



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, 2021, 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 light fitting”** means a light fitting for exterior purposes;
- “exterior lighting”** means artificial lighting used to illuminate the outside of premises;
- “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 and includes shop window displays and interior office lighting;
- “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 referred to in section 28E;
- “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 (cd/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;
- “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;
- “scotopic / photopic ratio (S/P ratio)”** means a multiplier that measures how much emitted light is useful to the human eye.”;
- “temporary lighting”** means exterior lighting, the use of which would contravene this Ordinance but for which permission for use may be granted by the Chief Environmental Officer.”.

Amendment of section 4 - Objectives

4. 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 10 - Appeals

5. Section 10(1) of the principal Ordinance is amended by inserting after paragraph (a) the following paragraphs—

- “(aa) in respect of an application under section 28H, against any decision by the Chief Environmental Officer that was the subject of that application;
- (ab) in respect of a notice that has been issued to a person under section 28J the person may appeal to the Magistrates’ court against the decision of the Chief Environmental Officer to issue the notice;”.

Amendment of section 12 - Codes of practice

6. Section 12(2) 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”.

Insertion of Part 6A - CONTROL OF THE USE OF ARTIFICIAL LIGHT AT NIGHT

7. The principal Ordinance is amended by inserting after Part 6 the following Part—

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PART 6A

CONTROL OF THE USE OF ARTIFICIAL LIGHT AT NIGHT

General duties and functions in relation to the control of the use of artificial light at night

28A. The Chief Environmental Officer must take, recommend or promote such general measures under Part 4 and perform the Chief Environmental Officer’s functions under this Ordinance that are necessary to achieve the objectives of this Ordinance as the Ordinance applies to—

- (a) the control of the use of artificial light at night;
- (b) the regulation of the use of artificial light at night; and
- (c) the reduction of energy waste and carbon emissions.

Exemptions

28B. The following types of lighting are exempted from the application of this Ordinance—

- (a) lighthouse and navigation lighting used for safety at sea;
- (b) air navigation lighting, including runway lighting, exterior lighting and security lighting in respect of the surroundings of the airport;
- (c) sea navigation lighting and lighting used by a ship for safety at sea;
- (d) interior lighting which does not shine outside of a property;
- (e) temporary festive Christmas exterior lighting in the lighting zones prescribed for a period not more than 6 weeks before and 2 weeks after the date of the day on which Christmas day falls;
- (f) exterior lighting needed for emergency purposes;
- (g) construction site exterior lighting;
- (h) exterior lighting used for security at a prison;
- (i) exterior lighting necessary for the satisfaction, in St Helena, of any international obligation;

- (j) exterior lighting for the illumination of the national flag of a country or territory required for a formal or ceremonial purpose; and
- (k) exterior lighting required by any other Ordinance.

Prohibition on importation and sale

28C. (1) Subject to subsection (2), a person must not sell exterior light fittings or sources prohibited by the Customs (Export and Import Control) (Amendment) Regulations, 1988.

(2) The Governor in Council may by Order appoint the date on which the sale of the exterior light fittings or sources prohibited by the Customs (Export and Import Control) (Amendment) Regulations, 1988 is to come into effect and a person having as commercial stock any such exterior light fittings or sources may for a period of up to but not exceeding 1 year from the appointed date continue to sell such exterior light fittings or sources.

Prohibitions on installation and use of lighting

- 28D. (1)** A person must not install or use the following exterior lighting—
- (a) a light source greater than 55,000 initial lumens;
 - (b) a sky tracking searchlight or aerial laser light; or
 - (c) a light source with a colour temperature in excess of 3000K or S/P ratio greater than 1.3.

(2) Subsection (1) does not apply to a person installing or using an exterior light fitting or source referred to in section 28C (2) which is installed or is in use within one year from the date prescribed under section 28C (2).

(3) An exterior light fitting or source to which subsection (1) applies must, after the expiration of the period prescribed under subsection (2) be changed to be made compliant with this Ordinance.

Lighting Zone

28E. A reference to a lighting zone under this Ordinance is a reference to a lighting zone specified pursuant to a development plan made in accordance with the Land Planning Development and Control Ordinance, 2013 which details—

- (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.

Light Reduction

28F. (1) Subject to section 28B, 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 12:00am as prescribed; and
- (b)** the exterior lighting at a port to be dimmed or turned off as prescribed—
 - (i)** from Sunday to Thursday at 12:00am; and
 - (ii)** on Friday and Saturday nights at 1:00am on the following day.

(3) The owner of 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)** 12:00am,
- whichever is earlier.

(4) The owner of or person responsible for interior lighting at commercial premises in all prescribed lighting zones for which where there is no barrier, like a curtain or blind or other barrier, 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 as prescribed or turned off at 12:00am or at the time that the last member of staff for the commercial premises has left the commercial premises, whichever is later.

Exemptions from lighting reduction

28G. (1) Commercial and domestic security lighting is exempt from lighting reduction if such lighting—

- (a)** is controlled by motion sensors so that the lighting turns on only when triggered;
- (b)** is set to turn off at or within a specific time; and
- (c)** meets the requirements prescribed for the lighting zone where the lighting is located.

(2) A person may apply under section 28(H)(1) for an exemption from lighting reduction.

Permission in respect of an application for exemption

28H. (1) A person may, in the manner approved by the Chief Environmental Officer, apply to the Chief Environmental Officer for permission to use exterior lighting which would or the use of which would contravene this Ordinance.

(2) The exterior lighting referred to in subsection (1) includes but is not

limited to—

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

(3) The Chief Environmental Officer may, where an application is made in accordance with subsection (1), grant permission only if, in the opinion of the Chief Environmental Officer, the need for the lighting is justified and the applicant has followed the best practice specified in the exterior lighting code as far as is reasonably practical.

(4) The Chief Environmental Officer may grant permission for a maximum period of 60 days after which an applicant may, subject to subsection (5), re-apply for permission.

(5) Where consecutive applications pursuant to subsection (1) are made, a person making the applications must justify the continued use of the lighting for which permission is sought and the Chief Environmental Officer, before granting permission in respect of each application, must be satisfied that the continued use of the lighting is of a temporary nature.

Light readings

28I. Light readings under this Ordinance must be taken in accordance with the method set out in the exterior lighting code.

Abatement notice

28J. The Chief Environmental Officer may serve an abatement notice for the contravention of section 28C, 28D, or 28G requiring the person specified in the abatement notice to remove, replace, shield or otherwise modify the lighting to which the abatement notice refers and giving the person 30 days formal notice to resolve the contravention specified in the abatement notice.

Offences

28K. Subject to section 10, a person commits an offence if such person knowingly fails without reasonable excuse to comply with an abatement notice served by the Chief Environmental Officer under section 28J in respect of the following—

- (a) selling exterior lighting contrary to section 28C;
- (b) installing or using exterior lighting contrary to section 28D; or
- (c) failing to comply with section 28G.

Penalty: A fine of £2500.

Regulations

28L. (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 in St Helena. 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 prohibited under the Ordinance, may continue to sell such exterior lighting and sources within the period prescribed so as to enable persons with such exterior lighting and sources as commercial stock to dispose of that stock. The Bill would also enable the Governor to make Regulations to ensure the effective operation of the Ordinance.