

SCHEDULE 1
TO THE ORDER

THE CONSTITUTION OF ST. HELENA
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PART V

LEGISLATION AND PROCEDURE IN LEGISLATIVE COUNCIL

Power to make laws.

27. Subject to the provisions of this Constitution—

- (a) the Governor, with the advice and consent of the Legislative Council, may make laws for the peace, order and good government of St. Helena;
- (b) the Governor in his discretion may make laws for the peace, order and good government of Ascension and Tristan da Cunha, respectively.

Royal Instructions.

28. Subject to the provisions of this Constitution, the Governor and the Legislative Council shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Standing Orders.

29. Subject to the provisions of this Constitution and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Council may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of Bills and for the presentation thereof to the Governor for assent; but no such Standing Orders or amendment or revocation thereof shall have effect unless they have been approved by the Governor.

Presiding in Legislative Council.

30.—(1) At sittings of the Legislative Council there shall preside—

- (a) the Governor; or
- (b) at any time when there is a person holding the office of Speaker, the Speaker; or
- (c) in the absence of the Governor or, as the case may be, of the Speaker—
 - (i) such member of the Council as may be elected for that purpose by the Elected Members of the Council;
 - (ii) in the absence of a member so elected, the senior *Ex-officio* Member present.

(2) For the purpose of subsection (2) of this section, the *Ex-officio* Members of the Legislative Council shall have seniority in the order in which their offices are mentioned in section 15(1)(b) of this Constitution.

(3) The Speaker shall be elected by the votes of a majority of the Elected Members of the Legislative Council, but he need not be a member of the Council.

(4) A person shall vacate the office of Speaker—

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- (a) on dissolution of the Legislative Council;
- (b) on any circumstance arising which, if he were an Elected Member of the Legislative Council, would cause him to vacate his seat;
- (c) on becoming a member of the Executive Council or any Council Committee;
- (d) on the passing, by the votes of a majority of the Elected Members of the Legislative Council, of a motion expressing no confidence in him as Speaker.

Legislative Council may transact business notwithstanding vacancies.

31. The Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the Council is first constituted or is reconstituted at any time) and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the Council or otherwise took part in those proceedings.

Quorum.

32. If at any sitting of the Legislative Council a quorum is not present and any member of the Legislative Council who is present objects on that account to the transaction of business and, after such interval as may be prescribed in the Standing Orders of the Legislative Council, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the Legislative Council.

(2) For the purpose of this section a quorum shall consist of six members of the Legislative Council in addition to the person presiding.

Voting.

33.—(1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Legislative Council shall be determined by a majority of votes of the members present and voting.

(2) The Speaker or other member presiding shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

(3) The Attorney General of St. Helena, and any Temporary Member appointed under section 16(2) of this Constitution on account of the incapacity of the Attorney General, shall not vote in the Legislative Council.

Governor's reserved power.

34.—(1) If the Governor considers that it is expedient—

- (a) in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of St. Helena as a territory within the Commonwealth and all matters pertaining to the creation or abolition of any public office or to the salary or other conditions of service of any public officer), or
- (b) in order to secure detailed control of the finances of St. Helena during such time as, by virtue of the receipt of financial assistance by St. Helena from Her Majesty's Exchequer in the United Kingdom for the purpose of balancing the annual budget or otherwise, such control rests with Her Majesty's Government in the United Kingdom,

that any Bill introduced, or any motion proposed, in the Legislative Council should have effect, then, if the Legislative Council fail to pass the Bill or to carry the motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor may, at any time that he thinks fit, and notwithstanding any provisions of this Constitution or of any other law in force in St. Helena

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or of any Standing Orders of the Council, declare that the Bill or motion shall have effect as if it had been passed or carried by the Council either in the form in which it was introduced or proposed or with such amendments as the Governor thinks fit which have been moved or proposed in the Council or any committee thereof; and the Bill or the motion shall be deemed thereupon to have been so passed or carried, and the provisions of this Constitution, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall forthwith report to a Secretary of State every case in which he makes any such declaration and the reasons therefor.

(3) If any member of the Legislative Council objects to any declaration made under this section, he may, within fourteen days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of the statement shall, if furnished by the member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any declaration made under this section other than a declaration relating to a Bill may be revoked by a Secretary of State and the Governor shall forthwith cause notice of the revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect and section 16(1) of the Interpretation Act 1978⁽¹⁾ shall apply to the revocation as it applies to the repeal of an Act of Parliament.

(5) The powers conferred upon the Governor by subsection (1) of this section shall be exercised by him in his discretion.

Introduction of Bills.

35.—(1) Subject to the provisions of this Constitution and of the Standing Orders of the Legislative Council, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council and the same shall be debated and disposed of according to the Standing Orders of the Council.

(2) Except on the recommendation of the Governor the Legislative Council shall not—

- (a) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Council, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of St. Helena or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to St. Helena;
- (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Council, is that provision would be made for any of the purposes aforesaid; or
- (c) receive any petition which, in the opinion of the person presiding in the Council, requests that provision be made for any of the purposes aforesaid.

Assent to Bills.

36.—(1) A Bill shall not become a law until—

- (a) the Governor has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or
- (b) Her Majesty has given Her assent to it through a Secretary of State and the Governor has signified Her assent by proclamation published in the Gazette.

(2) When a Bill is presented to the Governor for his assent, he shall, subject to the provisions of this Constitution and of any Instructions addressed to him under Her Majesty's Sign Manual and

(1) 1978 c. 30.

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Signet or through a Secretary of State, declare that he assents, or refuses to assent, to it, or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that the Governor shall reserve for the signification of Her Majesty's pleasure—

- (a) any Bill which appears to him to be in any way repugnant to, or inconsistent with, the provisions of this Constitution; and
- (b) any Bill which determines or regulates the privileges, immunities or powers of the Legislative Council or of its members,

unless he has been authorised by a Secretary of State to assent to it.

Disallowance of laws.

37.—(1) Any law made by the Governor or to which the Governor has given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever a law has been disallowed by Her Majesty the Governor shall, as soon as practicable, cause notice of the disallowance to be published in the Gazette, and the law shall be annulled with effect from the date of the publication of that notice.

(3) Section 16(1) of the Interpretation Act 1978 shall apply to the annulment of any law under this section as it applies to the repeal of an Act of Parliament, save that any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Oath of Allegiance.

38. Except for the purpose of enabling this section to be complied with, no member of the Legislative Council shall be permitted to take part in its proceedings until he has made before the Governor, or some other person authorised in that behalf by the Governor, an oath of allegiance in the form set out in the Schedule to this Constitution.

Privileges of Legislative Council and members.

39. A law enacted under this Constitution may determine and regulate the privileges, immunities and powers of the Legislative Council and its members, but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom or of the members thereof.

Sessions.

40.—(1) Subject to the provisions of this section, the sessions of the Legislative Council shall be held at such places and begin at such times as the Governor may from time to time appoint by proclamation published in the Gazette.

(2) There shall be at least one session of the Legislative Council in every year so however that there shall be an interval of less than twelve months between the last sitting in one session and the first sitting in the next session.

(3) A session shall be held within one month after any general election.

Prorogation and dissolution.

41.—(1) The Governor, acting in his discretion, may at any time, by proclamation published in the Gazette, prorogue or dissolve the Legislative Council.

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(2) The Governor shall dissolve the Legislative Council at the expiration of four years from the date when the Legislative Council first meets after any dissolution unless it has been sooner dissolved.

General election.

42. There shall be a general election at such time within three months after every dissolution of the Legislative Council as the Governor shall appoint by proclamation published in the Gazette.