ST. HELENA

(Chapter No. not allocated yet)

ENGLISH LAW (APPLICATION) ORDINANCE
and Subsidiary Legislation

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
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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.

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[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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ENGLISH LAW (APPLICATION) ORDINANCE

(Ordinance 10 of 2005 and 4 of 2007)

AN ORDINANCE
to make fresh provision relating to the Application of English Law in St. Helena

Commencement
[1 January 2006]

Citation and Commencement

1. This Ordinance may be cited as the English Law (Application) Ordinance, 2005 and comes into force on 1 January 2006.

Adopted English Law

2[2]**.** In this Ordinance, **"Adopted English Law"** means:
(a) the common law of England, including the rules of equity; and
(b) the Acts of Parliament which are in force in England at the time of commencement of this Ordinance.

Application of Adopted English Law to St. Helena

3. Subject to the provisions hereinafter contained, the Adopted English Law applies in St. Helena:

Provided that the said law shall apply to St. Helena only in so far as it is applicable and suitable to local circumstances, and subject to such modifications, adaptations, qualifications, and exceptions as local circumstances render necessary.

Exclusion of Adopted English law in certain circumstances

4. The Adopted English Law shall apply to St. Helena only insofar as the same is not inconsistent with—
(a) any enactment of the Parliament of the United Kingdom which extends to St. Helena otherwise than by virtue of this Ordinance; or
(b) any Order of Her Majesty in Council which extends to St. Helena otherwise than by virtue of this Ordinance; or
(c) any provision made by or under any law enacted by a legislature in St. Helena.

Governor-in-Council may make Orders

5. The Governor in Council may, by Order published in the *Gazette*—
(a) declare that any specified part or parts of the Adopted English Law are not suitable to local circumstances; and that such part or parts are accordingly excepted from the provisions of section 3 by the proviso thereto; or

[2] *Amended by Ord. 4 of 2007*

(b) direct that any part of the Adopted English Law shall have effect subject to such modifications as may be specified in the Order; or

(c) direct that any Act of Parliament which is not within section 2(b) shall (subject to such modifications, if any, as may be prescribed in the Order) be in force in St. Helena.

Orders to be laid before Legislative Council

6. Every Order made by the Governor in Council under section 5 shall be laid before Legislative Council at its next meeting after the publication of the Order in the *Gazette*; and shall not come into force until ratified by a resolution of the Legislative Council.

Attorney General to publish information

7. (1) The Attorney General shall, within one month of every resolution of the Legislative Council under section 6, cause an up-to-date Schedule to be published listing all Orders then in force under section 5.

(2) Every such schedule shall be published in the *Gazette*; and, when so published, shall become the sole authentic record (in all courts and for all purposes) of such Orders in force on the date of publication thereof.

Annual Report to the Legislative Council

8. The Attorney General shall, not later than the 31st day of March in each year (commencing in 2007) present to the Legislative Council a report upon the Acts of Parliament enacted in England during the preceding calendar year and include in that report, in relation to each such Act:

(a) a short description of the purpose and effect of the Act; and

(b) a report of the action, if any, taken or intended to be taken under section 5 of this Ordinance in relation to that Act.

Repeals, Transitional and Saving Provisions

9. (1) The English Law (Application) Ordinance (Cap 5) ("the old law") is repealed.

(2) Notwithstanding subsection (1), all Orders made by the Governor in Council under section 4 of the old law shall continue to have effect as if made under section 5 of this Ordinance.

———————

CROWN PROCEEDINGS (APPLICATION) ORDER – SECTIONS 3 AND 4

(Legal Notice 35 of 1988)

Short title

1. This order may be cited as the English Law Application (Crown Proceedings) Order.

Crown Proceedings (Armed Forces) Act, 1987

2. **(1)** The Crown Proceedings (Armed Forces) Act, 1987, (hereinafter called "the Act") shall be in force in St. Helena.

(2) In its application to St. Helena, the Act shall have effect with the following amendments—

(a) the words "the Governor" shall be substituted for the words "the Secretary of State", wherever the last-mentioned words appear; and

(b) the following subsection shall apply in lieu of subsection (5) of section 2—

"(5) Every Order made under this section shall be published in the *Gazette*."; and

(c) section 4 shall not apply.

———————

EVIDENCE (PROCEEDINGS IN OTHER JURISDICTIONS) (APPLICATION) ORDER – SECTIONS 3 AND 4

(Legal Notice 12 of 1977)

Short title

1. This order may be cited as the Evidence (Proceedings in Other Jurisdictions) (Application) Order.

Evidence (Proceedings in other Jurisdictions) Act

2. The Evidence (Proceedings in other Jurisdictions) Act 1975 (an enactment of the Parliament of the United Kingdom) is hereby declared to be in force in St. Helena, but in its application to St. Helena the said Act is hereby specifically modified to the extent stated in the Schedule to this Order, and is otherwise applicable to St. Helena subject to such modifications, adaptations, qualifications and exceptions as are rendered necessary by local circumstances.

SCHEDULE

1. All references to the High Court, the Court of Session or the High Court of Justice in Northern Ireland shall be construed as references to the Supreme Court of St. Helena.

2. References to the United Kingdom shall be construed as references to St. Helena.

3. References to the powers of Her Majesty in Council and the Secretary of State shall be construed as references to the powers of the Governor.

4. Subsection (3) of section 10 shall not apply.

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) (APPLICATION) ORDER – SECTIONS 3 AND 4

(Legal Notice 4 of 1978)

Short title

1. This order may be cited as the Maintenance Orders (Reciprocal Enforcement) (Application) Order.

Application of English Act to St. Helena

2. The Maintenance Orders (Reciprocal Enforcement) Act 1972 (an enactment of the Parliament of the United Kingdom) hereinafter referred to as "the Act" is hereby declared to be in force in St. Helena as from the coming into force of this Order, but in its application to St. Helena the said Act is hereby modified to the extent stated in the Schedule to this Order.

SCHEDULE

1. Throughout the Act references to the persons, officers or bodies named in the first column following shall be construed as references to the persons, officers or bodies named in the corresponding position in the second column following:

First column	Second column
Her Majesty	the Governor in Council
the United Kingdom	St. Helena
England and Wales	St. Helena
Order in Council	Order
Secretary of State	Chief Secretary
High Court	Supreme Court
Parliament	Government of St. Helena

2. In its application to St. Helena, the following sections and subsections of the Act shall be omitted—

Sections 3(7), 4, 5(10), 7(7), 8(2), 8(9), 8(10), 9(11), 10(8), 14(2), 14(4), 14(6), 16(6), 17(6), 17(8), 18(2), 19, 20, 23(5), 27(11), 29, 30(1), 30(2), 30(4), 30(6), 31, 32(9), 33(7), 34(5), 35(5), 38(3), 38(5), 38(6), 41(3), 41(4), 43, 45(2), 46, 47(1), 47(2), 47(3), 48, 49(2).

3. In section 18(1), in the definition of "prescribed" in section 21, and in section 27(10) references to rules made under section 15 of the Justices of the Peace Act 1949 shall be construed as references to rules made under section 74 of the Civil Procedure Ordinance[3] or other rules made for the governance of Magistrates' Courts.

4. References to Scotland and Northern Ireland shall be disregarded throughout the Act.

5. Where necessary, references in the Act to magistrates' powers under quoted English law shall be construed as references to equivalent powers of magistrates under St. Helena law, where such exist.

6. In addition to the modifications and exclusions specifically provided for the construction of the Act in its application to St. Helena, the Act shall be applied with such other minor

[3] *Cap. 32*

modifications, adaptations, qualifications and exceptions as local circumstances render necessary wherever the context so requires.

———————

PROTECTION OF WRECKS (APPLICATION) ORDER – SECTIONS 3 AND 4

(Legal Notice 10 of 1976)

Short title

1. This order may be cited as the Protection of Wrecks (Application) Order.

Protection of Wrecks Act 1973

2. The Protection of Wrecks Act, 1973 (an enactment of the Parliament of the United Kingdom) is hereby declared to be in force in St. Helena as from the coming into force of this Order, but in its application to St. Helena the said Act is hereby modified to the extent stated in the Schedule to this Order.

SCHEDULE

1. Throughout the Act, for "Secretary of State", "Governor" is hereby substituted.
2. Throughout the Act, for "United Kingdom", "St. Helena" is hereby substituted.
3. Section 3 of the Act is hereby modified by the deletion of the first five lines of subsection (2) thereof, and the substitution of the following—
"(2) The Governor may revoke any such Order if—".

———————

NOTICE OF INTENDED ORDER[4] – SECTIONS 3 AND 4

Protection of Wrecks Act 1973

AREA IN JAMES BAY TO BE DESIGNATED A RESTRICTED AREA

(Gazette Notice 7/1984)

The Governor proposes to make an Order, under the Protection of Wrecks Act 1973, designating a restricted area all within 50 metres of a site in James Bay, where a vessel of historic interest namely the "Witte Leeuw" is believed to lie wrecked on the sea bed at Latitude 15° 53' 35" South and Longitude 4° 43' 18" West.

2. After the Order is made and comes into effect it will be an offence within this area to interfere with the wreck or to carry out diving or salvage operations without the authority of a licence granted by the Governor.

3. If any person wishes to make representations about the proposal to make this Order they should write to the Government Secretary, the Castle, Jamestown, to reach him not later than 31st May 1984.

[4] *Included for historical interest*

RECOGNITION OF DIVORCES AND LEGAL SEPARATION (APPLICATION) ORDER – SECTIONS 3 AND 4

(Legal Notice 13/1976)

Short title

1. This order may be cited as the Recognition of Divorces and Legal Separations (Application) Order.

Recognition of Divorces and Legal Separations Act, 1971

2. The Recognition of Divorces and Legal Separations Act, 1971 (an enactment of the Parliament of the United Kingdom) is hereby declared to be in force in St. Helena, but in its application to St. Helena the said Act is hereby modified to the extent stated in the Schedule to this order.

SCHEDULE

1. Section 1 is deleted.

2. Throughout the Act, for "Great Britain", "the British Isles" and "the United Kingdom", St. Helena" is hereby substituted.

3. Section 9 is deleted.

4. Section 10 is amended by the deletion of subsections (2), (3) and (5) thereof.

STATE IMMUNITY (APPLICATION) ORDER – SECTIONS 3 AND 4

(Legal Notice 3 of 1979)

Short title

1. This order may be cited as the State Immunity (Application) Order.

Application of State Immunity Act 1978

2. The State Immunity Act 1978 (an enactment of the Parliament of the United Kingdom) is hereby declared to be in force in St. Helena as from the coming into operation of this Order, but in its application to St. Helena the said Act is hereby specifically modified to the extent stated in the Schedule to this Order, and is otherwise applicable to St. Helena subject to such modifications, adaptations, qualifications and exceptions as are rendered necessary by local circumstances.

SCHEDULE

1. References to the United Kingdom shall be construed as references to St. Helena, except in section 4(2)*(b)*, section 4(5) and in the third lines of sections 17(3) and 19(4) where references to the United Kingdom shall remain as references to the United Kingdom.

2. References to the powers of Her Majesty in Council shall be construed as references to the powers of the Governor in Council.

3. References to Her Majesty shall be construed as references to the Governor.

4. In section 4(2)*(b)* the words 'in St. Helena' shall be substituted for the word 'there'.

5. Subsection (2) of section 15 shall not apply.

6. Reference to the Consular Relations Act 1968 shall be construed as reference to the Consular Relations Ordinance 1972.

7. Sections 13(6), 16(3) and 17(5) shall not apply.

8. Section 20(3) shall not apply.

9. Subsection (4) of section 22 shall be replaced by the following subsection—

"(4) In this Act "dependent territory" means—Ascension and Tristan da Cunha.".

10. Subsections (2), (5) and (6) of section 23 shall not apply.

THE FREEDOM OF INFORMATION ACT 2000 (DIS-APPLICATION) ORDER, 2005

(Legal Notice 3 of 2005)

In exercise of the powers conferred by section 4 of the English Law (Application) Ordinance Cap 4 the Governor in Council makes the following Order:

Short title

1. This Order may be cited as the Freedom of Information Act 2000 (Dis-Application) Order, 2005.

Freedom of Information Act 2000

2. The Freedom of Information Act 2000 (an enactment of the Parliament of the United Kingdom) is hereby declared to be unsuitable to local circumstances and therefore the Act is accordingly excepted from the provisions of section 2 of the English Law (Application) Ordinance by the proviso thereto.

ENGLISH LAW (HUMAN RIGHTS ACT) ORDER, 2010

(Legal Notice 1 of 2010)

In exercise of the powers conferred by section 5 of the English Law (Application) Ordinance, 2005, the Governor in Council makes the following Order:

Citation

1. This Order may be cited as the English Law (Human Rights Act) Order, 2010.

Human Rights Act, 1998

2. The Human Rights Act 1998 (an enactment of the Parliament of the United Kingdom) is hereby declared to be unsuitable to local circumstances and is accordingly excepted from the provisions of section 3 of the Ordinance by the proviso thereto.

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Appendix

Extract from the judgment of Martin C. J. in Slater v. Serco Limited,
Case 6/1998 of the Supreme Court of St. Helena

Graham Slater v Serco Limited
(SC 6 of 1998)

Supreme Court
Chief Justice Martin
7 April 1999

ENGLISH LAW (APPLICATION) ORDINANCE - civil statute - principles upon which English law applied in St Helena

EMPLOYMENT PROTECTION (CONSOLIDATION) ACT 1978 - applies in St Helena and Ascension in part.

This case was brought to establish whether the Employment Protection (Consolidation) Act 1978 applies in St Helena and Ascension. It was held to apply in part. Extensive guidelines are provided as to the application of English law under the English Law (Application) Ordinance .

The Judge considered the background, the local legislation and case law and continued—

"General principles of application of English law

Roberts-Wray on Commonwealth and Colonial Law is the standard reference work on such matters. It is almost impossible to obtain these days. For ease of reference in the future I incorporate into this judgment a number of principles which the learned author has identified in cases throughout the Commonwealth on the subject of the application of English Law[5]:

"1. Where English law is applied in broad general terms [as in St Helena] the common law applies to a colony unless it is shown to be unsuitable, but an English statute should not be applied unless it is shown to be suitable.[6]

2. The view that the test of "local circumstances" may include the circumstances of an individual party to proceedings is very questionable;[7] it is more reasonable if the party is the Crown.[8]

3. If the law is to be applied "so far as the same can be applied" the test is whether it can be reasonably applied.[9] And "applicable" in a like context means "suitable" or "properly adapted".[10] So a United Kingdom Act passed after the date prescribed in a territory for the reception of English law is not an Act "applicable to" the territory because it alters the law in force in England on that date.[11]

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[5] *at page 555*
[6] *R v Crown Zellerbach Canada Limited* (1954) 14 WWR 433 (British Columbia)
[7] *Okeleji v Okupe* (1939) NLR 28 (Nigeria)
[8] *Cooper v Stuart* (1889) 14 App Cas 286 (New South Wales)
[9] *Jex v McKinney* (1889) 14 App Cas 77 (British Honduras)
Quan Yick v Hinds (1905) 2 CLR 345 (New South Wales)
[10] *Miller-Morse Hardware Co Ltd v Smart* (1917) 3 WWR 1113 (Saskatchewan)
[11] *Brand v Griffin* (1908) 1 Alta LR 510 (Alberta)

4. A rule of law should not be treated as inapplicable to local circumstances except on some solid ground which establishes inconsistency.[12]

5. A principle can be extended beyond its limits in English law to take account of local conditions.[13]

6. (Refers to indigenous law, of which there is none in St Helena)

7. The expression "statutes of general application" is usually regarded as descriptive of Acts of Parliament which are of general relevance to the conditions of other countries and, in particular, not based upon politics or circumstances peculiar to England.

8. The recital in the preamble to an Act of abuses in a particular locality in England does not necessarily exclude its application elsewhere.[14]

9. The fact that an Act is "mingled with the whole body of English law" on a particular subject is a good reason for applying it as part of that law.[15]

10. The repeal of an Act in England after the date of reception of English law is, of course, irrelevant.[16]

11. As to the application of part of a statute it has been held

a) that it is not permissible to apply a particular provision of an Act not generally applicable;[17] but that 3 sections from 2 Acts could be held to be in force without considering whether the whole Act applied;[18] - two decisions not easily reconcilable.

b) at the other extreme, that the impossibility of applying one or two provisions of an Act is irrelevant.[19]

c) that inapplicable machinery or procedural provisions may be excluded without prejudicing the application of the remainder of the Act.[20] Indeed, it has been said that the application of English law relates only to substantive law and not to procedural matters.[21] "

He points out elsewhere[22] that it is necessary to consider local circumstances, and that

"a Court may therefore hold, in the light of the [local] circumstances, that an English law is to be entirely rejected or that it must be applied with modifications. All the circumstances are to be taken into account, including the local relevance or otherwise of the circumstances in England which explain a particular law."

[The judge then reviewed the respective submissions and continued]

At what date should applicability and suitability be assessed?

There are four options, all of which have received judicial support in various jurisdictions

1. The date of the English statute
2. The date of the local enactment

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[12] *Leong v Lim Beng Chye* [1955] AC 648, 665
[13] *Nana Atta II v Nana Bonsra II* [1958] AC 95 (estoppel by res judicata)
[14] *Walker v Solomon* (1890) 11 NSWR 88 (New South Wales)
[15] *Doe d. Hanington v McFadden* (1836) 2 NBR 260 (New Brunswick)
[16] *Kelly v Jones* (1852) 7 NBR 473,474 (New Brunswick)
[17] *Quan Yick v Hinds* (1905) 2 CLR 345 (New South Wales)
[18] *Miller-Morse Hardware Co Ltd v Smart* (1917) 3 WWR 1113 (Saskatchewan)
[19] *Attorney-General for New South Wales v Love* [1898] AC 679
[20] *Hall v Hall* [1941] 2 WWR 245 (British Columbia).
[21] *Morris v Morris* [1951] DLR 38 (Ontario)
[22] *at page 545*

3. The time of the events giving rise to the case
4. The time of the proceedings.

The varying decisions appear to turn on the words used in the respective ordinances and no general rule can be derived from them. I deduce from the terminology of the Ordinance that the legislature intended to apply any English statute which was applicable and suitable to local circumstances on the date at which English law was applied - 1 January 1987. Any earlier date could introduce insurmountable problems in ascertaining what the local circumstances were many years previously; any later date would add to the uncertainty surrounding this particular piece of legislation.

How is applicability and suitability to be tested?

In respect of the arguments put forward I hold that:

1. Only a statute of general application can be applied under the Ordinance.

2. It can only be applied if it is both applicable; and suitable to local circumstances. The Ordinance uses two different words and it must be presumed that they are intended to have two different meanings. There are therefore two tests:

(a) is it applicable? If so

(b) is it suitable to local circumstances?

3. A statute is "applicable" if it is capable of being reasonably applied. That means that the circumstances which explain its origin in England are also relevant in St Helena. It must meet a similar need. It is "suitable" if it can be applied to meet that need without substantial modification.

4. If a statute deals with one subject only, applicability and suitability must be tested by reference to the whole Act. It is not permissible to apply one part only. If a substantial part of such a statute is both applicable and suitable, the whole may be said to be; and the parts which are not can be deleted as a necessary modification to meet local circumstances. But as the Attorney-General argued, there are limits to the changes which a court may make for this purpose. Modifications should not be made which would alter the substance of the statute. That is for the legislature, not for the court. If a statute dealing with a single subject cannot be made suitable to local circumstances without very substantial alteration, that is an indication that it is not in fact suitable.

In *Jex v McKinney*[23] the relevant ordinance applied laws "... in so far as they are applicable or can be applied to this settlement ...". Again there appeared to be two tests. The second (akin to the test of "suitable" in St Helena) was held[24] to include cases "... where some moulding in formal or insignificant details is required before an English statute, suitable in its nature to the needs of the colony, can be actually applied to them." I apply that test to ascertain whether the Act is "suitable".

Most of the case law is over 50 years old. Much of it is over 100 years old. The world has moved on and today the Ordinance must be interpreted in accordance with current legislative practice. In the past it was the practice to enact one statute dealing with one subject. Nowadays, no doubt partly because of the pressure on parliamentary time, it is not uncommon to find massive statutes dealing with a large number of separate subjects within the loose framework of a particular branch of the law. This is particularly true of consolidation statutes which collect together and re-enact a large number of earlier statutes, each passed to deal with a separate subject. The Act is just such a statute.

In this situation it is quite artificial to say that the statute must be considered as a whole. It is not a coherent whole. It is a ragbag of assorted statutes re-enacted and lumped together for convenience because they fall within the same general field of law. In that situation I hold that it is permissible to take each separate subject on its own, and to consider whether that subject, as enacted, is suitable to local circumstances.

[23] *(1889) App Cas 77*
[24] *at page 81*

In that situation it is also legitimate to take note of the wording of the Ordinance. It applies English law "... only **in so far as** it is applicable and suitable to local circumstances." Those words have the same meaning as "only to the extent that it is applicable and suitable..." They can be taken to suggest that any part of any statute which meets both tests can be applied, and those which do not can be excluded. I do not believe this to be the intention. It would be contrary to *Jex v McKinney* and much other precedent[25], although not all[26]. But at the very least, it must mean that if a statute deals with a number of separate and identifiable subjects, some of which are applicable and suitable and some not, it is permissible to select those which are suitable and to disregard those which do not.

5. It is irrelevant that such rights are widely enjoyed throughout the developed world; or that there may be many good reasons making it desirable to apply the Act here. These are political considerations. It is for the legislature and not for the court to take account of such arguments.

6. A distinction has to be drawn between rights and obligations conferred and imposed, and the machinery by which they are to be enforced. Unless the procedural provisions are an integral part of the overall package, they can be excluded.[27]

Conclusions

1. The Act is a statute of general application. Everywhere in the civilised world there is some form of regulation of the terms of employment.

2. The machinery created for the enforcement of rights and for the settlement of disputes by conciliation is not an integral and essential part of the Act, so that its absence in St Helena and Ascension does not of itself make the Act inapplicable and unsuitable to local circumstances. The rights and obligations created by the Act are capable of standing on their own without the need for any particular form of enforcement procedure. They do not depend upon a particular form of procedure for their existence.

3. The Act is applicable to St Helena. It is as appropriate to regulate employment here as in England. The circumstances which explain its origin have as much relevance in St Helena and Ascension as in England. They are a desire to ensure open and fair dealings between employers and employees. There are very substantial similarities between the conditions of employment in England and in St Helena. In particular, all government servants are subject to public service regulations which mirror good employment practice in England.

4. It is necessary therefore to assess objectively whether the overall package of rights created by the Act is "... suitable to local circumstances."

The Attorney-General correctly predicted that the only way to assess that is to consider the Act section by section and schedule by schedule. I have carried out that exercise and my findings are shown in the schedule to this judgment. My assessment has been carried out on the this basis:

(1) those parts which are purely procedural I have ignored for the reasons already given.

(2) those parts which (a) reflect good employment practice; (b) would add little or no expense to employers or government; and (c) could be applied with little modification are suitable.

(3) those parts which require substantial modification are not suitable, for the reasons already given.

(4) Those parts which would impose additional cost on employers or government, such as those relating to maternity pay and redundancy payments, are not suitable. If such benefits are thought to be desirable it is for the legislature and not the court to impose them.

[25] e.g. *Quan Yick v Hinds* (1905) 2 CLR 342
[26] e.g. *Miller-Morse Hardware Co Ltd v Smart* (1917) 3 WWR 1113
[27] *Hall v Hall* [1941] 2 WWR 245

In so far as numbers are important, this exercise resulted in the inclusion of 64 sections with 4 schedules; the exclusion of 84 sections with 8 schedules, and disregarding 12 sections with 5 schedules. Parts I, IV and V are applicable with hardly any modification; as is one half of Part II. 3½ out of 7 non-procedural Parts are applicable. The provisions of approximately one half of the Act are suitable to the circumstances of St Helena.

This is a very different situation from that confronting Hannah J in *Thomas (Karen) v Musk (Greta Pat)*[28] when he declined to introduce a very large Act in order to use one small section of it.

Those parts of the Act which are suitable are:

Part I	the whole (Written particulars of terms of employment)
Part II	part (Trade Union membership and time off work)
Part IV	the whole (Termination of employment)
Part V	the whole (Unfair dismissal)

Those parts which are not suitable are:

Part II	part (Guarantee payments -sections 12 –18)
	(Suspension from work on medical grounds sections 19 – 22)
Part III	the whole (Maternity rights)
Part IV	the whole (Redundancy payments)

I have found that the Act is applicable.

Considered as a whole, and applying the test in *Jex v McKinney*[29] the Act requires too much modification for it to be considered suitable to local circumstances.

But —

(a) because of its nature, as a consolidation of several different statutes, and also

(b) applying the "in so far" test

the Act does not fall to be considered as a whole. It deals with a number of quite separate subjects, in readily identifiable parts, within the overall context of the general field of employment law. It is therefore permissible to apply those separate parts which meet the test of suitability, and to disregard those which do not.

I therefore hold that the Act is applicable and suitable to the circumstances of St. Helena and Ascension. It applies, disregarding the enforcement procedures and otherwise subject to necessary modification, in relation to the following parts:

Part I	the whole
Part II	Trade Union membership and time off work
Part IV	the whole
Part V	the whole

It follows that Mr Slater is entitled to bring his grievance to a tribunal to be tested. Whether or not he succeeds is a separate matter. There being no provision for Industrial Tribunals locally, the tribunal must be the Supreme Court and the procedure should be by writ seeking compensation for unfair dismissal.".

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[28] [1997] SHLR 2

[29] (1889) App Cas 77