

SCHEDULE 1  
TO THE ORDER

THE CONSTITUTION OF ST. HELENA  
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PART VII

MISCELLANEOUS

**Public seal.**

**50.** The Governor shall keep and use the public seal for sealing all things that should pass that seal.

**Grants of land.**

**51.** Subject to the provisions of any law in force in St. Helena and its Dependencies, the Governor or any person duly authorised by him in writing under his hand may, in Her Majesty's name and on Her Majesty's behalf, make and execute grants and dispositions of land or other immovable property within St. Helena and its Dependencies which may be lawfully granted or disposed of by Her Majesty.

**Governor's power of pardon.**

**52.—(1)** Subject to any Instructions given to him by Her Majesty under Her Sign Manual and Signet, the Governor may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person concerned in or convicted of any offence a pardon, either free or subject to lawful conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for any offence;
- (c) substitute a less severe form of punishment for any punishment imposed on any person for any offence; and
- (d) remit the whole or part of any punishment imposed on any person for an offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.

(2) In the exercise of his powers under this section the Governor shall act in his discretion but shall first consult the Executive Council.

**Constitution of offices, appointments, etc.**

**53.—(1)** The Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute such offices for St. Helena and its Dependencies as may lawfully be constituted by Her Majesty.

(2) Subject to the provisions of any law in force in St. Helena and its Dependencies the Governor may, acting in his discretion, make appointments to any office in the public service, exercise disciplinary control over any person holding or acting in such office, or remove such person from office.

(3) Any person appointed to such an office shall, unless it is otherwise provided by any such law, hold that office during Her Majesty's pleasure.

*Status: This is the original version (as it was originally made).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

### **Resignations.**

**54.**—(1) Any person who is appointed or elected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed or elected: Provided that in the case of a member of the Legislative Council his resignation shall be addressed to the Governor.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any other person authorised by that person or authority to receive it.

### **Reappointments and concurrent appointments.**

**55.**—(1) Where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

(2) Where a power is conferred by this Constitution upon any person to make any appointment to any office, a person may be appointed to that office notwithstanding that some other person may be holding that office when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

### **Interpretation.**

**56.**—(1) In this Constitution, unless the context otherwise requires—

“Court of Appeal” means the Court of Appeal established by section 47 of this Constitution;

“Dependencies” means the Islands of Ascension and Tristan da Cunha;

“functions” includes powers and duties;

“Gazette” means the St. Helena Government Gazette;

“Governor” means the Governor and Commander-in-Chief of St. Helena and its Dependencies;

“law” includes any subsidiary instrument;

“Legislative Council” means the Legislative Council for the time being established for St. Helena;

“public office” means, subject to subsection (2) of this section, an office of emolument in the public service;

“public officer” means the holder of any public office, and includes a person appointed to act in any public office;

“public seal” means the public seal of St. Helena;

“the public service” means the service of the Crown in a civil capacity in respect of the government of St. Helena and its Dependencies;

“session”, in relation to the Legislative Council, means the sittings of the Council commencing when the Council first meets after its prorogation or dissolution at any time, and terminating when the Council is next prorogued or is dissolved without having been prorogued;

“sitting”, in relation to the Legislative Council, means a period during which the Council is sitting continuously without adjournment and includes any period during which the Council is in committee;

“subsidiary instrument” means any proclamation, regulation, order, rule or other like instrument having the force of law;

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“Supreme Court” means the Supreme Court established by section 43 of this Constitution;

“Tristan da Cunha” means the Island of Tristan da Cunha, Gough Island, Nightingale Island and Inaccessible Island.

(2) For the purposes of this Constitution, a person shall not be considered to hold a public office by reason only that he—

(a) is in receipt of any remuneration or allowance as a member of the Executive Council, a Council Committee or the Legislative Council; or

(b) is in receipt of a pension or other like allowance in respect of service under the Crown.

(3) In this Constitution, unless it is otherwise provided or the context otherwise requires—

(a) any reference to power to make appointments to any public office shall be construed as including a reference to power to make appointments on promotion and transfer, appointments on contract and appointments to act in an office during any period when it is vacant or the holder thereof is absent from St. Helena or its Dependencies or is for any other reason unable to perform the functions thereof;

(b) any reference to power to remove a public officer from office shall be construed as including a reference to any power conferred by any law to require or permit that officer to retire from the public service and to any power or right to terminate a contract on which a person is employed as a public officer and to determine whether any such contract shall or shall not be renewed.

(4) Where by this Constitution any person is directed, or power is conferred on any person or authority to appoint a person, to act in an office if the holder thereof is unable to perform the functions of that office, the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of the office.

(5) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(6) Any power conferred by this Constitution to make any subsidiary instrument or to give any instructions or directions shall be construed as including a power exercisable in like manner to amend or revoke any such instrument, instructions or directions.

(7) Where a person is required by this Constitution to make an oath he shall, if he so desires, be permitted to comply with that requirement by making an affirmation in the form provided for in the Schedule to this Constitution.