



ST. HELENA

CHAPTER 84

RACE RELATIONS 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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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—

RACE RELATIONS ORDINANCE

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No Subsidiary Legislation has been made under this Ordinance

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 84

RACE RELATIONS ORDINANCE

(Ordinance 7 of 1997)

AN ORDINANCE TO OUTLAW CERTAIN DISCRIMINATION ON RACIAL GROUNDS.

Commencement
[26 March 1997]

PART 1 PRELIMINARY

Short title

1. This Ordinance may be cited as the Race Relations Ordinance.

Interpretation

2. (1) In this Ordinance—
“**act**” includes a deliberate omission;
“**advertisement**” includes every form of advertisement or notice, whether to the public or not, and whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, show cards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, and references to the publishing of advertisements is to be construed accordingly;
“**discrimination on racial grounds**” means discrimination on the grounds of colour, race, nationality, or ethnic or national origins;
“**dispose**” in relation to premises, includes granting a right to occupy the premises, and any reference to acquiring premises is to be construed accordingly;
“**education**” includes any form of training or instruction;
“**employment**” means employment under a contract of service or of apprenticeship or a contract personally to execute any work or labour, and related expressions are to be construed accordingly;
“**firm**” has the meaning given by section 4 of the Partnership Act 1890 (UK);
“**nationality**” includes citizenship;
“**profession**” includes any vocation or occupation.
(2) References in this Ordinance to the affording by any person of access to benefits or services are not limited to benefits, facilities or services provided by that person himself, but include any means by which it is in that person’s power to facilitate access to benefits, facilities or services provided by any other person.
(3) If a penalty is set out at the foot of a section or subsection of this Ordinance it means that a contravention of the section or subsection, whether by act or omission, is an offence punishable by a fine not exceeding the amount stated.

Racial discrimination

3. (1) A person discriminates against another in any circumstances relevant for the purposes of any provision of this Ordinance if—

- (a) on racial grounds he treats that other less favourably than he treats or would treat other persons; or
- (b) he applies to that other a requirement or condition which he applies or would apply equally to persons not of the same racial group as that other but—
 - (i) which is such that the proportion of persons of the same racial group as that other who can comply with it is considerably smaller than the proportion of persons not of that racial group who can comply with it; and
 - (ii) which he cannot show to be justifiable irrespective of the colour, race, nationality or ethnic or national origins of the person to whom it is applied; and
 - (iii) which is to the detriment of that other because he cannot comply with it.

(2) It is hereby declared that, for the purposes of this Ordinance, segregating a person from other persons on racial grounds is treating him less favourably than they are treated.

PART 2 OFFENCES

Discrimination in employment

4. (1) A person must not in relation to employment by him discriminate on racial grounds against another—

- (a) in the arrangements he makes for the purpose of determining who should be offered that employment; or
- (b) in the terms on which he offers him that employment; or
- (c) by refusing or deliberately omitting to offer him that employment.

Penalty: Fine not exceeding £500

(2) A person must not in the case of a person employed by him discriminate on racial grounds against that employee—

- (a) in the terms of employment which he affords him; or
- (b) in the way he affords him access to opportunities for promotion, transfer or training, or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
- (c) by dismissing him, or subjecting him to any other detriment.

Penalty: Fine not exceeding £500

Discrimination against contract workers

5. (1) This section applies to any work for a person (“the principal”) which is available for doing by individuals (“contract workers”) who are employed not by the principal himself but by another person, who supplies them under a contract made with the principal.

(2) A principal must not, in relation to work to which this section applies, discriminate on racial grounds against a contract worker—

- (a) in the terms on which he allows him to do that work; or
- (b) by not allowing him to do it or continue to do it; or

- (c) in the way he affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
- (d) by subjecting him to any other detriment.

Penalty: Fine not exceeding £500

Partnerships

6. (1) A firm must not in relation to a position as partner in the firm discriminate on racial grounds against a person—

- (a) in the arrangements they make for the purpose of determining who should be offered that position; or
- (b) in the terms on which they offer him that position; or
- (c) by refusing or deliberately omitting to offer him that position; or
- (d) in a case where the person already holds that position—
 - (i) in the way they afford him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
 - (ii) by expelling him from that position, or subjecting him to any other detriment.

Penalty: Fine not exceeding £500

(2) Subsection (1) applies in relation to persons proposing to form themselves into a partnership as it applies in relation to a firm.

Trade unions, etc.

7. (1) This section applies to—

- (a) an organization of workers; or
- (b) an organization of employers; or
- (c) any other organization whose members carry on a particular profession or trade for the purposes of which the organization exists.

(2) An organization to which this section applies must not, in the case of a person who is not a member of the organization, discriminate on racial grounds against him—

- (a) in the terms on which it is prepared to admit him to membership; or
- (b) by refusing, or deliberately omitting to accept, his application for membership.

Penalty: Fine not exceeding £500

(3) An organization to which this section applies must not, in the case of a person who is a member of the organization, discriminate on racial grounds against him—

- (a) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
- (b) by depriving him of membership, or varying the terms on which he is a member; or
- (c) by subjecting him to any other detriment.

Penalty: Fine not exceeding £500

Qualifying bodies

8. (1) An authority or body which can confer an authorisation or qualification which is needed for, or facilities, engagement in a particular profession or trade must not discriminate on racial grounds against a person—

- (a) in the terms on which it is prepared to confer on him that authorisation or qualification; or
- (b) by refusing, or deliberately omitting to grant, his application for it; or
- (c) by withdrawing it from him or varying the terms on which he holds it.

Penalty: Fine not exceeding £500

(2) In this section—

“**authorisation or qualification**” includes recognition, registration, enrollment, approval and certification;

“**confer**” includes renew or extend.

Vocational training bodies

9. (1) A person to whom this subsection applies must not, in the case of an individual seeking or undergoing training which would help to fit him for any employment, discriminate on racial grounds against him—

- (a) in the terms of which that person affords the individual access to any training courses or other facilities; or
- (b) by refusing or deliberately omitting to afford him such access; or
- (c) by terminating his training.

Penalty: Fine not exceeding £500

(2) Subsection (1) applies to—

- (a) any association which comprises employers and has as its principal object, or one of its principal objects, affording their employees access to training facilities; and
- (b) any other person providing facilities for training for employment, being a person designated for the purposes of this paragraph in an order made by the Governor in Council.

Discrimination by educational establishments

10. An educational establishment must not discriminate on racial grounds against a person—

- (a) in the terms on which it offers to admit him to the establishment as a pupil; or
- (b) by refusing or deliberately omitting to accept an application for his admission to the establishment as a pupil; or
- (c) where he is a pupil of the establishment—
 - (i) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
 - (ii) by excluding him from the establishment or subjecting him to any other detriment.

Penalty: Fine not exceeding £500

Discrimination in provision of goods, facilities or services

11. (1) A person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public must not discriminate on racial grounds against a person who seeks to obtain or use those goods, facilities or services—

- (a) by refusing or deliberately omitting to provide him with any of them; or
- (b) by refusing or deliberately omitting to provide him with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in the first-mentioned person's case in relation to other members of the public or (where the person so seeking belongs to a section of the public) to other members of that section.

Penalty: Fine not exceeding £500

- (2) The following are examples of the facilities and services mentioned in subsection (1)—
- (a) access to and use of any place which members of the public are permitted to enter;
 - (b) accommodation in a hotel, boarding house or other similar establishment;
 - (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
 - (d) facilities for education;
 - (e) facilities for entertainment, recreation or refreshment;
 - (f) facilities for transport or travel;
 - (g) the services of any profession or trade, or any local or other public authority.

Discrimination in disposal or management of premises

12. (1) A person, in relation to premises of which he has power to dispose, must not discriminate on racial grounds against another—

- (a) in the terms on which he offers him those premises; or
- (b) by refusing his application for those premises; or
- (c) in his treatment of him in relation to any list of persons in need of premises of that description.

Penalty: Fine not exceeding £500

(2) A person, in relation to premises managed by him, must not discriminate on racial grounds against a person occupying the premises—

- (a) in the way he affords him access to any benefits or facilities, or by refusing or deliberately omitting to afford him access to them; or
- (b) by evicting him, or subjecting him to any other detriment.

Penalty: Fine not exceeding £500

Discrimination: consent for assignment or sub-letting

13. Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises comprised in a tenancy, the landlord or other person must not discriminate on racial grounds against a person by withholding the licence or consent for disposal of the premises to him.

Penalty: Fine not exceeding £500

Discrimination: associations not within section 6

14. (1) This section applies to any association of persons (however described, whether corporate or unincorporate, and whether or not its activities are carried on for profit) if—

- (a) admission to membership is regulated by its constitution and is so conducted that the members do not constitute a section of the public; and
- (b) it is not an organization to which section 6 applies.

(2) An association to which this section applies, in the case of a person who is not a member of the association, must not discriminate on racial grounds against him—

- (a) in the terms on which it is prepared to admit him to membership; or
- (b) by refusing or deliberately omitting to accept his application for membership.

Penalty: Fine not exceeding £500

(3) An association to which this section applies, in the case of a person who is a member or associate of the association, must not discriminate on racial grounds against him—

- (a) in the way it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them; or
- (b) in the case of a member, depriving him of membership, or varying the terms on which he is a member; or
- (c) in the case of an associate, by depriving him of his rights as an associate, or varying those rights; or
- (d) in either case, by subjecting him to any other detriment.

Penalty: Fine not exceeding £500

(4) For the purposes of this section—

- (a) a person is a member of an association if he belongs to it by virtue of his admission to any sort of membership provided for by its constitution (and is not merely a person with certain rights under its constitution by virtue of his membership of some other association), and references to membership of an association are to be construed accordingly;
- (b) a person is an associate of an association to which this section applies if, not being a member of it, he has under its constitution some or all of the rights enjoyed by members (or would have apart from any provision in its constitution authorising the refusal of those rights in particular cases).

Discriminatory advertisements

15. A person must not publish or cause to be published an advertisement which indicates, or might reasonably be understood as indicating, an intention by a person to do an act of discrimination on racial grounds, whether the doing of that act by him would be lawful or, by virtue of this Part, an offence.

Penalty: Fine not exceeding £500

PART 3 EXEMPTIONS

Sports and competitions

16. It is not an offence under Part 2 for a person to discriminate against another on the basis of that other's nationality or place of birth or the length of time for which he has been resident in a particular area or place, if the act of discrimination is done—

- (a) in selecting one or more persons to represent a country, place or area, or any related association, in any sport or game; or
- (b) in pursuance of the rules of any competition so far as they relate to eligibility to compete in any sport or game.

Acts done under statutory authority, etc.

17. (1) It is not an offence under Part 2 for a person to discriminate against another if the act of discrimination is done—

- (a) in pursuance of any Ordinance or Order in Council; or
- (b) in pursuance of any instrument made under an Ordinance by the Governor; or
- (c) in order to comply with any condition or requirement imposed by the Governor (whether before or after the passing of this Ordinance) by virtue of any Ordinance.

(2) References in this section to an Ordinance, Order in Council or instrument include an Ordinance, Order in Council or instrument passed or made after the passing of this Ordinance.

(3) It is not an offence under Part 2 for a person to discriminate against another on the basis of that other's nationality or place of ordinary residence or the length of time for which he has been present or resident in or outside St. Helena if the act of discrimination is done—

- (a) in pursuance of any arrangements made (whether before or after the passing of this Ordinance) by or with the approval of, or for the time being approved by, the Governor; or
- (b) in order to comply with any condition imposed (whether before or after the passing of this Ordinance) by the Governor.

PART 4

MISCELLANEOUS PROVISIONS

Civil action

18. (1) A claim by any person that another person has committed an act of discrimination on racial grounds against the claimant which is an offence by virtue of Part 2 may be made the subject of civil proceedings in like manner as any other claim in tort.

(2) For the avoidance of doubt it is hereby declared that damages in respect of an act of discrimination on racial grounds may include compensation for injury to feelings whether or not they include compensation under any other head.

Validity and revision of contracts

19. (1) A term of a contract is void where—

- (a) its inclusion renders the making of the contract an offence by virtue of Part 2; or
- (b) it is included in furtherance of an act rendered an offence by Part 2; or
- (c) it provides for the doing of an act which would be an offence by virtue of Part 2.

(2) Subsection (1) does not apply to a term the inclusion of which constitutes, or is in furtherance of, or provides for, discrimination against a party to the contract which is an offence by virtue of Part 2, but the term is unenforceable against the party.

(3) A term in a contract which purports to exclude or limit any provision of this Ordinance is unenforceable by any person in whose favour the term would operate apart from this subsection.

(4) On the application of any person interested in a contract to which subsection (2) applies, the Magistrates' Court may make such order as it thinks just for removing or modifying any term made unenforceable by that subsection; but such an order is not to be made unless all persons affected have been given notice of the application (except where under rules of court notice may be dispensed with) and have been afforded an opportunity to make representations to the court.

(5) An order under subsection (4) may include provision as respects any period before the making of the order.

Application to Crown

20. (1) Subject to subsection (2), this Ordinance applies—

- (a) to an act done by or for the purposes of the Crown or a government department; or

- (b) to an act done on behalf of the Crown by a statutory body, or a person holding a statutory office,

as it applies to an act done by a private person.

(2) Nothing in subsection (1) renders the Crown criminally liable for an offence under Part 2.
