

SCHEDULE

THE CONSTITUTION OF ST HELENA, ASCENSION AND TRISTAN DA CUNHA

CHAPTER 1

ST HELENA

PART 8

PUBLIC FINANCE

Taxation

97.—(1) No tax, rate or other similar levy shall be imposed except under the authority of an Ordinance.

(2) Where an Ordinance referred to in subsection (1) confers powers on any person or authority to waive or vary a tax imposed by that law, that person or authority shall report to the Legislative Council on the exercise of those powers as often as shall be determined by law but not less than annually.

Consolidated Fund

98.—(1) There shall be a Consolidated Fund for St Helena into which shall be paid all revenues or other moneys raised or received by and for the purposes of the Government of St Helena.

(2) The revenues or other moneys referred to in subsection (1) shall not include revenues or other moneys that are payable by or under an Ordinance into some other fund established for a specific purpose.

Withdrawal from Consolidated Fund or other public account

99.—(1) No moneys shall be withdrawn from the Consolidated Fund except—

- (a) to meet expenditure charged on the Fund by this Constitution or by an Ordinance; or
- (b) where the issue of those moneys has been authorised by an Appropriation Ordinance, a Supplementary Appropriation Ordinance, or as provided in section 102 or 103.

(2) No moneys shall be withdrawn from any public fund of St Helena other than the Consolidated Fund, unless the issue of those moneys has been authorised by or under an Ordinance.

Annual Estimates

100.—(1) The Financial Secretary shall cause to be prepared and laid before the Legislative Council before the beginning of each financial year (or as soon as practicable thereafter) Estimates of revenue and expenditure of the Government of St Helena for that financial year.

(2) Notwithstanding subsection (1), the Financial Secretary may cause to be prepared and laid before the Legislative Council—

- (a) fiscal and monetary programmes and plans for economic and social development;
- (b) estimates of revenue and expenditure covering periods exceeding one year; and
- (c) estimates of non-financial outputs.

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Appropriation Bill

101. The Financial Secretary shall introduce into the Legislative Council an Appropriation Bill which includes the heads of expenditure contained in the Estimates referred to in section 100(1) (other than expenditure authorised by this Constitution or any other law) to authorise the issue from the Consolidated Fund of the sums necessary to meet that expenditure and to appropriate those sums for the purposes specified in the Bill.

Authorisation of expenditure in advance of appropriation

102.—(1) Subject to subsections (3) and (4), if the Appropriation Ordinance for any financial year has not come into force by the beginning of that financial year, the Legislative Council may, by resolution, empower the Financial Secretary to authorise, consistently with any law, the withdrawal of moneys from the Consolidated Fund, or any other fund established by or under an Ordinance for a specific purpose, in order to meet expenditure necessary to carry on the services or projects of the Government, until—

- (a) the expiration of four months from the beginning of that financial year; or
- (b) the coming into force of the Appropriation Ordinance for that financial year,

whichever is the earlier.

(2) Any amounts authorised to be withdrawn under subsection (1) shall be set off against the amounts provided in the Appropriation Ordinance in respect of that expenditure.

(3) Any amounts authorised to be withdrawn from the Consolidated Fund under subsection (1) shall, subject to subsection (4), be restricted to one third of the aggregate of the sums provided for in the Appropriation Ordinance and any Supplementary Appropriation Ordinance for the previous financial year.

(4) If, by reason of the dissolution of the Legislative Council or because of circumstances certified by the Governor, acting with the approval of a Secretary of State, to be exceptional and beyond his or her control, no Appropriation Ordinance for a financial year has come into force before the expiration of four months from the beginning of that financial year—

- (a) the period of four months from the beginning of that financial year referred to in subsection (1) shall be extended until one month after the Council first meets after the expiry of that period; and
- (b) the fraction of one third referred to in subsection (3) shall be increased to the proportion of the financial year represented by the extended period referred to in paragraph (a).

Special Warrants

103.—(1) The Governor, acting on the recommendation of the Financial Secretary and after consulting the Executive Council, if satisfied that there is an urgent and unforeseen need for expenditure for which no other provision exists, may issue a Special Warrant authorising the Financial Secretary to make payments to meet that expenditure out of the Consolidated Fund, up to the amount specified in the warrant; and such warrant shall constitute an appropriation of that amount.

(2) Notification of every Special Warrant shall be laid before the Legislative Council by the Financial Secretary on the first sitting day not less than ten days after the date of its issue.

Withdrawal Warrants

104.—(1) The Governor, acting on the recommendation of the Financial Secretary and after consulting the Executive Council, if satisfied that financial exigencies so require, may issue a

Withdrawal Warrant authorising the limitation or suspension of appropriated expenditure, to the extent specified in the warrant.

(2) Notification of every Withdrawal Warrant shall be laid before the Legislative Council by the Financial Secretary on the first sitting day not less than ten days after the date of its issue.

Supplementary Estimates

105. If in the course of any financial year it is found that the amount appropriated for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated, a supplementary Estimate showing the sums required shall be laid before the Legislative Council by the Financial Secretary; and the heads of expenditure contained in that Estimate shall be included in a Bill, to be known as a Supplementary Appropriation Bill, which shall be introduced into the Legislative Council to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified in the Bill.

Excess expenditure

106.—(1) Where at the close of accounts for any financial year it is found that moneys have been expended on any expenditure vote in excess of the amount appropriated for it or for a purpose for which no moneys have been appropriated, the amount of the excess expended, or not appropriated, as the case may be, shall be included in a statement of expenditure in excess which shall be laid before the Legislative Council and referred to the Public Accounts Committee.

(2) The Public Accounts Committee shall report to the Legislative Council on a statement of expenditure in excess referred to it under subsection (1) within six months after the statement is referred to it.

(3) On receiving any report of the Public Accounts Committee issued under subsection (2) the Legislative Council may, by resolution, allow the excess or the amount expended but not appropriated to stand charged to public funds.

Lapse of appropriations

107. The appropriations made by the Appropriation Ordinance or any Supplementary Appropriation Ordinance or by a Special Warrant issued under section 103 for any financial year shall lapse at the end of that financial year, unless otherwise provided by Ordinance.

Public debt

108.—(1) All debt charges for which the Government of St Helena is liable shall be a charge on the Consolidated Fund.

(2) For the purposes of this section, debt charges include interest, the repayment or amortisation of debt, and the costs, charges and expenses incidental to the management of debt.

Annual statement of accounts

109.—(1) The Financial Secretary shall, as soon as practicable after the end of each financial year, and in accordance with such other requirements as may be prescribed by a law—

- (a) cause to be prepared for submission to the Chief Auditor a statement of accounts reflecting the financial operations of the Consolidated Fund and any other public fund or account for that financial year (in this Constitution referred to as the “annual statement of accounts”); and
- (b) submit the annual statement of accounts to the Chief Auditor.

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(2) The Chief Auditor, in accordance with such other requirements as may be prescribed by a law, shall audit the annual statement of accounts within six months of receiving it (or such longer period as the Governor may authorise in exceptional circumstances), and shall return it, together with the Chief Auditor's report and annual management letter, to the Financial Secretary.

(3) The Financial Secretary shall lay the audited annual statement of accounts and its attachments received under subsection (2) before the Legislative Council on its next sitting day not less than ten days after receiving them.

The Chief Auditor

110.—(1) There shall be a Chief Auditor for St Helena.

(2) Power to make appointments to the office of Chief Auditor is vested in the Governor, acting in his or her discretion and with the approval of a Secretary of State.

(3) The Chief Auditor shall be appointed for the term specified in the instrument of appointment.

(4) Power to remove the Chief Auditor from office is vested in the Governor, acting in accordance with subsections (5) to (7).

(5) The Governor shall remove the Chief Auditor from office if—

- (a) the Chief Auditor is found guilty of a criminal offence carrying a penalty of more than six months' imprisonment regardless of whether a lesser sentence is imposed; or
- (b) the Chief Auditor becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors, or otherwise makes an assignment of remuneration for the benefit of creditors.

(6) If the Legislative Council by resolution addressed to the Governor resolves that the Chief Auditor is unable to perform the functions of his or her office due to misconduct, incapacity or incompetence—

- (a) the Governor shall appoint a tribunal which shall consist of a chairman and two other members; but the chairman and at least one of the other members shall be a serving or former judge of a superior court in some part of the Commonwealth or in Ireland; and
- (b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor and advise the Governor whether or not the Chief Auditor should be removed from office for misconduct, incapacity or incompetence.

(7) If the tribunal appointed in accordance with subsection (6) advises the Governor that the Chief Auditor should be removed from office then the Governor shall remove him or her from office.

(8) If the question of removing the Chief Auditor from office has been referred to a tribunal under subsection (6), the Governor, acting in his or her discretion, may suspend the Chief Auditor from performing the functions of that office and may at any time revoke such suspension, and in any case such suspension shall cease to have effect if the tribunal advises the Governor that the Chief Auditor should not be removed from office.

(9) The terms and conditions of employment or engagement including the remuneration of the Chief Auditor shall be set from time to time by a resolution of the Legislative Council.

(10) The remuneration of the Chief Auditor shall not be diminished during his or her continuance in office, and shall be charged on and paid out of the Consolidated Fund.

Functions of Chief Auditor

111.—(1) In addition to the other functions conferred on the Chief Auditor by this Constitution, the Chief Auditor shall have the following functions—

- (a) to promote public accountability in the public administration of St Helena;

- (b) to act as adviser to the Public Accounts Committee;
- (c) to undertake any function conferred on the Chief Auditor by or under any Ordinance; and
- (d) to do anything incidental or conducive to any of the Chief Auditor's functions.

(2) The Chief Auditor, and any person acting under his or her authority, shall have access to all books, records, reports and other documents relating to the financial operations of the Government of St Helena.

(3) In the exercise of his or her functions, the Chief Auditor, and any person acting under his or her authority, shall act independently and shall not be subject to the direction or control of the Governor, the Executive Council or any other person or authority.

Borrowing or lending by Government of St Helena

112.—(1) Subject to this Constitution, the Government of St Helena may borrow from any source.

(2) The Government of St Helena shall not issue a guarantee or indemnity nor raise a loan on behalf of itself or any other public institution, authority or person except—

- (a) as authorised by or under an Ordinance; and
- (b) in accordance with any borrowing guidelines agreed with Her Majesty's Government in the United Kingdom.

(3) An Ordinance referred to in subsection (2)(a) shall provide that the terms and conditions of the guarantee, indemnity or loan shall be laid before the Legislative Council and shall not come into operation unless they have been approved by a resolution of the Council.

(4) The Financial Secretary shall, at such times as the Legislative Council may determine, cause to be presented to the Council such information concerning any loan as is necessary to show—

- (a) the extent of the total indebtedness by way of principal and accumulated interest;
- (b) the provision made for servicing or repayment of the loan; and
- (c) compliance with the terms of the loan.

(5) The Legislative Council may, by resolution, authorise the Government of St Helena to enter into an agreement for giving a loan out of any public fund or public account.

(6) An agreement entered into pursuant to subsection (5) shall be laid before the Legislative Council and shall not come into operation unless it has been approved by the Council by resolution.

(7) For the purposes of this section, the expression "loan" includes any money lent or given to or by the Government of St Helena on condition of return or repayment and any other form of borrowing or lending in respect of which —

- (a) moneys from the Consolidated Fund or any other public fund may be used for payment or repayment; or
- (b) moneys from any fund by whatever name called, established for the purposes of payment or repayment whether in whole or in part and whether directly or indirectly, may be used for payment or repayment.

(8) The Legislature may by law exempt any category of loan from subsections (2)(a), (3), (5) and (6), subject to such conditions as it may so prescribe.