Development Ordinance, 2006;
- “**building**” includes any structure and any part of a building, but does not include plant or machinery contained in a building;
- “**Chief Environmental Officer**” means the person appointed under section 7(1);
- “**colour temperature**” of a light source, means the temperature of an ideal black-body radiator that radiates light of comparable hue to that of the light source and is conventionally stated in the unit of absolute temperature Kelvin (K);
- “**compliance**” means the use of any means to conform to this Ordinance, including the use of blinds or louvres or adjusting the lamp or the tilt angle of the light fitting;
- “**domestic**” means property, premises or lighting that is used mainly for non-commercial residential purposes;
- “**exterior lighting**” means the use of artificial lighting for exterior purposes;
- “**exterior lighting code**” means the code of practice for St Helena relating to exterior lighting;
- “**illuminance**” means the quantity of luminous flux incident upon a unit area, expressed as lumens per square metre (or lux);
- “**interior lighting**” means artificial lighting used to illuminate the inside of premises;
- “**light fitting**” means the total package of light fitment including the lantern, lamp and all associated integral items of operating control and switch gear;
- “**lighting zone**” or “**zone**” means a lighting zone prescribed in Regulations;
- “**lux**” is the term used to quantify the luminous flux incident upon a unit area which is also expressed as lumens per square metre;
- “**luminance**” means the luminous intensity (or brightness) of a surface or source expressed in terms of surface area as candelas per square metre ( $\text{cd}/\text{m}^2$ );
- “**lumen**” means a unit of light emitted from a point source of one candela intensity, sometimes expressed in kilolumens (klm);
- “**luminous flux**” means the measure of the rate of emission or reflection of light from an object or surface and is measured in lumens;
- “**obtrusive light**” means any negative effect that may be caused by artificial light at night;
- “**port**” has the same meaning as that provided for this word in the Ports Ordinance, 2016;
- “**public sector lighting**” means artificial lighting owned or maintained by the Government of St Helena;
- “**sale**” includes offer or expose for sale, hire, barter or exchange, and “**sell**” has a corresponding meaning; and
- “**scotopic / photopic ratio (S/P ratio)**” means a multiplier that measures how much emitted light is useful to the human eye.”.

#### **Amendment of section 4 - Objectives**

3. Section 4 of the principal Ordinance is amended by inserting after paragraph (a) the following paragraph—

“(aa) protecting the natural environment and the night sky from the uncontrolled use of artificial light and for the reduction of energy waste and carbon emissions;”.

#### **Amendment of section 12 - Codes of practice**

4. Section 12 of the principal Ordinance is amended by inserting after paragraph (e) the following paragraph—

“(ee) set standards to regulate the use of artificial light at night and provide educational information as to why and how the use of artificial light at night should and can be controlled whilst maintaining the positive benefits of artificial light at night; and”.

**Amendment of section 18 - General duties and functions in relation to conservation of biodiversity**

4. Section 18 of the principal Ordinance is amended by inserting after paragraph (a) the following paragraph—

“(aa) the regulation of the use of artificial light at night and reducing energy waste and carbon emissions;”.

**Insertion after section 19 of subheading “Control of the use of artificial light at night” and subsections - 19A to 19N**

5. The principal Ordinance is amended by inserting after section 19 the following—

“ *Control of the use of artificial light at night*

**Insertion of section 19A - Exemptions**

**19A. (1)** The following types of lighting are exempted from the application of this Ordinance—

- (a) lighthouses and navigation lighting used for safety at sea;
- (b) air navigation lighting, including runway lighting;
- (c) sea navigation lighting;
- (d) interior lighting which does not shine outside of a property;
- (e) temporary festive Christmas lighting in the lighting zones prescribed for a period not more than 6 weeks before and 2 weeks after Christmas;
- (f) lighting needed for emergency purposes;
- (g) construction site lighting;
- (h) lighting used for security at a prison; and
- (i) lighting required otherwise by any other Ordinance.

(2) Exempt lighting must comply with the prescribed specifications.

**Prohibition on importation and sale**

**19B. (1)** Subject to subsection (2), a person must not import or sell the following exterior light fittings or sources—

- (a) light fittings suitable for exterior use with integrated (pre-installed) light sources emitting light at colour temperatures greater than 3,000 Kelvin or an S/P ratio greater than 1.3;

- (b) light fittings suitable for exterior use with 1,500 lumens initial lamp output where the fitting cannot be fitted so that zero light is output at 90 degrees and above;
- (c) light sources suitable for exterior use emitting light at colour temperatures greater than 3,000 Kelvin; or
- (d) high intensity light sources greater than 55,000 initial lumens that is with output greater than 400w high pressure sodium.

(2) The Governor in Council may by Order prescribe a date by which the sale of the exterior light fittings or sources specified under subsection (1) will be prohibited and a person having as commercial stock any such specified exterior light fittings or sources may for a period of up to but not exceeding 1 year from the prescribed date continue to sell such exterior light fittings or sources.

(3) The provisions of the Customs and Excise Ordinance, Cap. 145, relating to prohibited imports apply in respect of any item imported in contravention of this section.

### **Prohibitions on installation of lighting**

**19C. (1)** Subject to subsection (2), a person must not install the following lighting—

- (a) light sources greater than 55,000 initial lumens;
- (b) sports lighting providing an average playing surface greater than 100 Lux maintained average illuminance;
- (c) sky tracking searchlights or aerial laser lights; or
- (d) light sources with colour temperatures in excess of 3000K or S/P ratio greater than 1.3 and used for exterior use.

(2) Subsection (1) does not apply to a person installing exterior light fittings or sources referred to in section 19B (2) which are installed within one year from the date prescribed under section 19B (2) and where such exterior light fittings or sources are made compliant at installation (by the fitting of prescribed lighting controls or any light sources which have been changed to conform with this Ordinance).

### **Regulations for the control of exterior lighting**

**19D.** The Governor in Council, after consultation with the Chief Environmental Officer may prescribe in Regulations—

- (a) lighting zones and the lighting controls that will apply to exterior lighting in the lighting zones;
- (b) the values for the maximum levels permitted for domestic and non-domestic lighting;
- (c) the maximum luminance permitted for illuminated advertisement; and
- (d) the values for the level of exterior light permitted to shine into residential windows.

### Uses of lighting prohibited outright

**19E.** A person must not use the following lighting in any prescribed lighting zone—

- (a) light sources greater than 55,000 initial lumens;
- (b) sports lighting providing an average playing surface greater than 100 Lux maintained average illuminance;
- (c) sky tracking searchlights or aerial laser lights in any lighting zone; or
- (d) light sources with colour temperatures in excess of 3000K used for exterior lighting.

### Sports lighting

**19F. (1)** A person must not install sports lighting without prior development permission under the Land Planning and Development Control Ordinance, 2013, and such sports lighting must comply with the requirements of this section.

**(2)** A person must not install or use sports lighting in the prescribed lighting zones for which such installation or use is prohibited.

**(3)** Sports lighting must contain double asymmetric flat glass light fittings installed with the flat glass installed horizontally and with lighting levels at or below the following game maintained average illuminance values on the playing areas—

- (a) 75 Lux for football, rugby, basketball, netball and volleyball; and
- (b) 100 Lux for equestrian and cycle racing.

### Energy Saving

**19G. (1)** Subject to section 19A, a person with responsibility for exterior lighting must cause the exterior lighting to be turned off or dimmed by the time specified for the prescribed zone.

**(2)** Except as otherwise stated, the Chief Environmental Officer must cause—

- (a) all public sector exterior lighting in all lighting zones to be dimmed or turned off by 10:00pm;
- (b) the exterior lighting at a port to be dimmed or turned off—
  - (i) from Sunday to Thursday at 10:00pm; and
  - (ii) on Friday and Saturday nights at 1:00am on the following day; and
- (c) the exterior lighting at an airport to be dimmed or turned off 30 minutes after the last passenger has been processed through customs and immigration.

**(3)** The owner or person responsible for commercial illuminated advertising must cause the exterior lighting for the commercial illuminated advertising to be dimmed or turned off at—

- (a) the time prescribed for the prescribed zone in which the commercial illuminated advertising is located;

- (b) the time at which the commercial premises associated with the commercial illuminated advertising closes; or
- (c) 10:00pm,

whichever is the earlier.

(4) The owner or person responsible for sports lighting must cause the sports lighting to be dimmed or turned off at 10:00pm, except where a game is still in progress in which case the owner or person responsible for sports lighting must cause the sports lighting to be dimmed or turned off 15 minutes after the end of the game.

(5) The owner or person responsible for interior lighting at commercial premises (shop window displays and interior office lighting) in all prescribed lighting zones for which there is no barrier (such as a curtain or blind) preventing it from shining outside of the premises or for which the interior lighting cannot be turned off by a motion sensor device must cause the interior lighting at the commercial premises to be dimmed or turned off at 10:00pm or at the time that the last member of staff for the commercial premises has left, whichever is later.

### **Exemptions from lighting reduction**

**19H. (1)** Commercial and domestic security lighting is exempt from lighting reduction if it is controlled by movement sensors so it only comes on when triggered and is set to go off after a maximum of 5 minutes and it meets the other requirements of the applicable prescribed lighting zone as prescribed in this Ordinance.

(2) Exterior lighting at the seaport and airport is exempt when needed for non-scheduled sea and air traffic arriving.

(3) Exterior lighting needed for safety at premises open after the curfew is permitted until the last person has left the premises and the lighting meets all other requirements of this Ordinance.

(4) A person may apply under section 19I for temporary exemption from lighting reduction.

### **Temporary permission**

**19I. (1)** A person may apply to the Chief Environmental Officer for temporary permission to use exterior lighting which would otherwise contravene this Ordinance, which include—

- (a) temporary lighting of places of religious worship;
- (b) temporary lighting of public monuments or buildings;
- (c) travelling fair grounds theme and amusement parks; or
- (d) to allow for the performance or display of local traditions and customs.

(2) The Chief Environmental Officer must consult the Heritage Society and St Helena National Trust concerning all applications for temporary permission.

(3) The Chief Environmental Officer may grant temporary permission only if the need for the lighting is justified and the applicant has followed best practice as

laid down in the exterior lighting code as far as is reasonable.

(4) The Chief Environmental Officer must not grant temporary permission for lighting in lighting zones for areas that are deemed be of historic or conservation significance or for uses referred to in section 19C or 19E.

(5) The Chief Environmental Officer may grant temporary permission for a maximum period of 30 days after which the applicant may, subject to subsection (6), re-apply for permission.

(6) In the case of consecutive applications for permission, the applicant must justify the continued use of the lighting and satisfy the Chief Environmental Officer that the lighting is of a temporary nature.

### **Light readings**

**19J.** Light readings under this Ordinance must be taken in accordance with the method set out in the exterior lighting code.

### **Abatement notice**

**19K.** If it appears to the Chief Environmental Officer that any lighting has been installed or is being used in contravention of section 19C, 19E, 19F or regulations made under section 19D, the Chief Environmental Officer may serve an abatement notice giving 30 days formal notice to resolve lighting deemed to be in breach (by removing, replacing, shielding or otherwise modifying the lighting).

### **Offences**

**19L. (1)** A person commits an offence if such person knowingly—

- (a) imports or sells lighting contrary to section 19B;
- (b) installs lighting contrary to section 19C;
- (c) uses lighting contrary to section 19E;
- (d) contravenes Regulations made under section 19D;
- (e) installs or uses sports lighting contrary to section 19E;
- (f) fails to comply with any limitation under section 19G without reasonable excuse; or
- (g) fails to comply with an abatement notice served by the Chief Environmental Officer under section 19K.

Penalty: prescribed under section 11(5).

(2) The common law relating to nuisance remains unchanged and compliance with this Ordinance does not render a party immune from a nuisance claim.

### **Appeals**

**19M. (1)** A person may appeal to the Magistrates' court in respect of an application under section 19I, against any decision made by the Chief Environmental Officer that was the subject of that application.

(2) In respect of a notice that has been issued to a person under section 19K the person may appeal to the Magistrates' court against the decision of the Chief Environmental Officer to issue the notice.

(3) An appeal under this section must be brought within 21 days after the date that the person receives notice in writing of the decision made by the Chief Environmental Officer or within any further time the court allows.

(4) Unless the court so orders, the lodging of an appeal does not operate to stay the effect of a decision pending the determination of the appeal.

(5) On hearing the appeal, the court may—

- (a) confirm, reverse or vary the decision against which the appeal is brought; and
- (b) make any order as to the costs of the appeal it thinks fit.

### **Regulations**

**19N. (1)** The Governor in Council may make Regulations generally for carrying into effect the provisions of this Ordinance.

(2) Without prejudice to the generality of subsection (1), Regulations may—

- (a) make provision governing the installation and operation of artificial lighting in order to meet the objectives of the Ordinance; and
- (b) provide for forms to be used, fees to be paid, and procedures to be adopted for or in connection with the operation of this Ordinance.”.

---

### **EXPLANATORY NOTE**

*(This note is not part of the Ordinance)*

This Bill would, by amending the Environmental Protection Ordinance, 2016, prohibit the use of specified exterior lighting and sources from use. The Bill would enable the Chief Environmental Officer to cause to be implemented a code of practice for the regulation of use of light at night. The Bill would make provision for a period to be prescribed by which a person selling exterior lighting and sources to be prohibited may continue to sell such exterior lighting and sources to enable persons with such commercial stock to dispose of that stock and enable the Governor to make Regulations to ensure the effective operation of the Ordinance.