



ST. HELENA

CHAPTER 166

ST. HELENA DEVELOPMENT AGENCY ORDINANCE

Non-authoritative Consolidated Text

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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]¹

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This version contains a consolidation of the following laws—

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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.

CHAPTER 166**ST. HELENA DEVELOPMENT AGENCY ORDINANCE**

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CHAPTER 166**ST. HELENA DEVELOPMENT AGENCY ORDINANCE**

(Ordinance 6 of 1994)

AN ORDINANCE TO ESTABLISH A ST. HELENA DEVELOPMENT AGENCY.

Commencement

[5 September 1994]

Short title

1. This Ordinance may be cited as the St. Helena Development Agency Ordinance.

Interpretation

2. In this Ordinance unless the context otherwise requires—
“Agency” means the St. Helena Development Agency established by section 3;
“Board” means the Board of Directors referred to in section 4;
“Chairman” means the person appointed to be Chairman of the Board under section 4(1)(a);

This e-version of the text is not authoritative for use in court.

- “**Deputy Chairman**” means the person appointed to be Deputy Chairman of the Board under section 4(1)(b);
- “**Director**” means a member of the Board and includes the Chairman, Deputy Chairman and Managing Director;
- “**Governor**” means the Governor acting in his discretion;
- “**Managing Director**” means the director appointed to be the Managing Director under section 4(1)(c).

Establishment of the St. Helena Development Agency

- 3. (1)** There is established the St. Helena Development Agency.
- (2)** The Agency—
- (a)* may have a seal; and
 - (b)* may own and deal in real and personal property; and
 - (c)* is capable of suing and being sued; and
 - (d)* may enter into contracts.

Board of Directors

- 4. (1)** The affairs of the Agency are to be managed by a Board of Directors consisting of—
- (a)* a Chairman; and
 - (b)* a Deputy Chairman; and
 - (c)* a Managing Director; and
 - (d)* two Directors who in the opinion of the Governor represent the interests of private enterprise on the Island; and
 - (e)* up to three other Directors.
- (2)** The Directors are to be appointed by the Governor by notice in the *Gazette* for a term not exceeding 3 years.
- (3)** Before appointing a Managing Director the Governor must seek the views of the other Directors on the person proposed to be appointed and must take those views into account.
- (4)** A Director may at any time resign his office by writing signed by him and sent to the Governor.
- (5)** The Governor may at any time by notice in the *Gazette* revoke the appointment of a Director for disability, neglect of duty or misconduct.
- (6)** A Director ceases to hold office if—
- (a)* he resigns in accordance with subsection (4); or
 - (b)* his appointment is revoked by the Governor in accordance with subsection (5); or
 - (c)* he is absent from 3 consecutive meetings of the Board without the leave of the Chairman; or
 - (d)* he is adjudged bankrupt or enters into a composition or arrangement with his creditors.

Function of the Agency

- 5.** It is the function of the Agency to promote and facilitate commercial development in St. Helena.

Powers of the Agency

- 6.** (1) The Agency has all the powers necessary to carry out its function.
- (2) In particular the Agency has power—
- (a) to do anything it considers necessary to promote commercial development either by bodies or individuals, and for that purpose—
- (i) to establish, expand or promote the establishment of commercial development either under the control, partial or otherwise, of the Agency or independently; and
- (ii) to give assistance (including financial assistance, or by the issue of a guarantee or otherwise) to bodies or individuals appearing to the Board to have facilities to carry on commercial development; and
- (b) for the purpose of promoting, undertaking or managing commercial development—
- (i) to acquire, manage and dispose of land; and
- (ii) to lay out, construct and maintain buildings and to carry out any other building and engineering operations as appear to it to be necessary or desirable in, over or under land; and
- (iii) to provide and maintain services; and
- (c) to encourage commercial development by providing buildings and making them available for purchase, leasing or renting; and
- (d) to encourage commercial development by making money available to finance the building and acquisition of buildings on terms and conditions determined by the Board; and
- (e) to carry on any business incidental or conducive to the encouragement of commercial development; and
- (f) to provide financial assistance for training or work experience.
- (3) Subject to subsection (4), the Agency may do anything and enter into any transaction which, in its opinion, is necessary to ensure the proper performance of its function.
- (4) Nothing in this section authorises the Agency to enter into any financial commitment that is not within the Agency's own financial resources without having first obtained the approval of the Governor and a Secretary of State.

Borrowing powers of the Agency

- 7.** (1) The Agency must not borrow money except with the approval of the Governor and a Secretary of State.
- (2) Approval given under subsection (1) may—
- (a) be general or limited to a particular transaction; and
- (b) be conditional or unconditional.

Government may guarantee borrowing by Agency

- 8.** The Financial Secretary on behalf of the Government may, with the approval of the Legislative Council and a Secretary of State, guarantee the payment of the principal and interest of any authorised borrowing by the Agency.

Accounts and audit

9. (1) The Agency must, in a manner approved by the Financial Secretary, keep accounts of its transactions.

(2) The Agency must have its accounts audited annually by the Chief Auditor or by a person approved by the Chief Auditor.

Annual Report

10. (1) The Agency must within 12 months after each 31 March submit to the Financial Secretary—

(a) a report, in a form approved by the Financial Secretary, on its activities during the year preceding that 31 March; and

(b) a statement of the accounts of the Agency audited in accordance with section 9(2).

(2) The Financial Secretary must lay a copy of the documents referred to in subsection (1) on the table of the Legislative Council at the meeting of that Council next after receiving them.

Policy

11. (1) The Governor may give the Board directions as to the general policy it is to follow in managing the affairs of the Agency.

(2) The Board must comply with directions given to it under subsection (1).

(3) The Agency must give the Governor any returns, accounts and other information he requires with respect to the Agency's activities.

(4) The Agency must not lend money to a person who at the time of the grant of the loan is—

(a) a Director; or

(b) a member of the Legislative Council; or

(c) an employee of the Agency,

except with the approval of the Governor.

(5) In managing the affairs of the Agency the Board must act in accordance with the principles of good commercial practice.

Meetings of the Board

12. (1) Meetings of the Board are to be called by the Chairman.

(2) The Chairman must call a meeting if—

(a) he is instructed to do so by the Governor; or

(b) he receives a written request to do so signed by at least 3 Directors.

(3) The instruction under subsection (2)(a) or the request under subsection (2)(b) must state the business to be transacted at the meeting.

(4) At a meeting of the Board—

(a) the Chairman presides or if he is absent the Deputy Chairman presides and if both are absent a Director elected by the other Directors presides; and

(b) four Directors form a quorum; and

(c) questions are to be determined by vote with the person presiding having an original vote and if the votes are equal a casting vote; and

(d) minutes are to be kept; and

- (e) the Board is otherwise entitled to regulate its proceedings.

Disclosure of interests by Directors

13. (1) A Director who is in any way whether directly or indirectly interested in a matter before the Board or a contract or proposed contract with the Agency must declare the nature of his interest at the first meeting of the Board at which it is possible for him to do so.

(2) A Director must not be present at a meeting of the Board when any matter or any contract or proposed contract with the Agency in which he is in any way interested whether directly or indirectly is being considered.

(3) A Director who fails to comply with subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine not exceeding £10,000.

Board's power to delegate

14. (1) The Board may delegate to a Director or a committee of the Board any of its powers or duties (other than this power of delegation).

(2) A delegation under subsection (1)—

(a) may be made subject to conditions; and

(b) is revocable at will; and

(c) does not prohibit the Board from exercising a power or carrying out a duty that has been delegated.

Remuneration of Directors

15. (1) The Agency must pay from its funds to Directors any remuneration, fees or allowances the Governor determines.

(2) Different remuneration, fees or allowances may be determined for different Directors.

The Managing Director

16. The Managing Director is the chief executive officer of the Agency and as such is charged with the day to day management of the business of the Agency.

Protection of Agency and Board

17. Nothing done by the Agency or by the Board is invalid because at the time it was done—

(a) a vacancy existed in the membership of the Board; or

(b) a Director contravened or was contravening section 13.

Trade (Licensing) Ordinance not to apply to Agency

18. The Trade (Licensing) Ordinance does not apply to the Agency.

Regulations

19. The Governor in Council may make regulations necessary or convenient for the purposes of this Ordinance.