

SCHEDULE

THE CONSTITUTION OF ST HELENA, ASCENSION AND TRISTAN DA CUNHA

CHAPTER 1

ST HELENA

PART 6

THE ADMINISTRATION OF JUSTICE

Supreme Court

Constitution of Supreme Court

82.—(1) There shall be a Supreme Court for St Helena which shall be a superior court of record.

(2) Subject to this Constitution, the Supreme Court shall have and may exercise all such jurisdiction in and in relation to St Helena as is necessary to administer the law of St Helena.

(3) Without prejudice to the generality of subsection (2), the Supreme Court shall possess and may exercise in and in relation to St Helena, subject to this Constitution and to any other law, all the jurisdiction which is vested in, or is capable of being exercised by, Her Majesty's High Court of Justice in and in relation to England.

(4) The Supreme Court shall have and use a seal bearing a device and impression of the Royal Arms within a border bearing the words "Seal of the St Helena Supreme Court".

Sittings of Supreme Court

83.—(1) Subject to subsection (2), the Supreme Court may sit in St Helena or outside St Helena.

(2) The Chief Justice and any other judge or acting judge of the Supreme Court may hold sittings of the Court when outside St Helena, if satisfied that—

- (a) a matter arising in a proceeding before the Court needs to be dealt with promptly;
- (b) every party to the proceeding is able to participate, in person or through a legal representative, by teleconference or other means of electronic, oral or written communication;
- (c) no injustice will result; and
- (d) the course proposed is in the public interest.

(3) The Chief Justice when outside St Helena may exercise such powers of revision, variation, confirmation or setting aside of any sentence or order made by a subordinate court as are conferred on him or her by any law.

Judges of Supreme Court

84.—(1) The judges of the Supreme Court shall be a Chief Justice and such number of other judges (if any) as may be prescribed by law; but the office of any judge shall not, without his or her consent, be abolished during his or her continuance in office.

(2) If the office of Chief Justice is vacant, or the Chief Justice has not assumed, or is for any reason unable to perform the functions of, that office, those functions may be performed by—

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- (a) the next most senior judge of the Supreme Court in terms of the date of his or her appointment; or
 - (b) if there is no such judge, or if for any reason no such judge is able to perform the functions of the office of Chief Justice, then, unless this Constitution otherwise provides, those functions may be performed by an acting judge of the Supreme Court authorised to perform those functions by the Governor, acting in his or her discretion.
- (3) If—
- (a) in the circumstances described in subsection (2), there is no other judge who can perform the functions of the Chief Justice; or
 - (b) the state of the business of the Supreme Court makes it desirable that an additional person should be appointed by whom the Supreme Court may be held,

the Governor, acting in his or her discretion, may decide that an acting judge should be appointed to hold the Supreme Court.

- (4) The Chief Justice and any other judge or acting judge of the Supreme Court shall have such legal qualifications, experience and personal qualities—
- (a) as may be prescribed by a law in force at the time of his or her appointment; or
 - (b) in the absence of such a law, as make him or her a fit and proper person for appointment to the office concerned.

Exercise of jurisdiction of Supreme Court

85.—(1) The Chief Justice or any other judge or acting judge of the Supreme Court may hold the Supreme Court.

(2) A judge holding the Supreme Court has, in exercise of the jurisdiction of that Court, all the powers and authority of the Court, and, if not the Chief Justice, has the jurisdiction, powers, authority, privileges and immunities conferred on the Chief Justice.

(3) If, at any time, there are two or more judges who may hold the Supreme Court, each of them may hold sittings of the Court simultaneously.

(4) In this section, “Chief Justice” means the person holding the office of Chief Justice.