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STATUTORY INSTRUMENTS

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**2009 No. 1751**

**The St Helena, Ascension and Tristan  
da Cunha Constitution Order 2009**

**Citation, publication and commencement**

1.—(1) This Order may be cited as the St Helena, Ascension and Tristan da Cunha Constitution Order 2009.

(2) This Order shall be published in the *Gazette*.

(3) This Order shall come into force on the appointed day.

**Interpretation**

2. In this Order—

“the appointed day” means such day as may be prescribed by the Governor, acting in his or her discretion, by proclamation published in the *Gazette*;

“the Constitution” means the Constitution set out in the Schedule;

“the existing Constitution” means the Constitution set out in Schedule 1 to the St Helena Constitution Order 1988(1);

“*Gazette*” means the St Helena Government *Gazette*;

“the existing Legislative Council” means the Legislative Council of St Helena established by the existing Constitution;

“the Legislative Council” means the Legislative Council of St Helena established by the Constitution.

**Revocations**

3. The St Helena Constitution Order 1988 and the St Helena Constitution Order 1989(2) are revoked with effect from the appointed day.

**Change of name and establishment of Constitution**

4. From the appointed day—

(a) the territory of St Helena and Dependencies shall be called St Helena, Ascension and Tristan da Cunha; and

(b) the Constitution shall have effect in St Helena, Ascension and Tristan da Cunha in accordance with section 1 of the Constitution.

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(1) [S.I. 1988/1842](#).

(2) [S.I. 1989/155](#).

### **Existing laws**

5.—(1) Subject to this section, the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section), that prescription or provision shall, as from the appointed day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Constitution) as if it had been made under the Constitution.

(3) The Governor, acting in his or her discretion, may by order made at any time within twelve months after the appointed day make such amendments to any existing law as may appear to him or her to be necessary or expedient for bringing that law into conformity with the Constitution or otherwise for giving effect or enabling effect to be given to the Constitution; and the Governor may in like manner amend or revoke any such order.

(4) This section is without prejudice to any powers conferred by the Constitution or by any other law on any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

(5) For the purposes of this section, “existing laws” means laws and instruments (other than Acts of Parliament of the United Kingdom and instruments made under them) having effect as part of the law of St Helena, Ascension or Tristan da Cunha immediately before the appointed day.

### **Existing offices and officers**

6.—(1) Any office established by or under the existing Constitution and existing immediately before the appointed day shall on and after that day, so far as consistent with the Constitution, continue as if it had been established by or under the Constitution.

(2) Any person who immediately before the appointed day holds or is acting in an office referred to in subsection (1) shall, on and after that day, continue to hold or act in that office or the corresponding office established by the Constitution as if he or she had been appointed to hold or act in it in accordance with or under the Constitution; but any person who under the law in force immediately before the appointed day would have been required to vacate his or her office at the expiration of any period shall vacate that office at the expiration of that period.

(3) Any person to whom subsection (2) applies who, before the appointed day, has made any oath or affirmation required to be made before assuming the functions of his or her office shall be deemed to have made any like oath or affirmation so required by the Constitution or any other law.

(4) No person who immediately before the appointed day holds office as a judicial officer in St Helena or Ascension shall be deemed to have resigned from that office on or after that day by virtue of section 91(8)(b)(ii) or 161(5)(b)(ii) of the Constitution pending the enactment of a law under the said section 91(8)(b)(ii) or, as the case may be, section 161(5)(b)(ii); and in this subsection “judicial officer” in relation to St Helena has the same meaning as in section 115 of the Constitution, and “judicial officer” in relation to Ascension has the same meaning as in section 180 of the Constitution.

### **Legislative Council, Council Committees and Executive Council**

7.—(1) Any person who immediately before the appointed day is a member of the existing Legislative Council shall on that day become a member of the Legislative Council, shall be deemed to have complied with section 54 of the Constitution, and shall hold his or her seat in accordance with the Constitution.

(2) The Governor shall dissolve the Legislative Council not later than the expiration of four years after the date when the existing Legislative Council first met after the last general election in St Helena before the appointed day.

(3) Any person who immediately before the appointed day is a member of a Council Committee of St Helena or of the Executive Council of St Helena under the existing Constitution shall, on and after that day, continue as a member of the corresponding Council Committee or of the Executive Council under the Constitution, and shall hold office in accordance with the Constitution.

### **Standing Orders**

8. The Standing Orders of the existing Legislative Council as in force immediately before the appointed day shall, until it is otherwise provided under section 68 of the Constitution, be the Standing Orders of the Legislative Council, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.

### **Remuneration of certain office-holders**

9. The remuneration, allowances and other benefits payable to persons holding the offices of elected member of the Executive Council of St Helena, elected member of the existing Legislative Council and Speaker of that Council immediately before the appointed day shall, until it is otherwise provided under section 72 of the Constitution, continue to be payable to persons holding the corresponding offices under the Constitution on and after the appointed day.

### **Chief Auditor for St Helena**

10. The terms and conditions of employment (including the remuneration) applicable to the office of Chief Auditor for St Helena immediately before the appointed day shall, until it is otherwise provided under section 110(9) of the Constitution, continue to apply to that office on and after the appointed day.

### **Island Council of Ascension**

11. Any person who immediately before the appointed day is a member of the Island Council of Ascension in accordance with a law in force in Ascension shall on that day become a member of the Island Council established by the Constitution, shall be deemed to have taken any oath or affirmation required by law, and shall hold his or her seat in accordance with any such law.

### **Island Council of Tristan da Cunha**

12. Any person who immediately before the appointed day is a member of the Island Council of Tristan da Cunha in accordance with a law in force in Tristan da Cunha shall on that day become a member of the Island Council established by the Constitution, shall be deemed to have taken any oath or affirmation required by law, and shall hold his or her seat in accordance with any such law.

### **Pending legal proceedings**

13.—(1) Any proceedings pending immediately before the appointed day in the Supreme Court or the Court of Appeal established by the existing Constitution may be continued on and after that day in the Supreme Court or, as the case may be, the Court of Appeal established by the Constitution.

(2) Any judgment or order of the Supreme Court or the Court of Appeal established by the existing Constitution given or made before the appointed day, in so far as it has not been fully executed or

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

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enforced, may be executed or enforced on and after that day as if it were a judgment or order of the Supreme Court or, as the case may be, the Court of Appeal established by the Constitution.

**Power reserved to Her Majesty**

14. There is reserved to Her Majesty full power to make laws from time to time for the peace, order and good government of St Helena, Ascension and Tristan da Cunha including, without prejudice to the generality of the foregoing, laws amending or revoking this Order or the Schedule.

*Judith Simpson*  
Clerk of the Privy Council