

SCHEDULE

THE CONSTITUTION OF ST HELENA, ASCENSION AND TRISTAN DA CUNHA

CHAPTER 1

ST HELENA

PART 4

THE EXECUTIVE

The Attorney General

46.—(1) There shall be an Attorney General of St Helena who shall be the principal legal adviser to the Government of St Helena.

(2) The Attorney General shall be an officer of the St Helena Public Service appointed by the Governor, acting in his or her discretion and with the approval of a Secretary of State.

(3) The Attorney General shall be appointed—

- (a) for a term ending when the appointee reaches any retiring age fixed by law; or
- (b) whether or not the appointee has attained that age or will attain it during his or her term of office, for a term specified in the instrument of appointment.

(4) The Attorney General may, in any case in which he or she considers it desirable to do so—

- (a) institute and undertake criminal proceedings against any person before any court in respect of an offence against any law;
- (b) take over and continue any such criminal proceedings that have been instituted by any other person or authority; and
- (c) discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or herself or any other person or authority.

(5) The powers of the Attorney General under subsection (4) may be exercised by him or her in person or by officers subordinate to him or her acting under and in accordance with his or her general or special instructions.

(6) The powers conferred on the Attorney General by subsection (4)(b) and (c) shall be vested in him or her to the exclusion of any other person or authority; but where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(7) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings to any other court, shall be deemed to be part of those proceedings.

(8) In the exercise of the powers conferred on him or her by this section and section 52(2), the Attorney General, and any person acting under his or her authority, shall act independently and shall not be subject to the direction or control of the Governor, the Executive Council or any other person or authority.

(9) The remuneration of the Attorney General shall be determined by the Governor, acting in his or her discretion, and shall be charged on and paid out of the Consolidated Fund.

(10) The remuneration of the Attorney General shall not be diminished during the Attorney General's continuance in office.

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(11) The Attorney General may be removed from office only for inability to discharge the functions of the office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (12).

(12) The Attorney General shall be removed from office by the Governor if the question of his or her removal from office has been referred to a tribunal appointed under subsection (13) and the tribunal has advised the Governor that he or she should be removed from office for inability as aforesaid or for misbehaviour.

(13) If the Governor, acting in his or her discretion, considers that the question of removing the Attorney General from office for inability as aforesaid or for misbehaviour ought to be investigated, then—

(a) the Governor shall appoint a tribunal, which shall consist of a chairman and two other members; but the chairman and at least one of the other members shall be a serving or former judge of a superior court in some part of the Commonwealth or in Ireland; and

(b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor and advise the Governor whether the Attorney General should be removed from office for inability as aforesaid or for misbehaviour.

(14) If the question of removing the Attorney General from office has been referred to a tribunal under subsection (12), the Governor, acting in his or her discretion, may suspend the Attorney General from performing the functions of his or her office, and any such suspension may at any time be revoked by the Governor, acting in his or her discretion, and shall in any case cease to have effect if the tribunal advises the Governor that the Attorney General should not be removed from office.

(15) References in subsections (11) to (14) to the Attorney General do not include references to a person appointed to act in the office of Attorney General during any period when it is vacant or the holder of that office is unable to perform the functions of that office; and the appointment of such a person may be revoked by the Governor, acting in his or her discretion, at any time before the expiration of that period.