

SCHEDULE 1  
TO THE ORDER

THE CONSTITUTION OF ST. HELENA  
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PART II

THE EXECUTIVE

**Governor to consult Executive Council.**

**11.**—(1) Subject to the provisions of this section, the Governor shall consult the Executive Council in the formulation of policy and the exercise of all functions conferred upon him by this Constitution or any other law, and shall act in accordance with the advice given to him by the Council.

(2) The Governor shall not be obliged to consult nor act in accordance with the advice given to him by the Executive Council with respect to the following—

- (a) when acting under instructions given to him by Her Majesty through a Secretary of State;
- (b) any function conferred upon him by this Constitution or any other law which is expressed to be exercisable by him in his discretion or in his judgment or in accordance with the advice of, or after consultation with, any person or authority other than the Executive Council;
- (c) any matter referred to in section 12(1)(a) of this Constitution;
- (d) any matter in which, in his judgment, the service of Her Majesty would sustain material prejudice thereby;
- (e) any matter concerning the exercise of the executive authority of the Dependencies;
- (f) where the matter to be decided is, in his judgment, too unimportant to require the advice of the Council;
- (g) where the matter to be decided is, in his judgment, too urgent to admit of the giving of the Council's advice by the time within which it may be necessary for him to act:

Provided that, in every case falling within paragraph (g) of this subsection, the Governor shall as soon as practicable communicate to the Executive Council the measures which he shall have adopted, with the reasons therefor.

(3) In any case where the Governor is required by this section to consult the Executive Council, he may act otherwise than in accordance with the advice given to him by the Council if in his judgment it would be inexpedient in the interests of public order, public faith or good government to act in accordance with that advice:

Provided that—

- (a) the Governor shall not under this subsection act contrary to the advice given to him by the Council without the prior approval of a Secretary of State, unless, in his judgment, the matter is of such urgency that it is necessary for him to act before obtaining such approval; and if he does so act he shall, as soon as practicable, report his action and the reasons therefor to a Secretary of State;
- (b) whenever the Governor proposes under this subsection to act contrary to the advice given to him by the Council he shall inform the Council in writing of his reasons; and any member who wishes to do so may, within thirty days, submit his comments in writing to the Governor who shall forward them to a Secretary of State as soon as practicable.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) The Governor shall not be obliged to act in accordance with the advice given to him by the Executive Council in any case which, in his judgment, involves a matter for which he is responsible under section 12 of this Constitution.

(5) Where the Governor is by this Constitution or any other law directed to exercise any function after consultation with any person or authority other than the Executive Council he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(6) Where the Governor is by this Constitution or any other law directed to exercise any function in accordance with the advice of, or after consultation with, any person or authority, the question whether he has so exercised that function shall not be enquired into in any court.