



ST. HELENA

CHAPTER 92

FORESTRY ORDINANCE and Subsidiary Legislation

Non-authoritative Consolidated Text

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown

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Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

This version contains a consolidation of the following laws—

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Ordinance 9 of 1954 .. in force 25 October 1954

Amended by Ordinances: 10 of 1955

6 of 1959

Amended by L.N: 4/1967

Amended by Ordinances: 9 of 1973

2 of 1985

5 of 1993

2 of 2001

Gazette Notice No. 63 of 1 July 2011

CONSTITUTION OF FORESTS ORDERS – Omitted

Legal Notices 8/1955, 25/1955, 13/1956, 6/1957, 8/1957, 11/1957,

7/1958, 5/1959, 8/1962, 14/1976, 4/1977, 3/1993, 5/1993,

17/1994, 20/1994, 21/1994, 28/1994, 3/1995, 16/1995,

7/1995, 18/1995, 16/1996, 23/1997, 24/1997, 13/2001, 3/2002,

9/2002, 1/2005, 1/2009, 4 of 2010 and 10 of 2010

CONTROLLED AREAS DECLARATION ORDERS – Omitted

Legal Notice 4 of 1956

¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

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CHAPTER 92**FORESTRY ORDINANCE**

*(Ordinances 9 of 1954, 10 of 1955, 6 of 1959, Legal Notice 4 of 1967,
Ordinances 9 of 1973, 2 of 1985, 5 of 1993 and 2 of 2001)*

AN ORDINANCE TO PROVIDE FOR THE CONSTITUTION, MANAGEMENT AND PROTECTION OF FORESTS, FOR THE PRESERVATION OF TREE GROWTH AND OF INDIGENOUS TREES AND PLANTS AND FOR OTHER PURPOSES CONNECTED THEREWITH.

Commencement

[25 October 1954]

Short title, application

1. This Ordinance may be cited as the Forestry Ordinance, and shall apply only to St. Helena.

Definitions

2.² In this Ordinance, and in any Order in Council, resolution or rule made hereunder, unless the context otherwise requires—

“the Committee” means a Council Committee³;

“Dedicated Forest” means any area of land constituted as a Dedicated Forest by the Governor in Council under section 4;

“Forest Guard” means any person appointed by the Governor to be a Forest Guard for the purposes of this Ordinance and includes any police constable;

“Forest Produce” means and includes—

- (a) timber, firewood, charcoal, wood oil, gum, resin, natural varnish, tanning extracts, tanning barbs, fruits, fibres, bark and lac;
- (b) trees and all parts and produce of trees not otherwise herein mentioned;
- (c) plants, including climbers and grasses, creepers and all parts and produce of such plants;
- (d) wood ashes;
- (e) peat, surface soil and minerals other than minerals within the meaning of any Ordinance regulating the working of minerals;
- (f) marl, gravel, limestone, rock and laterite;
- (g) honey, beeswax, guana, silk-cocoons, humus and all produce from animals;

“Forestry Officer” means the Officer appointed by the Governor to be the Forestry Officer for the purposes of this Ordinance;

“indigenous tree” and **“indigenous plant”** mean respectively a tree and a plant of a kind indigenous to St. Helena;

“National Forest” means any area of Crown Land constituted a National Forest by the Governor in Council under section 4;

“Protected Private Forest” means any area of land constituted as a Protected Private Forest by the Governor in Council under section 4;

“owner” includes lessee and manager and the attorney of any owner or lessee.

Responsibility of Forestry Officer

3. The Forestry Officer shall be responsible for the execution of the provisions of this Ordinance, and of all orders, resolutions and rules given or made thereunder.

Governor in Council may constitute Forests

4. (1) It shall be lawful for the Governor in Council to constitute—

- (a) any area of Crown Land a National Forest; or
- (b) any area of any privately owned land in respect of which he has received a written request from the owner that it shall be placed under the control of the Forestry Officer, a Dedicated Forest; or
- (c) any area of privately owned land, which the Governor is satisfied is managed on sound Forestry principles and in respect of which the Governor has received a written request from the owner that it should receive the protection of the Forestry Ordinance, a Protected Private Forest.

² Section 2 amended by Ord. 2 of 2001

³ Agricultural and Natural Resources Committee — see LN 4/1967

(2) Before constituting any lands a National Forest, a Dedicated Forest or a Protected Private Forest a notice shall be published by the Governor in the *Government Gazette*—

- (a) specifying as near as may be the situation, the limits and the ownership of such lands;
- (b) declaring that it is intended to constitute such lands a National Forest, a Dedicated Forest or a Protected Private Forest as the case may be;
- (c) instructing the Committee to inquire into and determine what rights, if any, exist in favour of any person in or over any of the land in question and to hear and determine any objections to the constitution of such lands as a National Forest, Dedicated Forest or Protected Private Forest as the case may be.

Findings of the Governor in Council to be made known by Committee

5. Upon publication of the notice aforesaid the Committee shall forthwith—
- (a) cause the particulars contained therein to be made known in the district in which the lands are situated in such manner as it may determine; and
 - (b) appoint and make known in such manner as it may determine, a day (not less than six weeks after the publication of the notice) and a place for the hearing of objections to the proposal set out in the notice.

Objections may be lodged

6. Any objection to the proposal set out in the notice and any claim to any rights in or over the land in question may be made in writing and sent to the Forestry Officer at any time prior to the hearing and any objector or claimant may, whether or not he has lodged his objections in writing, appear before the Committee on the appointed day and state his objections or claims in person.

Committee to consider objections

7. (1) On the day and at the place appointed the Committee shall consider any written objections or claims which have been received by the Forestry Officer and shall hear and take written note of the representations of all persons who appear before the Committee to state their objections or claims in person.

(2)⁴ This Ordinance shall be administered by the Agricultural and Natural Resources Department.

Committee to submit recommendations to Governor

8. At the conclusion of the proceedings the Committee shall admit or reject, wholly or in part, all claims and objections brought to its knowledge and shall announce the nature of the recommendation it has decided to make in the matter and shall send such recommendations to the Governor.

⁴ Section 7(2) inserted by Ord. 2 of 2001

Recommendations by Committee to be published in the *Gazette*

9. The recommendation announced by the Committee shall be published in the *Gazette*, and any person aggrieved by the recommendation may appeal in writing to the Governor within a period of one month from the date of its publication.

Powers of Governor in Council

10. On receipt of any recommendation by the Committee the Governor in Council may cause such further investigation to be made as he may think necessary and on the expiration of the period within which appeals may be lodged, after considering the results of any such investigation together with any written appeals that may have been lodged and the representations of such persons as he may think desirable to call before him, he may—

- (a) by Order in Council constitute the whole or any part of any Crown land the subject of the Committee's recommendation, a National Forest; or
- (b) by Order in Council constitute any area of the privately owned land the subject of the Committee's recommendation, a Dedicated Forest or a Protected Private Forest; or
- (c) reject the recommendation of the Committee.

(2) Notice of the rejection of any recommendation of the Committee shall be published in the *Gazette*.

Order to be defined

11. Any Order constituting a Forest shall set forth—

- (a) the nature of the Forest whether National Forest, Dedicated Forest or Protected Private Forest;
- (b) the limits of the lands which constitute the Forest;
- (c) any rights reserved to any person therein.

Amendment, variation or revocation of Order

12.⁵ **(1)** The Governor in Council may, after consultation with the Committee and subject as hereinafter provided, amend, vary, or revoke, any Order relating to the constitution of land as National Forest, Dedicated Forest, or Protected Forest.

(2) Notice of intention to amend, vary, or revoke an Order shall be published in the *Gazette* and shall—

- (a) describe the land affected;
- (b) contain details of the proposed amendment, variation, or revocation;
- (c) specify a date not earlier than six weeks from the date of such notice for written representations or objections to be filed; and
- (d) specify a date not earlier than six weeks from the date specified in the preceding paragraph when it is proposed that the constitution shall change.

(3) The Governor in Council shall before amending, varying, or revoking any Order take into consideration all such matters as shall appear to them to be relevant including the recommendations of the Committee; a report by the Chief Agricultural and Natural Resources

⁵ Section 12 amended by Ord. 2 of 1985

Officer⁶ on the environmental consequences of the loss of such forest; the value of the land for forestry purposes; and any representations or objections filed under the preceding subsection:

Provided that the Governor in Council may only act in opposition to the advice and recommendations of the Committee where the Governor certifies that the amendment, variation or revocation of an Order is necessary for a public purpose.

Management expenses

13. All expenses arising from the management of Dedicated Forests shall be met in the first place by Government, but their recovery by Government shall be a first charge upon the revenue of the Forest. Any balance of such revenue after payment of all expenses shall be paid to the forest owner.

Protection of Forests

14.⁷ (1) Except with the written permission of the Forestry Officer or in exercise of any right reserved and specified in any Order in Council, no person shall in any National Forest, Dedicated Forest or Protected Private Forest—

- (a) cut, dig, burn or carry away any soil;
- (b) cut, gather, burn or carry away any forest produce;
- (c) permit any stock to enter or remain therein;
- (d) bring or make any fire therein;
- (e) obstruct any public officer or Forest guard in the lawful execution of his duties in connection therewith;
- (f) the use of any motor vehicle (including cars, four wheel drives, motor bikes and trucks) on any forest land (including crown wastes and footpaths) except on a defined track.

(2) Any person who contravenes any of the provisions of this section shall be liable on conviction to a fine of not exceeding £100.

(3) It shall be lawful for the Forestry Officer and for any person acting under his instructions (including every forest guard and forestry assistant) to take such action as may be necessary to prevent any contravention of the provisions of this section which he has reason to believe is about to be committed.

Control of Forests

15. It shall be lawful for the Forestry Officer or any person acting under his authority in a National or Dedicated Forest, and for the owner or any person acting under his authority in a Protected Private Forest to fell, dig up, destroy, burn, sow, plant or foster vegetation, or to cut, dig or turn the soil to such extent and in such manner as is, in his opinion, necessary for the improvement and management of the forest in accordance with the established principles of Forestry.

Power of Forestry Officer to enter upon any land in St. Helena

16. It shall be lawful for the Forestry Officer or any Forest Guard or other Public officer generally authorised in writing by the Governor in that behalf, to enter upon and pass

⁶ Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Agriculture and Natural Resources

⁷ Section 14 amended by Ord. 5 of 1993 and Ord. 2 of 2001

and re-pass over any land in St. Helena for the purposes of the provisions of this Ordinance or of any Order in Council, or rule made hereunder.

Obstruction

17.⁸ Any person who shall assault, obstruct or in any way whatsoever hinder the Forestry Officer or any Forest Guard or other Public Officer lawfully engaged in carrying out the provisions of this Ordinance or of any Order in Council or rule made hereunder shall be liable on conviction to a penalty not exceeding £100.

Payment of damages in addition to punishment

18.⁹ Whenever any person is charged with any contravention of the provisions of this Ordinance or of any Order in Council or rule made thereunder and it appears that the contravention has resulted in damage to a National Forest, a Dedicated Forest or a Protected Private Forest, the Court hearing the charge shall take evidence as to and determine the amount of such damage and on conviction of the contravention may in addition to any punishment that may be imposed therefor, order payment by the accused of the amount so determined as a penalty.

Governor in Council may declare Controlled Areas

19.¹⁰ (1) It shall be lawful for the Governor in Council to declare any area, outside areas constituted as forests, on which the preservation of tree growth is considered necessary for the protection of the Island's natural resources, a Controlled Area.

(2) Before constituting any area a Controlled Area a notice shall be published by the Governor in the *Government Gazette* specifying as near as may be the situation, the limits and the ownership of such area.

Protection of Controlled Areas

20.¹¹ (1) In a Controlled Area no person shall cut down any tree or carry away any forest produce except with the written permission of the Chief Agricultural and Natural Resources Officer¹² who may include in such permission such conditions with regard to felling and replanting as he may consider necessary for the proper protection of natural resources.

(2) Any person who contravenes any of the provisions of this section or who fails to comply with any of the conditions of a permit issued thereunder shall be liable on conviction to a fine not exceeding £100.

(3) It shall be lawful for the Forestry Officer and for any person acting under his instructions to take such action as may be necessary to prevent any contravention of the provisions of this section which he has reason to believe is about to be committed.

⁸ Section 17 amended by Ord. 5 of 1993

⁹ Section 18 amended by Ord. 2 of 2001

¹⁰ Section 19 inserted by Ord. 10 of 1955

¹¹ Section 20 inserted by Ord. 10 of 1955 and amended by Ord. 2 of 2001

¹² Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Agriculture and Natural Resources

Governor may make rules

21.¹³ The Governor in Council may make rules for the preservation, development and management of forests constituted under this Ordinance, for the preservation of tree growth in controlled areas so constituted, for the preservation of kinds of indigenous trees and kinds of indigenous plants from extinction and generally for giving effect to the purposes of this Ordinance. Such rules may prescribe the kinds of trees and plants which shall be deemed to be kinds indigenous to St. Helena and may provide for penalties not exceeding £100 for any contravention thereof.

¹³ Section 21 substituted by Ord. 6 of 1959 and amended by Ord. 5 of 1993