



ST. HELENA

**(Chapter No. not allocated yet)**

**ENDANGERED SPECIES  
PROTECTION 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 [Telephone (+290) 2270; Fax (+290) 2454; email [pa.lawofficers@legalandlands.gov.sh](mailto:pa.lawofficers@legalandlands.gov.sh)]<sup>1</sup>

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

**ENDANGERED SPECIES PROTECTION ORDINANCE**

*(Ordinance 3 of 2003 as amended by Ordinance 7 of 2004)*

AN ORDINANCE TO PROVIDE FOR THE PROTECTION OF ENDANGERED, ENDEMIC AND INDIGENOUS SPECIES OF ANIMALS AND PLANTS AND TO REGULATE THE TRADE IN ENDANGERED SPECIES.

**Commencement**

*[6 June 2003]*

**Short title**

1. This Ordinance may be cited as the Endangered Species Protection Ordinance 2003.

**Interpretation**

2. In this Ordinance, unless the contrary intention appears—  
“**CITES**” means the convention on International Trade in Endangered Species of Wild Fauna and Flora that was concluded in Washington on 3 March 1973; and references to any particular provision of CITES are references to that provision as it appears in the version of CITES, as is in force at the relevant time, that is published in the Treaty Series issued by Her Majesty's Stationery Office in the United Kingdom;  
“**export**” means to take, or cause to be taken, out of St. Helena;  
“**import**” means to bring, or cause to be brought, into St. Helena, including for the purpose of export;  
“**Management Authority**” means the Management Authority for St. Helena for the purpose of CITES, as provided for in section 4;  
“**protected goods**” means any specimen of a species that is for the time being included in Appendix I, Appendix II or Appendix III to CITES;  
“**Scientific Authority**” means the Scientific Authority for St. Helena for the purpose of CITES, as provided for in section 5.  
“**species**” and “**specimen**” have the meanings attributed to them in Article I of CITES.

**Restrictions on the exportation or importation of protected goods**

3. (1) Save in accordance with a licence issued by the Management Authority under this Ordinance, the exportation or the importation of any protected goods is prohibited.

- (2)<sup>2</sup> A licence issued under this Ordinance shall be substantially in the form set out in Article VI to CITES, and may be general or specific and may be expressed to be valid for such period as may be stated in it and may be modified or revoked at any time by the Management Authority.

- (3) The reference in subsection (1) to a licence issued under this Ordinance is a reference to such a licence issued prior to the exportation or importation to which it relates:

Provided that the Management Authority may in exceptional cases and when satisfied that proper regard is being had to the relevant recommendations in that behalf issued by the competent authority under CITES, issue a licence in respect of an exportation or an

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<sup>2</sup> Section 3(2) amended by Ord. 7 of 2004

importation that has already taken place; and that licence shall then have effect for the purpose of this Ordinance as if issued prior to that exportation or importation.

(4) Where any protected goods are being exported or imported or have been imported, a Customs Officer or Police Officer may require any person having possession or control of those goods to furnish proof that its exportation or importation is or was not unlawful under this section; and if such proof is not furnished to the satisfaction of the Management Authority, the goods shall be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(5) Any person who contravenes subsection (1) commits an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding £500 or imprisonment for a term not exceeding 18 months; or
- (b) on indictment, to a fine not exceeding £500,000 or imprisonment for a term not exceeding 5 years.

(6) Where any person is convicted of an offence under subsection (5) the goods in respect of which the offence was committed shall, without further order, be forfeited to the Crown and shall be disposed of in such manner as the Governor may direct.

(7) Any person who, for the purpose of obtaining, whether for himself or for another, the issue of a licence under subsection (1) above—

- (a) makes any statement which he knows to be false in a material particular; or
- (b) furnishes a document or information which he knows to be false in a material particular; or
- (c) recklessly makes a statement or furnishes a document or information which is false in a material particular,

commits an offence and shall be liable, on conviction, to a fine not exceeding £1000 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

### **Management Authority**

4.<sup>3</sup> (1) The Management Authority for St.Helena for the purpose of CITES shall be such person or persons as the Governor in Council shall from time to time appoint in that behalf.

(2) Before exercising any of its powers under section 3, the Management Authority shall obtain the advice of the Scientific Authority.

### **Scientific Authority**

5. (1) The Scientific Authority for St.Helena for the purpose of CITES shall be such person or persons as the Governor shall from time to time appoint in that behalf or

(2) The function of the Scientific Authority is to advise the Management Authority or, as appropriate, the Governor or the Governor in Council—

- (a) on the exercise of the Management Authority's powers under section 3;
- (b) on any matter relating to the administration of this Ordinance on which its advice is sought or on which it wishes to tender advice; and
- (c) generally, on matters relating to endangered species on which its advice is sought or on which it wishes to tender advice.

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<sup>3</sup> Section 4 amended by Ord. 7 of 2004

### **Power to make Orders to protect certain species**

**6. (1)** Notwithstanding the powers conferred upon the Management Authority by section 3, the Governor in Council may by Order—

- (a) prohibit the importation or exportation of any article or substance the importation or exportation of which is liable to endanger the welfare or continued existence on the Island of any plant or animal; or
- (b) prohibit the taking, damaging or killing of any specific plant or animal; or
- (c) prohibit the use of any article or substance the use of which is liable to damage the welfare or continued existence on the Island of any plant or animal; or
- (d) prohibit the growing or cultivation of any plant if the growing or cultivation of the plant is liable to damage the welfare or continued existence on the Island of any plant or animal; or
- (e) prohibit the keeping of any animal if the keeping of the animal is liable to damage the welfare or continued existence on the Island of any plant or animal.

**(2)** The Governor in Council may by Order require the owner or occupier of any land to remove within the period specified in the Order any plant or species of plant growing on the land if the growth of that plant or species of plant is liable to damage the welfare or continued existence on the Island of any plant or animal.

**(3)** The Governor in Council may by Order declare any area of land to be an endemic management zone where habitat protection measures specified in the Order are in force.

**(4)** An Order made under this section may be to any degree general or specific but shall in any event include any goods that are protected goods.

**(5)** Any person failing to comply with an order made under subsection (1) of this section commits an offence and is liable—

- (a) on summary conviction, to a fine not exceeding £500 or imprisonment for a term not exceeding 18 months; or
- (b) on indictment, to a fine not exceeding £500,000 or imprisonment for a term not exceeding 5 years.

**(6)** Any person failing to comply with an order made under subsection (2) of this section commits an offence and is liable, on conviction, to a fine not exceeding £500.

**(7)** Any person failing to comply with a habitat protection measure specified in an Order made under subsection (3) of this section commits an offence and is liable, on conviction, to a fine not exceeding £500.

### **Limitation on Orders made under section 6**

**7.** An order cannot be made under section 6 except to protect and encourage the continued existence of any species of plant or animal endemic or indigenous to St. Helena.

### **Offences by Company, etc.**

**8. (1)** If an offence under this Ordinance is committed by a company, firm or other association of individuals whether incorporated or not, each—

- (a) director and officer of the company; or
- (b) partner and officer of the firm; or
- (c) member and person concerned in the management of the affairs of the association,

as the case may be, is severally liable to be prosecuted and punished for the offence, unless the act or omission constituting the offence took place without his knowledge, consent or connivance.

(2) A person may be prosecuted by virtue of subsection (1) whether or not the company, firm or other association of individuals is prosecuted.

### **Stop and search powers**

9. (1) The powers conferred by this section are without prejudice to the powers conferred, in any particular case, by the Criminal Procedure Ordinance or the Police and Criminal Evidence Ordinance.

(2) For the purposes of this Ordinance, any Customs Officer and any Police Officer may—

- (a) stop, board and search any ship, aircraft or vehicle if he has reason to suspect that there is therein anything liable to seizure; and
- (b) stop and search any person and search the property of any person if he has reason to suspect that that person has in his possession anything liable to seizure; and
- (c) enter and search any premises, being premises on which he has reason to suspect that an imported living specimen is being held, for the purpose of ascertaining whether any condition to which the relevant importation licence is subject and which relates to the housing or care of that specimen is being complied with.

(3) Where it appears to a Justice of the Peace, upon the oath of any person, that there is reasonable cause to believe that there is in any place or premises, anything liable to seizure, he may, by warrant directed to a Customs Officer or a Police Officer, empower him to enter, by force if necessary, and search the place or premises named in the warrant and to seize anything therein which is liable to seizure.

(4) For the purposes of this section, any protected goods imported in contravention of this Ordinance are liable to seizure.

### **Application to Crown**

10. This Ordinance binds the Crown but nothing in this Ordinance renders the Crown liable to prosecution for an offence under this Ordinance.

### **Revocation and transitional provisions**

11. The Endangered Species Ordinance, Cap. 75 is revoked, however any order or orders made under that Ordinance shall remain in force until repealed or replaced by a subsequent order made under the provisions of this Ordinance.