

SCHEDULE

THE CONSTITUTION OF ST HELENA, ASCENSION AND TRISTAN DA CUNHA

CHAPTER 1

ST HELENA

PART 5

THE LEGISLATURE

Composition

The Legislature

47. There shall be a Legislature for St Helena consisting of Her Majesty and the Legislative Council.

Composition of Legislative Council

48. The Legislative Council shall consist of—

- (a) a Speaker and a Deputy Speaker, who shall be elected as provided in section 55; and
- (b) the following other Members—
 - (i) twelve Elected Members, who shall be persons qualified for election and elected in accordance with this Constitution; and
 - (ii) three *ex officio* Members, namely the Chief Secretary, the Financial Secretary and the Attorney General.

Qualifications of candidates for election to Legislative Council

49.—(1) Subject to subsections (2) and (3), the qualifications for being a candidate at an election of Members of the Legislative Council shall be as prescribed by Ordinance.

(2) A person shall not be qualified to be a candidate for election to the Legislative Council if that person—

- (a) is, by virtue of his or her own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
- (b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any country;
- (c) is mentally ill within the meaning of any law;
- (d) is under a sentence of imprisonment for twelve months or more, other than a sentence in lieu of a fine, but including a suspended sentence, imposed by a court of law in any country or substituted by a competent authority for some other sentence imposed by such a court;
- (e) is disqualified for membership of the Council under any law relating to offences connected with elections;
- (f) subject to subsection (3), holds, or is acting in, any office in the St Helena Public Service;
- (g) holds office as a judge or judicial officer; or

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- (h) holds, or is acting in, any office or is exercising any function involving any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.

(3) The Governor, acting in his or her discretion, may by notice published in the *Gazette*, make provision for enabling any officer of the St Helena Public Service or any class of such officer not otherwise disqualified under subsection (2) to be qualified to be a candidate for election to the Legislative Council.

(4) For the purposes of subsection (2)(d), two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Law as to elections

50.—(1) The Elected Members of the Legislative Council shall be elected by secret ballot, under a system of universal suffrage, by the persons registered on a single roll of voters for a single constituency for the whole of the island of St Helena; but the Legislature may make provision by Ordinance for the island to be divided into two or more constituencies for the purpose of elections, and for separate rolls of voters for such constituencies.

(2) Subject to subsection (1) and to section 49, the Legislature may make provision by Ordinance for the conduct of elections to the Legislative Council, including for—

- (a) the qualifications and disqualifications of voters;
- (b) the registration of voters;
- (c) the ascertainment of the qualifications of candidates for election and of voters;
- (d) the holding of elections; and
- (e) the definition and trial of offences connected with elections and the imposition of penalties for any such offence, including disqualification for membership of the Council, or for registration as a voter, or for voting at elections, of any person concerned in any such offence.

Tenure of office of Elected Members of Legislative Council

51. The seat of an Elected Member of the Legislative Council shall become vacant—

- (a) upon a dissolution of the Council;
- (b) if the Member is absent from meetings of the Council for a continuous period of three months without the written permission of the Speaker;
- (c) if any circumstance arises that would cause the Member to become disqualified for election to the Council; or
- (d) if the Member resigns his or her seat by writing under his or her hand addressed to the Governor.

Determination of questions as to elected membership of Legislative Council

52.—(1) Any question whether—

- (a) a person has been validly elected as a Member of the Legislative Council; or
- (b) the seat of an Elected Member has become vacant,

shall be determined by the Supreme Court whose decision shall be final and not subject to any appeal.

(2) An application to the Supreme Court for the determination of any question under subsection (1) may be made by the Attorney General or by any person who is a registered voter; and

an application for the determination of any question under subsection (1)(b) may also be made by any Elected Member of the Legislative Council.

Register of Interests

53.—(1) There shall be a Register of Interests that—

- (a) shall be open to the public; and
- (b) shall be maintained by a Registrar who shall be an officer of the St Helena Public Service appointed to that office.

(2) All Members of the Legislative Council and the holders of such other offices (except that of Governor) as may be prescribed by Ordinance must—

- (a) declare in the Register such interests, assets, income and liabilities of themselves and their families as may be so prescribed; and
- (b) update the declaration at such intervals, being not more than twelve months, as may be so prescribed.

(3) The Legislature may make further provision by Ordinance for giving effect to this section.

(4) Such an Ordinance may impose sanctions for a failure to comply with subsection (2), including the suspension of the Speaker or any other Member from the Legislative Council for such period as may be prescribed.

(5) The Standing Orders of the Legislative Council shall make provision prohibiting an Elected Member of the Council from voting in the Council, or any committee of the Council, on any question so closely concerned with an interest required to be declared in the Register (whether or not it has been so declared) as to give the Member a direct pecuniary interest in the outcome of the vote on that question.

Oaths or affirmations by Members of Legislative Council

54. No Member of the Legislative Council shall enter upon the functions of his or her office unless he or she has made before the Governor, or some other person authorised for that purpose by the Governor, acting in his or her discretion, oaths or affirmations of allegiance, of confidentiality and for the due execution of his or her office in the forms set out in the Schedule.

Speaker and Deputy Speaker

55.—(1) At the first sitting of the Legislative Council after a vacancy occurs in the office of Speaker or Deputy Speaker, or both, and before the transaction of any other business (except the administration of oaths or affirmations under section 54), the Council shall by secret ballot proceed to elect, to fill the vacancy, a Speaker or, as the case may be, a Deputy Speaker from among persons who are not Elected Members of the Council but who are qualified to be elected as Members of the Council and are not disqualified in any way for membership.

(2) To be elected, a candidate must receive the votes of a majority of all the Elected Members of the Legislative Council.

(3) The Standing Orders of the Legislative Council shall make provision for the conduct, consistently with this Constitution, of an election to fill the office of Speaker or Deputy Speaker.

(4) The office of Speaker or Deputy Speaker shall become vacant—

- (a) if any circumstance arises that, if the Speaker or the Deputy Speaker were an Elected Member of the Legislative Council, would cause his or her seat to become vacant;
- (b) if the Speaker or the Deputy Speaker resigns that office by writing under his or her hand addressed to the Clerk of Councils;

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- (c) if the Speaker or the Deputy Speaker becomes a candidate for election to the Council as an Elected Member;
- (d) if the Speaker or the Deputy Speaker becomes a member of a Council Committee;
- (e) on the passing, by the votes of a majority of all the Elected Members of the Council, of a motion expressing no confidence in the Speaker or the Deputy Speaker; or
- (f) if the Council is dissolved.