

## SCHEDULE

### THE CONSTITUTION OF ST HELENA, ASCENSION AND TRISTAN DA CUNHA

## CHAPTER 1

### ST HELENA

#### PART 2

#### FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

##### **Protection of freedom of movement**

**12.**—(1) A person shall not be deprived of his or her freedom of movement, that is to say, the right to move freely throughout St Helena, the right to reside anywhere in St Helena, the right to enter St Helena, the right to leave St Helena and immunity from expulsion from St Helena.

(2) Any restriction on a person's freedom of movement as a result of his or her lawful detention shall not be held to breach this section.

(3) Nothing contained in or done under the authority of any law shall be held to breach this section to the extent that the law in question provides—

- (a) for restrictions on movement or residence within St Helena or on the right to leave St Helena of persons generally or any class of persons that are necessary in a democratic society in the interests of defence, public safety, public order, public morality or public health;
- (b) for the imposition of restrictions, by order of a court, on the movement or residence within St Helena of any person or on any person's right to leave St Helena either in consequence of his or her having been found guilty of a criminal offence or for the purpose of ensuring that he or she appears before a court at a later date for trial for a criminal offence or for proceedings relating to his or her extradition or lawful removal from St Helena;
- (c) for the imposition of restriction on persons who do not have St Helenian status; but—
  - (i) no restriction may be imposed by virtue only of this paragraph on the right of any such person, so long as he or she is lawfully present in St Helena, to move freely throughout St Helena and to reside anywhere in St Helena;
  - (ii) no restriction may be imposed by virtue only of this paragraph on the right of any such person to leave St Helena; and
  - (iii) no such person shall be liable, by virtue only of this paragraph, to be expelled from St Helena unless the requirements specified in subsection (4) are satisfied;
- (d) for the imposition of restrictions on the acquisition or use by any person of land or other property in St Helena;
- (e) for the imposition of restrictions on the movement or residence within St Helena or on the right to leave St Helena of any officer of the St Helena Public Service that are reasonably required for the proper performance of his or her functions;
- (f) for the removal of a person from St Helena to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence of which he or she has been convicted;
- (g) for the removal from St Helena of a wrongfully removed or retained child; or

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- (h) for the imposition of restrictions on the right of any person to leave St Helena that are necessary in a democratic society in order to secure the fulfilment of any obligations imposed on that person by law.
- (4) The requirements to be satisfied for the purposes of subsection (3)(c)(iii) (that is to say, before a person who does not have St Helenian status may be expelled from St Helena) are as follows—
  - (a) the decision to expel him or her is taken in a manner and on grounds prescribed by law;
  - (b) he or she has the right, save where the interests of defence, public safety or public order otherwise require—
    - (i) to have the decision to expel him or her reviewed by a competent authority prescribed by law;
    - (ii) to know the reasons for the decision to expel him or her and to submit reasons against his or her expulsion to that authority; and
    - (iii) for either of those purposes, to be represented before that authority or some other person or authority designated in that behalf by that authority.