



ST. HELENA

## CHAPTER 24

### SUMMARY OFFENCES 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

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This version contains a consolidation of the following laws—

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#### **SUMMARY OFFENCES ORDINANCE**

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Ordinance 6 of 1975 .. in force 10 October 1975

Amended by Ordinances: 19 of 1985

12 of 1994

7 of 1997

10 of 1997

1 of 2001

No Subsidiary Legislation has been made under this Ordinance

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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

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**CHAPTER 24****SUMMARY OFFENCES ORDINANCE**

*(Ordinances 6 of 1975, 19 of 1985,  
12 of 1994, 7 of 1997 and 10 of 1997, 1 of 2001)*

AN ORDINANCE TO MAKE FURTHER AND BETTER PROVISION FOR CERTAIN OFFENCES TRIABLE SUMMARILY.

**Commencement**

*[10 October 1975]*

**Short title**

1. This Ordinance may be cited as the Summary Offences Ordinance.

**Interpretation**

2. (1) In this Ordinance, unless the context otherwise requires—  
This e-version of the text is not authoritative for use in court.

**“lawful authority”** extends to and denotes any permission which may be lawfully given by a public officer or department or by a private person;

**“public meeting”** includes any meeting in a public place and any meeting which the public or a section thereof are permitted to attend, whether on payment or otherwise;

**“public officer”** or **“public department”** extends to and includes the Governor and every officer or department invested with or performing duties of a public nature;

**“public place”** includes any highway and any other premises or place to which at the material time the public have or are permitted to have access whether on payment or otherwise;

**“town area of Jamestown”** means an area within five hundred metres each side of the Run and extending the length of the Run from New Bridge Pond to the shore, including the whole wharf area.

(2) Where no specific description is given of the ownership of any property, the word **“property”** shall be taken to apply to all such property of the kinds specified, whether owned by the Crown, or a private person.

### Delegation of power

3. Where under the provisions of this Ordinance any public officer is empowered to permit or consent to the doing of anything or to issue any licence in respect thereof, such power may be exercised by any public officer in the same department as that of the officer to whom the power is granted who is authorised in writing in that behalf by such officer.

### Nuisances committed in public places etc

4.<sup>2</sup> Any person who—

- (a) indecently or in public view obeys any call of nature;
- (b) causes any annoyance or obstruction in any public place by exposing anything for sale in or upon, or so as to hang over any street, road or footway, or on the outside of any house, shop or building, or by allowing any pole, blind, awning, line or other projection from any window, parapet or other part of any house, shop or building;
- (c) suffers to be at large any unmuzzled ferocious dog or other animal; or sets on or urges any dog or other animal to attack, worry or put in fear any person or animal; or keeps any animal which is an unreasonable source of annoyance to any neighbour or passer-by;
- (d) without lawful authority or excuse, leads any large animal, or draws or propels any vehicle, truck or barrow upon any footpath, or fastens any animal so that it can stand across or upon any footpath; or allows any cattle, donkeys, goats or sheep to wander upon or into any public place;
- (e) in, near or adjoining any public place wantonly or unnecessarily blows any horn, beats any gong or drum or makes any other noise calculated to annoy or alarm any person or to frighten any animal;
- (f) wantonly or negligently discharges any firearm or throws or discharges any stone, or other missile, or makes any bonfire, or throws or sets fire to any firework, to the damage or danger of any person;
- (g) without lawful authority or excuse, plays at any game or pastime to the annoyance of the inhabitants or passers-by; or plays at any game or loiters in any public place, so as to obstruct the same or creates a noisy assembly therein;

<sup>2</sup> Section 4 amended by Ords. 19 of 1985, 10 of 1997 and 1 of 2001

- (h) uses, in any public place to the annoyance of the public, any loud speaker, megaphone or other device or instrument for magnifying sound;
- (i) without the consent of the owner or occupier, affixes any posting bill, or other paper against or upon any building, wall, fence, tree or pole, or writes upon, soils, defaces or marks the same with chalk, paint or in any other way whatsoever;
- (j) uses any profane, indecent or obscene language, or shall be guilty of any riotous or indecent behaviour to the annoyance of other persons;
- (k) in any manner causes any breach of the peace, other than as provided for in the foregoing provisions of this section;
- (l) within the town area of Jamestown—
  - (i) places or hangs out to dry any clothes linen or other property on the beach or in public roads or streets; or
  - (ii) flies a kite; or
  - (iii) throws or leaves any litter or refuse in any public place or in or by the Run;
- (m) in any public place exhibits any poster, badge, drawing, model, symbol or other representation which in any way is indecent or offends or may offend ordinary members of the public or which could corrupt public morals having special regard to the morals of children and young persons;
- (n) plays any musical instrument, radio or sound reproducer in any public road or street to such a volume as to be an annoyance to the public;
- (o) organises, equips or takes part in—
  - (i) the sale of emblems or collections of money, in any public road or street; or
  - (ii) the sale of raffle tickets, or bingo cards, in any private or public place, except under and in accordance with conditions of a general or special permit issued by the Chief of Police:

Provided that any applicant may appeal in writing to the Governor in Council against the decision of the Chief of Police not to issue a permit made under this paragraph within seven days of being notified of such decision, and the Governor in Council may in his discretion direct the Chief of Police to issue a permit subject to such conditions that may be appropriate,

shall be guilty of an offence and be liable to a fine not exceeding £100 or to imprisonment not exceeding two months.

### **Obstruction of public places**

**5.<sup>3</sup>** Any person who without lawful authority or excuse sets out or leaves, or causes to be set out or left, any matter or thing which obstructs, inconveniences or endangers, or may obstruct, inconvenience or endanger, any person or vehicle in a public place shall be liable to a fine not exceeding £200 or to imprisonment not exceeding three months.

### **Drunkenness and drinking in public places**

**6.<sup>4</sup>** (1) Any person who is found drunk in any public place or on any premises licensed under any Ordinance relating to intoxicating liquor licences shall be liable to a fine not exceeding £40.

<sup>3</sup> Section 5 amended by Ord. 1 of 2001

<sup>4</sup> Section 6 amended by Ord. 1 of 2001

(2) Any person who while drunk behaves in a riotous or disorderly manner in any public place shall be liable to a fine not exceeding £100 or to imprisonment not exceeding two months.

(3) No person shall, within the town area of Jamestown, consume any intoxicating liquor otherwise than—

(a) on private property with the consent of the owner or occupier thereof; or

(b) on licensed premises duly licensed for the sale and consumption of such liquor.

(4) Any person who contravenes the provisions of subsection (3) shall be liable to a fine not exceeding £40.

### **Suspicion of having or conveying stolen property**

7. Any person who is brought before a Magistrates' Court charged with having in his possession or conveying in any manner anything which may be reasonably suspected of having been stolen or unlawfully obtained, and who does not give an account, to the satisfaction of the Magistrates how he came by the same, shall be liable to a fine not exceeding £100 or to imprisonment not exceeding three months.

### **Person soliciting for immoral purposes**

8.<sup>5</sup> Any person who being in any public place or place of public resort, or being on any verandah or at any window or doorway over or opening on to any public place, solicits or loiters for the purpose of soliciting any person for any immoral purpose or behaves indecently shall be liable to a fine not exceeding £100 or to imprisonment not exceeding two months.

### **Touting**

9.<sup>6</sup> (1) Any person who, in a public place, to the annoyance of or in a manner likely to annoy any other person, importunes such person to buy any article or thing or to give his custom to any business, whether or not the article or thing is offered for sale, or the business is carried on, by such first-mentioned person, shall be guilty of an offence and shall be liable to a fine not exceeding £80.

(2) In subsection (1) “business” includes any services provided by way of trade or business.

### **Suspected persons and loiterers**

10.<sup>7</sup> Any person who—

(a) is found between sunset and sunrise, loitering in any public place, and who cannot give a satisfactory account of himself when called upon to do so; or

(b) is found at any time in or upon any dwelling house, warehouse, stable, garage, outhouse, private enclosure or garden for any unlawful purpose; or

(c) is found at any time loitering in, at or upon, or frequenting any quay, wharf or warehouse near or adjoining to, any public place or place of public resort, or any street or highway or any place adjacent to any street or highway, with intent to commit an arrestable offence,

shall be liable to a fine not exceeding £200 or to imprisonment not exceeding three months.

<sup>5</sup> Section 8 amended by Ord. 1 of 2001

<sup>6</sup> Section 9 amended by Ord. 1 of 2001

<sup>7</sup> Section 10 amended by Ord. 1 of 2001

## 11. *Repealed by Ord. 1 of 2001*

### Noise abatement

**12.<sup>8</sup>** (1) If a police officer acting—

- (a) on his own initiative; or
- (b) on the complaint of any person,

is satisfied that the volume of noise coming from any premises is in the circumstances existing at the time unreasonably causing or likely to cause an annoyance or nuisance to occupiers of nearby premises he may order the person in apparent control of the premises from which the noise is coming to reduce the level of the noise to a volume that will not cause such annoyance or nuisance.

(2) A person who fails to comply with an order given under subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding £100.

(3) In deciding whether a noise coming from premises is unreasonably causing or likely to cause annoyance or nuisance to occupiers of nearby premises the police officer must take into account—

- (a) the time of day; and
- (b) the source of the noise and the reason for that noise; and
- (c) the event (if any) giving rise to the noise; and
- (d) the duration of the noise.

(4) It is a defence to a charge under subsection (2) for the accused to show—

- (a) that in the circumstances existing at the time the volume of the noise was not unreasonable; or
- (b) that at the relevant time he was not in control of the premises from which the noise was coming.

### Firing near dwelling house or road

**13.<sup>9</sup>** Any person who without lawful authority or excuse discharges any firearm within two hundred metres of any dwelling house or any motor road to the annoyance of any inhabitant or passerby, and who, after being warned of such annoyance, again so discharges any such weapon shall be liable to a fine not exceeding £80.

**14.<sup>10</sup>**

### Possession of offensive weapon, etc with intent

**15.<sup>11</sup>** Any person who has in his possession any bludgeon or other offensive weapon, or any crowbar, picklock, skeleton-key or other instrument fit for unlawful purposes, with intent to use the same for any such unlawful purpose, or is unable to give a satisfactory account of his possession thereof, shall be liable to a fine not exceeding £200 or to imprisonment not exceeding three months.

<sup>8</sup> Section 12 amended by Ord. 12 of 1994 and Ord 1 of 2001

<sup>9</sup> Section 13 amended by Ord. 1 of 2001

<sup>10</sup> Section 14 repealed by Ord. 1 of 2001

<sup>11</sup> Section 15 amended by Ord. 1 of 2001

### Possession of simulated bomb

**16.<sup>12</sup> (1)** Any person who without lawful authority or reasonable excuse has in his possession, custody or control any simulated bomb shall be guilty of an offence and shall be liable on conviction to a fine not exceeding £500 or to imprisonment not exceeding five months.

**(2)** In this section—

**“simulated bomb”** means any object whatsoever, including anything attached thereto, which if found in any street or public place would be likely to give rise to a reasonable apprehension that the object might be a bomb or other explosive device.

### Incitement to racial hatred

**17.<sup>13</sup> (1)** A person commits an offence if—

- (a)** he publishes or distributes written matter which is threatening, abusive or insulting; or
- (b)** he uses in any public place or at any public meeting words which are threatening, abusive or insulting,

in a case where, having regard to all the circumstances, hatred is likely to be stirred up against any racial group in St. Helena by the matter or words in question.

**(2)** Subsection (1) does not apply to the publication or distribution of written matter consisting of or contained in—

- (a)** a fair and accurate report of proceedings publicly heard before any court or tribunal exercising judicial authority, being a report which is published contemporaneously with those proceedings or, if it is not reasonably practicable or would be unlawful to publish a report of them contemporaneously, is published as soon as publication is reasonably practicable and (if previously unlawful) lawful; or
- (b)** a fair and accurate report of proceedings in the Legislative Council.

**(3)** In any proceedings for an offence under this section alleged to have been committed by the publication or distribution of any written matter, it is a defence for the accused to prove that he was not aware of the content of the written matter in question and neither suspected nor had reason to suspect it of being threatening, abusive or insulting.

**(4)** Subsection (3) does not prejudice any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

**(5)** A person guilty of an offence under this section is liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding £400, or both.

**(6)** A prosecution for an offence under this section cannot be instituted except by or with the consent of the Attorney General.

**(7)** In this section—

**“publish”** and **“distribute”** mean publish or distribute to the public at large or to any section of the public not consisting exclusively of members of an association of which the person publishing or distributing is a member;

**“racial group”** means a group of persons defined by reference to colour, race, nationality or ethnic or national origins, and in this definition **“nationality”** includes citizenship;

**“written matter”** includes any writing, sign or visible representation.

<sup>12</sup> Section 16 amended by Ord. 1 of 2001

<sup>13</sup> Section 17 amended by Ord. 7 of 1997

**Summary proceedings**

**18.** Any summary proceedings under this Ordinance may be had on the information of any complainant.

**Saving of liability of offender to indictment or action**

**19. (1)** Nothing in this Ordinance shall be construed to prevent any person from being indicted or from being proceeded against by indictment or information in respect of any offences made punishable on summary conviction by this Ordinance provided nevertheless that no person be punished twice for the same offence.

**(2)** Nothing in this Ordinance shall prevent any person from being liable to civil proceedings in respect of any hurt or damage caused by him, provided that in any such civil proceedings any order for damages made by the court shall take into consideration any compensation which may have already been awarded in the preceding criminal proceedings.

**Acts done by lawful authority**

**20.** Nothing in this Ordinance shall operate to the restraint or punishment of any act or thing done under or sanctioned by lawful authority.

**Recovery of penalties**

**21.** Any offence against the provisions of this Ordinance shall be punishable on summary conviction, and the penalties imposed by this Ordinance shall be recoverable according to the provisions of the Magistrates' Court Ordinance.

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