

## SCHEDULE

### THE CONSTITUTION OF ST HELENA, ASCENSION AND TRISTAN DA CUNHA

## CHAPTER 1

### ST HELENA

#### PART 3

### THE GOVERNOR

#### **The Governor**

**26.**—(1) There shall be a Governor of St Helena.

(2) Appointments to the office of Governor shall be made by Her Majesty by Commission under Her Sign Manual and Signet and a person appointed to the office shall hold office during Her Majesty's pleasure.

(3) A person appointed to the office of Governor shall, before entering upon the functions of that office, make before the Sheriff of St Helena oaths or affirmations of allegiance and for the due execution of that office in the forms set out in the Schedule.

(4) The Governor shall have such functions as are conferred or imposed on him or her by this Constitution or any other law and such other functions as Her Majesty may from time to time be pleased to assign to him or her through a Secretary of State, and, subject to the provisions of this Constitution and of any other law by which any such functions are conferred or imposed, shall do and execute all things that belong to his or her office according to such instructions, if any, as Her Majesty may from time to time see fit to give him or her through a Secretary of State; but no court shall enquire whether or not he or she has complied with any such instructions.

#### **Acting Governor**

**27.**—(1) Whenever the office of Governor is vacant or the Governor is absent from St Helena or is for any other reason unable to perform the functions of his or her office those functions shall, during Her Majesty's pleasure, be assumed and performed as Acting Governor by such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State.

(2) Before assuming the functions of the office of Governor, the person designated shall make the oaths or affirmations directed by section 26(3) to be made by the Governor.

(3) A person who has assumed the functions of the office of Governor shall cease to perform those functions on being notified by the Governor that he or she is about to resume or assume those functions.

(4) For the purposes of this section the Governor shall not be regarded as absent from St Helena, or as unable to perform the functions of the office of Governor, at any time when there is a subsisting appointment of a Deputy under section 28.

(5) In this section, "the Governor" means the person holding the office of Governor.

#### **Governor's Deputy**

**28.**—(1) Whenever the Governor—

- (a) has occasion to be absent from the seat of government for a period that he or she has reason to believe will be of short duration;

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

(b) has occasion to visit Ascension or Tristan da Cunha; or

(c) is suffering from an illness that he or she has reason to believe will be of short duration,

the Governor may, by instrument under the public seal, appoint any person in St Helena to be his or her Deputy during such absence or illness and in that capacity to discharge on his or her behalf during such absence or illness such of the functions of the office of Governor as may be specified in that instrument.

(2) The power and authority of the Governor shall not be abridged, altered or in any way affected by the appointment of a Deputy under this section otherwise than as Her Majesty may at any time think proper to direct by instructions to the Governor through a Secretary of State, and every such Deputy shall conform to and observe all instructions that the Governor may from time to time address to him or her.

(3) A person appointed as Deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he or she is appointed, and his or her appointment may be revoked at any time by Her Majesty by instructions given to the Governor through a Secretary of State or by the Governor.

(4) In this section, “the Governor” does not include a Deputy appointed under this section.

(5) The powers conferred on the Governor by this section shall be exercised by the Governor in his or her discretion.

#### **Powers of pardon, etc.**

**29.**—(1) 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; or

(d) remit the whole or part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence.

(2) The Governor shall exercise the powers conferred by this section acting in his or her discretion, but after consulting the Committee established by section 30.

#### **Advisory Committee on the Prerogative of Mercy**

**30.**—(1) There shall be for St Helena an Advisory Committee on the Prerogative of Mercy whose members shall be appointed by the Governor, acting in his or her discretion but after consulting the Executive Council, and in accordance with subsection (2).

(2) The Committee shall consist of not fewer than three nor more than five members, of whom one may be a member of the Executive Council, and at least one shall represent the public interest; but no Member of the Legislative Council (except a member of the Executive Council), judge or judicial officer shall be eligible to be a member of the Committee.

(3) The Committee shall not be summoned except by the authority of the Governor, acting in his or her discretion; and the Governor shall preside at all meetings of the Committee.

(4) No business shall be transacted at any meeting of the Committee unless there are at least three members present.

(5) The office as a member of the Committee of any member appointed under subsection (1) shall become vacant if the Governor, acting in his or her discretion but after consulting the Executive Council, revokes his or her appointment as a member of the Committee.

(6) Subject to subsection (4), the Committee shall not be disqualified for the transaction of business by reason of any vacancy in its membership, and the validity of the transaction of any business of the Committee shall not be affected by reason only of the fact that some person who was not entitled to do so took part in the proceedings.

(7) Subject to this section the Committee may regulate its own proceedings.

### **Powers to dispose of land**

**31.** Subject to this Constitution and any other law, the Governor or any person duly authorised by him or her in writing under his or her hand may, in Her Majesty's name and on Her Majesty's behalf, make and execute grants and other dispositions of any land or other immovable property in St Helena that is vested in Her Majesty in right of the Government of St Helena.

### **Public seal**

**32.—**(1) There shall be a public seal of St Helena.

(2) The Governor shall have custody of the public seal.

(3) The public seal may be used to seal such public documents signed by the Governor or an officer subordinate to the Governor as should be sealed with the public seal.

### **Constitution of offices**

**33.** Subject to this Constitution and any other law, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for St Helena.