



ST. HELENA

(Chapter No. not allocated yet)

ADMINISTRATION OF JUSTICE ORDINANCE

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 [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legallandlands.gov.sh]¹

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—

	Page
ADMINISTRATION OF JUSTICE ORDINANCE	2
Ordinance 9 of 2007 ... in force on 1 September 2007	

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.

ADMINISTRATION OF JUSTICE ORDINANCE

(Ordinance 9 of 2007)

AN ORDINANCE TO MAKE STATUTORY PROVISION IN RELATION TO THE PUBLIC SOLICITOR, TO REGULATE NON-GOVERNMENTAL LEGAL SERVICES, AND TO AMEND THE REVISED EDITION OF THE LAWS ORDINANCE.

Commencement

[1 September 2007]

Citation and commencement

1. (1) This Ordinance may be cited as the Administration of Justice Ordinance, 2007, and shall come into force on such date or dates as the Governor shall appoint by Notice in the *Gazette*.

(2) Notices made under subsection (1) may appoint different dates for the commencement of different provisions, or for different circumstances, and may contain such transitional provisions as the Governor may see fit to make.

Public Solicitor

2. The Legal Aid and Legal Services Ordinance, Cap 17, is amended by inserting the following new section after section 2:

“Public Solicitor

2A (1) The Governor may appoint a suitably qualified person to be the Public Solicitor, to provide legal services to the public in accordance with the provisions of this Ordinance and any other written law.

(2) The Public Solicitor is a public officer but, in the performance of his duties towards clients, is not subject to the direction or control of any person or authority:

Provided that nothing in this subsection affects the jurisdiction of any Court or Tribunal.

(3) The Public Solicitor may be removed from office only:

- (a) at his or her own request, or
- (b) for inability to discharge the functions of his office (whether arising from inability of body or mind or any other cause) or for misconduct, and (in either case) with the consent of the Chief Justice.”.

Control of provision of legal services

3. (1) Subject to subsections (2) and (3), a person provides regulated legal services if—

- (a) for or in expectation of gain or reward—
 - (i) he gives legal advice to any person;
 - (ii) he appears on behalf of any person in any court, tribunal or inquiry having jurisdiction in St. Helena;
 - (iii) he directly or indirectly draws or prepares any instrument relating to any property or any legal proceedings;

- (b) he holds himself out (expressly or impliedly) to any other person, by the use of the description of advocate, attorney, attorney-at-law, barrister, solicitor, counsel, counsellor, law-agent, lawyer, or any other description, as being a person who is competent, qualified or ready in such capacity to give legal advice in relation to the laws of St. Helena.
- (2) For the purposes of subsection (1)(a)(iii), the expression “instrument” does not include—
 - (a) a will or other testamentary instrument which does not contain a trust;
 - (b) an agreement under hand only;
 - (c) a letter or power of attorney;
 - (d) a transfer of stock which does not contain a trust or limitation thereof.
- (3) A person does not provide regulated legal services if—
 - (a) he acts on his own behalf in any matter of a legal nature;
 - (b) being a public officer, he draws or prepares instruments, or does any other act or thing, in the course of his duty as such;
 - (c) he merely engrosses or copies any instrument or proceeding;
 - (d) being an employee, he draws up or prepares any instrument for or on behalf of his employer;
 - (e) he does any act which he is authorised to do in accordance with Regulations made under section 4;
 - (f) he prepares memoranda or articles of association of any company;
 - (g) he acts as a Lay Advocate in accordance with the Lay Advocates Ordinance, Cap 13; or
 - (h) he acts as the Public Solicitor in accordance with the Legal Aid and Legal Services Ordinance, Cap 17.

Regulations may provide for Licensed Conveyancers

4. (1) The Governor in Council may make Regulations for the appointment of licensed conveyancers for the purpose of performing such functions as may be prescribed.

(2) The regulations under subsection (1) may, without limiting the generality thereof, make provision with regard to—

- (a) the establishment of a board or body to appoint and regulate licensed conveyancers;
- (b) training of licenced conveyancers and provisions with respect to the application and issue of licenses;
- (c) suspension or termination of licenses;
- (d) maintaining a register of licensed conveyancers;
- (e) professional practice, conduct and discipline of licensed conveyancers;
- (f) professional indemnity insurance of licenses conveyancers;
- (g) financial requirements with regard to accounting for clients’ money;
- (h) fees and other charges of licenced conveyancers.

Offence of providing legal services

5. A person who, not having a right of audience in accordance with the Courts (Rights of Audience and Enrolment) Rules, Cap 9, provides regulated legal services, is guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding £5,000, or to both such fine and imprisonment;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both such fine and imprisonment.

Revised editions of the laws

6. The Revised Edition of the Laws Ordinance, Cap 2, is amended by repealing section 10 (other than the heading) and substituting therefor the following section:

“10. (1) A Revised Edition of the Laws prepared pursuant to this Ordinance shall come into force as the authoritative version of the law on the date specified (“the effective date”) in an Order made by the Governor under subsection (3) with respect to that Revised Edition.

(2) When the Commissioner has prepared a Revised Edition, the Commissioner shall—

- (a) sign four copies of the book, booklet, collection of loose-leaf pages, page, CD ROM or other electronic record, or printout from the data bank, as the case may be; and
 - (b) deliver the signed copies to the Attorney General;
- and the Attorney General shall, following the making of an Order under subsection (3), deliver one of those copies to the Governor, one to the Registrar of the Supreme Court, and one to the Speaker of the Legislative Council, and retain the other in his Chambers.

(3) The Governor may, by Order published in the *Gazette*, declare that a Revised Edition specified in the Order shall come into force on such date as may be appointed by such Order.

(4) From the date specified in an Order made under subsection (3), the Revised Edition of the Laws shall be deemed to be, in all courts of justice and for all purposes whatsoever, without any question the sole authentic edition of the laws in respect of the law contained therein and in force on the relevant revision date:

Provided that nothing in this section shall affect the operation of any Ordinance or Subsidiary Legislation which, before the date appointed for the Revised Edition of the Laws to come into operation, may be enacted repealing, altering or amending any Ordinance or Subsidiary Legislation which has already been included in the Revised Edition of the Laws.

(5) Whenever a complete Revised Edition is published under the authority of this Ordinance, the Commissioner shall, notwithstanding subsection (2), cause seven copies thereof to be permanently bound into volumes and shall deliver one copy each for record keeping purposes to—

- (a) the Governor;
- (b) the Speaker of the Legislative Council;
- (c) the Attorney General;
- (d) the Registrar of the Supreme Court;
- (e) the Custodian of Records, Archives Office;
- (f) the Public Library; and
- (g) the Secretary of State.”.