

SCHEDULE

THE CONSTITUTION OF ST HELENA, ASCENSION AND TRISTAN DA CUNHA

CHAPTER 2

ASCENSION

PART 6

THE ADMINISTRATION OF JUSTICE

General

Rules of Court

160. Rules of Court made under section 89 shall apply in Ascension with such modifications as the President of the Court of Appeal or, as the case may be, the Chief Justice may prescribe, and in particular such Rules may regulate the practice and procedure of the Court of Appeal or the Supreme Court with respect to proceedings held outside Ascension.

Judicial officers

161.—(1) The Governor, acting in accordance with the recommendation of the Ascension Judicial Service Commission, shall appoint any judicial officers.

(2) Before entering upon the duties of his or her office, every judicial officer shall make an oath or affirmation of allegiance and the judicial oath or affirmation in the forms sets out in the Schedule.

(3) A judicial officer shall be appointed for life, or until the appointee reaches such an age as may be prescribed by Ordinance.

(4) A judicial officer may, when his or her appointment expires, continue so to act for the purposes of giving judgment or otherwise in relation to any proceeding commenced before him or her while his or her appointment was subsisting.

(5) A judicial officer—

(a) may resign from office by writing under his or her hand addressed to the presiding member of the Ascension Judicial Service Commission;

(b) shall be deemed to have resigned from office if he or she—

(i) is elected as a member of the Island Council; or

(ii) continues to hold, or accepts, an appointment as an officer of the Ascension Public Service, unless, under a law, such an officer is entitled to serve as a judicial officer on a basis that is consistent with the independence of the judiciary and with the efficiency of the Public Service.

(6) A judicial officer may be removed from office only on the ground of—

(a) inability to discharge the functions of the office (whether arising from infirmity of body or mind or from any other cause); or

(b) misbehaviour,

and shall not be removed except in accordance with subsection (7).

(7) The Governor shall remove a judicial officer from office if—

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- (a) the question of doing so has been considered by the Ascension Judicial Service Commission; and
- (b) the Commission has recommended to the Governor that the judicial officer concerned should be removed from office on a ground referred to in subsection (6).

(8) A person who has been removed from office as a judicial officer by the Governor on the recommendation of the Ascension Judicial Service Commission may apply to the Supreme Court for redress on the ground that any finding of fact or law on which the Commission based its recommendation for removal was unjustified or wrong; and, for the purpose of affording such redress, the Supreme Court may make such declarations and orders, issue such writs and give such directions as it considers appropriate.

(9) A judicial officer shall receive such remuneration as is determined by the Governor, acting in his or her discretion, and that remuneration shall be charged on and paid out of the Consolidated Fund.

(10) The remuneration of a judicial officer shall not be diminished during his or her continuance in office.

Ascension Judicial Service Commission

162.—(1) There shall be an Ascension Judicial Service Commission (“the Commission”), which shall consist of—

- (a) the Chief Justice, who shall preside;
- (b) the Attorney General;
- (c) the Public Solicitor, if a person for the time being holds that office; and
- (d) a person who is neither a member of the Island Council, an officer of the Ascension Public Service, a judge or a judicial officer, appointed by the Governor for a term of one year.

(2) The office of the member of the Commission appointed under subsection (1)(d) shall become vacant if—

- (a) he or she becomes an officer of the Ascension Public Service, accepts appointment as a judge or a judicial officer, or becomes a member of the Island Council;
- (b) he or she resigns from office by writing under his or her hand addressed to the Governor; or
- (c) the Governor, being satisfied that the member should be removed from office on the ground of inability to discharge the functions of the office (whether arising from infirmity of body or mind or from any other cause) or misbehaviour, removes that member from office.

(3) The Governor may suspend the member from office while his or her removal from office on a ground referred to in subsection (2)(c) is under investigation.

(4) No business shall be transacted by the Commission unless—

- (a) all members are present at a meeting in Ascension or elsewhere; or
- (b) if they are in different places, all members are able to communicate with one another about that business in ways that they agree are appropriate in the circumstances.

(5) All questions before the Commission shall be decided by a majority of the votes of its members; and if, on any question, the votes are equally divided, the Chief Justice shall have and exercise a casting vote.

(6) The Commission may, of its own motion or at the request of the Island Council or of an organisation that is representative of judicial officers—

- (a) make recommendations to the Governor on the appointment of judicial officers;

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(b) consider and, if it so decides, make recommendations to the Governor on, the removal from office of a judicial officer on a ground referred to in section 161(6); and

(c) exercise such other functions as may be conferred on it by law.

(7) In the exercise of its functions the Commission shall act independently and shall not be subject to the direction or control of the Governor, the Island Council or any other person or authority.

(8) No member of the Commission shall be personally liable for the consequences of any act done or omitted by the Commission in good faith in pursuance or intended pursuance of the Commission's functions; and if any such liability is established, it shall be that of the Crown.