



ST HELENA

REVISED EDITION OF THE LAWS, 2017

CONSTITUTIONAL & ADMINISTRATIVE LAW

ELECTIONS ORDINANCE, 2009¹

*Ordinance 7 of 2009
In force 1 September 2009
Amended by Ordinances 4 of 2013, 10 of 2017*

*Subsidiary legislation:
ELECTIONS REGULATIONS, 2009
Legal Notice 24 of 2009
In force 1 September 2009
Amended by L.N. 26 /2013*

REGISTRATION OF ELECTORS REGULATIONS, 2009
*Legal Notice 25 of 2009
In force 1 September 2009
Amended by L.N. 2/2011; L.N. 25/2013; L.N. 12/2017*

ELECTIONS (ELECTORAL DISTRICTS) REGULATIONS, 2013
Legal Notice 27 of 2013

Also included:
PROVISION MADE BY GOVERNOR FOR ENABLING PUBLIC OFFICERS TO BE QUALIFIED TO BE ELECTED, 2016
Gazette Notice No. 135 of 4 August 2016 (made under the Constitution)

ELECTIONS ORDINANCE, 2009

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

1. Short title
2. Interpretation
3. Administration

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 this text is authoritative and is the sole authentic edition in respect of the law contained in it as at 1 November 2017.

PART II
QUALIFICATION AND DISQUALIFICATION OF ELECTORS AND CANDIDATES

4. Eligibility to be registered as elector
5. Nomination of candidates

PART III
ELECTIONS

6. Writs of election
7. Failure to comply with provisions of Ordinance
8. Elector not bound to disclose for whom he or she voted
9. Employers to allow employees period for voting
10. Cost of elections
11. Power to vary dates
12. Absent or sick electors

PART IV
ELECTION PETITIONS

13. Power to question elections by petition
14. Presentation of petition
15. Relief which may be claimed
16. Trial of election petitions
17. Candidate guilty of corrupt or illegal practice, etc.
18. Rules of court

PART V
OFFENCES

19. Offences in connection with registration and election
20. Duty of secrecy
21. Personation
22. Treating
23. Undue influence
24. Bribery
25. Punishment and incapacities for corrupt practice
26. Offences by election officers

PART VI
GENERAL

27. Orders for production of documents
28. Governor in Council may make regulations
29. Punishment of offences
30. *Omitted*

AN ORDINANCE to provide for the election of members to the Legislative Council of St Helena and for matters connected therewith and incidental thereto.

PART I PRELIMINARY

Short title

1. This Ordinance may be cited as the Elections Ordinance, 2009.

Interpretation

2. In this Ordinance, unless the context requires otherwise—
 - “**candidate**” means a person who is nominated as a candidate for election as a Member;
 - “**constituency**”² means an area designated as a separate constituency by regulations made under section 3(3)(a) or, if there is no such designation, the single constituency referred to in section 50(1) of the Constitution;
 - “**corrupt practice**” means any offence so designated by section 25;
 - “**Council**” means the Legislative Council established by the Constitution;
 - “**election officer**” includes a Returning Officer, Registration Officer, Presiding Officer, clerk or other person having any duty to perform under this Ordinance;
 - “**elector**” means a person whose name is on the relevant register and, in relation to the conduct of any poll, includes (unless the context requires otherwise) a proxy for an elector;
 - “**electoral district**” means an area designated as such by regulations made under section 3(3)(b);
 - “**illegal practice**” means any offence so designated by regulations made under section 28;
 - “**Member**” means an elected member of the Council;
 - “**proxy**” means a person who is authorised, in accordance with section 12, to vote on behalf of another elector;
 - “**Register**” means a register of electors maintained pursuant to regulations made under section 3(3)(c).

Administration

3. (1) The Governor must by notice in the *Gazette* appoint—
 - (a) a Registration Officer to be responsible for the maintenance of a register or registers of electors for the purposes of this Ordinance; and
 - (b) a Returning Officer to be responsible for managing the conduct of every election held under this Ordinance.
- (1A) The Governor may in the same manner appoint such Assistant Registration Officers and Assistant Returning Officers as the Governor thinks fit.
- (2) An Assistant Registration Officer has all the powers and may perform all the duties of the Registration Officer and an Assistant Returning Officer has all the powers and may perform all the duties of the Returning Officer and any reference in this Ordinance to the Registration Officer or the Returning Officer, unless the context requires otherwise, is deemed to include a reference to an Assistant Registration Officer or Assistant Returning Officer, as the case may be.

² No designation had been made by 31 December 2016

(3) Subject to the provisions of Constitution and this Ordinance, the Governor in Council may make regulations providing for—

- (a) the division of St Helena into electoral constituencies and the number of Members to be elected by each constituency;
- (b) the division of any constituency into electoral districts for the purpose of determining where polling stations are to be established and the allocation of electors to polling stations;
- (c) the compilation and maintenance of a register or registers of electors; and
- (d) the conduct of elections, including the appointment and duties of officials in connection with them and the manner in which documents used in connection with an election are to be sealed, stored, and destroyed.

(4) Whenever there is a change in the number or description of constituencies or electoral districts, the Governor may by notice in the *Gazette* direct that the Register or Registers of Electors that were in force, in accordance with the regulations made under subsection (3)(c), immediately preceding such change are to be used, with such modifications as may be prescribed in the notice, for the purposes of any election held before the next publication of a new Register (or Registers) of Electors in accordance with the regulations made under subsection (3)(c).

PART II

QUALIFICATION AND DISQUALIFICATION OF ELECTORS AND CANDIDATES

Eligibility to be registered as elector³

4. (1) A person is entitled to be registered as an elector if, and is not entitled to be so registered unless, the person —

- (a) has St Helenian status, as defined in the Immigration Ordinance, 2011;
- (b) has attained the age of 17 years; and
- (c) is, on the date on which the person applies to be registered, both present in St Helena and ordinarily resident in the constituency for which the person applies to be registered.

(2) For the purposes of subsection (1)(c), a person who is not in fact present in St Helena must be treated as being both present and ordinarily resident in St Helena if the person makes a declaration in the prescribed form to the effect that he or she—

- (a) has St Helenian status; and
- (b) is ordinarily resident in St Helena but is absent from St Helena in connection with employment, education, or training (of himself or herself or his or her spouse or life partner) or for the purposes of medical treatment (of himself or herself or his or her spouse or life partner or a dependant).

³ Ordinance 10 of 2017 included the following transitional provision:

“3. Notwithstanding the amendment of section 4(1)(a) of the Elections Ordinance, 2009, by section 2(a) of this Ordinance, any spouse or life partner whose name is included in the Provisional Register of Electors on the date of commencement of this Ordinance, or who applies on or before 24 May 2017 to have his or her name added to the Register, remains entitled to be so registered as an elector until 30 June 2020, provided that such spouse or life partner continues to comply with the other requirements of section 4 of the Elections Ordinance, 2009.”

(2A) Subsection (2) does not apply to a person who has been absent from St Helena for a continuous period of 30 months or for periods exceeding in aggregate 625 days in the preceding 30 months.

- (3) A person is not entitled to be registered as an elector, or to vote, if the person is—
- (a) by virtue of his or her own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;
 - (b) certified to be incapable by reason of mental disorder of managing and administering his or her property and affairs;
 - (c) under sentence of imprisonment (by whatever name called) imposed on him or her by a court in any part of the Commonwealth for a term of at least 12 months, other than a sentence *in lieu* of a fine, imposed on the person by such a court or substituted by a competent authority for some other sentence imposed on the person by such a court; or
 - (d) disqualified for registration as an elector under any law for the time being in force in St Helena relating to offences connected with elections.

(4) For the purpose of subsection (3)(c), 2 or more terms of imprisonment that are required to be served consecutively are to be regarded as a single term of imprisonment for the aggregate period of those terms.

(5) A person is entitled to be registered as an elector in one electoral district only.

Eligibility and nomination of candidates

5. (1) Subject to the provisions of the Constitution and of any other Ordinance, a person is eligible to be nominated as a candidate if, but is not so eligible unless, the person is on the date of nomination—

- (a) registered as an elector in any constituency; and
- (b) over the age of 21 years.

- (2) Every nomination of a candidate must be in the prescribed form and contain—
- (a) the full name of the candidate;
 - (b) the full names and signatures of 2 sponsors, whose signatures must be attested by the Returning Officer or by a Justice of the Peace;
 - (c) the full names and signatures of 5 supporters, whose signatures must be witnessed (and any such person or persons so witnessing may themselves be either sponsors or supporters); and
 - (d) a declaration or declarations of conformity with subsection (4).

(3) A person is eligible to be a sponsor or supporter of a candidate if, and is not so eligible unless, he or she is registered as an elector in the constituency to which the nomination relates.

(4) A person may not, at any election, act as a supporter (which, in this subsection, includes ‘sponsor’) of more candidates than the number of seats to be filled in the election.

(5) Every nomination paper must be accompanied by a statement in writing, signed by the person nominated, that he or she consents to the nomination, and must be delivered to the Returning Officer not later than noon on the last day appointed for the nomination of candidates.

(5A) A candidate may, not later than noon on the last day appointed for the nomination of candidates, withdraw from his or her candidature by giving to the Returning Officer notice to that effect in writing signed by the candidate.

(6) Nomination papers –

- (a) on which are inscribed the names of more than one candidate;
- (b) which are not subscribed and attested as required by this section;
- (c) which are not accompanied by the statement in writing required by subsection (5);

or

(d) which are delivered after the period prescribed by that subsection, must be rejected and the nominations in any such nomination papers are void.

PART III ELECTIONS

Writs of election

6. (1) The Governor must, for the purpose of—

- (a) every general election of Members; and
- (b) the election of Members to fill vacancies caused by death, resignation or otherwise,

issue writs of election under the public seal directed to the Returning Officer.

(2) A writ of election must specify—

- (a) the number of Members to be elected in the constituency to which the writ relates;
- (b) the last day and time at which the Returning Officer is to receive the nominations of candidates;
- (c) the day on which and the place or places at which a poll is to be taken; and
- (d) the day on which the writ is returnable to the Governor.

(3) The Chief Secretary must cause to be published in the *Gazette*, as soon as is practicable after the date of the writ, a copy of every writ of election issued by the Governor.

(4) Subject to subsection (4A), the Returning Officer must upon receipt of a writ of election proceed to hold the election directed by it in accordance with the provisions of this Ordinance and the regulations made under it.

(4A) If a duly nominated candidate dies before the poll has commenced –

- (a) the Returning Officer must, upon being satisfied as to the death, countermand the notice of the poll and report the matter to the Governor; and
- (b) the Governor must issue a fresh writ of election; but
- (c) no further nomination is required in respect of a candidate who has been duly nominated at the time of the countermanding of the poll).

- (5) Every poll must open at 10.00 a.m. and close at 7:00 p.m. on the same day.

Failure to comply with provisions of Ordinance

7. An election is not invalid because of a failure to comply with any provision of this Ordinance relating to elections if it appears that –

- (a) the election was conducted in accordance with the principles laid down in that provision; and
- (b) the failure did not affect the result of the election.

Elector not bound to disclose for whom he voted

8. An elector must not, in any legal proceedings, be required to state for whom he or she voted.

Employers to allow employees period for voting

9. (1) All employers must, on polling day, allow to every person in their employment who is an elector a reasonable period for voting and no employer may make any deduction from the pay or other remuneration of any person or impose upon or exact from such a person any penalty because of the person's absence during that period.

(2) Any employer who directly or indirectly refuses or by intimidation, undue influence, or in any other manner, interferes with the granting to any elector in the employer's employment, of a reasonable period for voting, as in this section provided, commits an offence.

Penalty: A fine of £1,000 or imprisonment for 6 months, or both.

Cost of elections

10. All expenses properly incurred by any public officer in connection with the registration of electors, or with any election, under or in connection with the provisions of this Ordinance are to be charged upon the Consolidated Fund without further appropriation.

Power to vary dates

11. The Governor may, by Order published in the *Gazette*, vary all or any dates or times mentioned in this Ordinance or in any writ of election or order issued under it.

Absent and sick electors

12. (1) Subject to the following provisions an elector may make application to the Returning Officer to be treated as an absent or a sick elector on either of the following grounds—

- (a) that the elector at the date of the election is likely to be absent from St Helena; or
- (b) that, by reason of illness or physical incapacity, it is not practicable for the elector to attend in person at the polling station.

- (2) An application under subsection (1)—

- (a) must be received by the Returning Officer at least 48 hours before the time specified for the opening of the poll; and
- (b) must nominate a person who is registered as an elector in the same electoral district to vote as a proxy on behalf of the absent or sick elector.

(2A) No person may be appointed to be proxy to vote, or vote, on behalf of more than one absent or sick elector.

(3) Regulations made under section 28 may contain such further provisions as the Governor in Council considers necessary or expedient as to the procedures for or in relation to applications under this section and in relation to voting by proxies.

- (4)** It is an offence for a person –
- (a) without proper cause, to apply for a ballot paper to vote by proxy for a sick or absent elector;
 - (b) knowingly to seek or allow himself or herself to be nominated as proxy for more than one absent or sick elector; or
 - (c) to sign or make any declaration on any authority to vote as proxy which is false to the person's knowledge or belief.

Penalty: A fine of £500 or imprisonment for 3 months, or both.

PART IV ELECTION PETITIONS

Power to question elections by petition

13. (1) An election may be questioned by a petition (hereinafter referred to as “an election petition”) on the ground—

- (a) that offences under this Ordinance have been committed in reference to the election for the purpose of promoting or procuring the election of a person at the election and have so extensively prevailed that they may reasonably be supposed to have affected the result;
- (b) that the election was avoided by corrupt practices or offences against this Ordinance committed at the election;
- (c) that the person whose election is questioned was at the time of the election disqualified; or
- (d) that the person whose election is questioned was not duly elected in accordance with the provisions of this Ordinance.

(2) An election must not be questioned except by an election petition.

Presentation of petition

14. (1) An election petition may be presented to the Supreme Court by one or more of the following persons—

- (a) a person who voted as an elector, or had a right so to vote, at the election to which the petition relates;
- (b) a person claiming to have had a right to be elected or returned at the election;
- (c) a person alleging himself or herself to have been a candidate at the election; or
- (d) the Attorney General.

(2) An election petition must be signed by the petitioner or all the petitioners if there is more than one.

(3) Subject to subsection (3A), an election petition must be presented within 14 days after the day on which the result of the election has been declared.

(3A) An election petition complaining of the election on the grounds of any corrupt or illegal practice and specifically alleging that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on the person's account or with the person's knowledge and agreement, in pursuance or in furtherance of such corrupt or illegal practice, may be presented at any time within 28 days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.

(4) At the time of presentation of an election petition, or within 3 days afterwards, the petitioner must deposit the sum of £50 with the Registrar of the Supreme Court, to be applied towards the payment of all costs, charges, and expenses that may become payable by the petitioner in relation to the proceedings on the petition.

(5) If the costs, charges and expenses amount in total to less than £50, the unexpended balance must be refunded to the petitioner.

Relief which may be claimed

15. (1) All or any of the following reliefs to which the petitioner may be entitled may be claimed in an election petition:

- (a) a declaration that the election is void;
- (b) a declaration that the return of the person elected was undue;
- (c) a declaration that any candidate was duly elected and ought to have been returned.

(2) A declaration that the election of a candidate was void or undue does not affect the validity of the election of other candidates returned in the same election.

Trial of election petitions

16. (1) An election petition must be tried in open court.

(2) At the conclusion of the trial of an election petition the court must decide –

- (a) whether the person whose return or election is complained of was duly returned or elected;
- (b) whether some other specified person was duly returned or elected; or
- (b) whether the election was void,

and must certify its decision to the Governor.

(3) Upon a certificate being given under subsection (2) –

- (a) the decision is final and the return must be confirmed or altered in accordance with it; or
- (b) the Governor must within one month of the decision by notice in the *Gazette* order

the holding of an election in the constituency concerned, as the case may require.

Candidate guilty of corrupt or illegal practice, etc.

17. (1) Subject to subsection (2), if upon the trial of an election petition the court finds that a candidate who has been elected was personally guilty or guilty by an agent of any corrupt or illegal practice, that candidate's election is void.

(2) If upon the trial of an election petition the court finds that a candidate at an election has been guilty by an agent of the offence of treating, undue influence or illegal practice in reference to the election, and the candidate proves to the court that—

- (a)* no corrupt or illegal practice was committed at the election by the candidate or with his or her knowledge or consent, and the offences committed were committed without the approval or connivance of the candidate;
- (b)* all reasonable means for preventing the commission of corrupt and illegal practices were taken by and on behalf of the candidate;
- (c)* the offences committed were of a trivial, unimportant and limited character; and
- (d)* in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his or her agent,

then, if the candidate was elected, the election of that candidate is not void because of the offences found to have been committed; and, whether elected or not, the candidate is not subject to any incapacity under section 25.

Rules of court

18. The Chief Justice may make rules for the regulation of the practice, procedure and costs of election petitions and the trial of them.

PART V OFFENCES

Offences in connection with registration and election

- 19. (1)** It is an offence for a person—
- (a)* knowingly to register himself or herself or cause or permit himself or herself to be registered as an elector for an electoral district when registered in another electoral district;
 - (b)* to forge or fraudulently deface or destroy any nomination paper or deliver a nomination paper to a Returning Officer knowing it to be wholly or partly forged;
 - (c)* to vote or induce or procure any other person to vote knowing that he or she or that other person is prohibited from voting;
 - (d)* to forge or counterfeit or fraudulently deface or destroy any ballot paper or the official mark on any ballot paper;
 - (e)* without due authority to supply a ballot paper to any person;
 - (f)* not being authorised to do so by this Ordinance, to make any mark on any ballot paper delivered to any person other than himself or herself;
 - (g)* fraudulently to take any ballot paper out of the polling station; or
 - (h)* without due authority to destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers then in use for the purpose of the election.

Penalty: A fine of £1,000 or imprisonment for 12 months, or both.

(2) Any person who attempts to commit an offence specified in this section is liable to the penalty prescribed for that offence.

(3) In any prosecution for an offence in relation to ballot boxes, nomination papers, ballot papers or other things in use at an election, such ballot boxes, nomination papers, ballot papers or other things are deemed to be the property of the Returning Officer.

Duty of secrecy

20. (1) Every person in attendance at a polling station –
 (a) must maintain and aid in maintaining the secrecy of the voting therein; and
 (b) must not, except for a purpose authorised by law, communicate to any person before the poll is closed any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that polling station or as to the official mark.

(1A) It is an offence for a person –
 (a) to interfere with or attempt to interfere with an elector when marking his or her ballot paper or otherwise to attempt to obtain in a polling station any information as to the candidate for whom any elector is about to vote or has voted; or
 (b) to communicate at any time to any person any information obtained in a polling station as to the candidate for whom any elector is about to vote or has voted, or as to the number on the back of the ballot paper given to any elector.

Penalty: A fine of £1,000 or imprisonment for 12 months, or both.

(2) Every person in attendance at the counting of the votes must maintain and aid in maintaining the secrecy of the voting; and it is an offence for any person to attempt to ascertain at such counting the number on the back of any ballot paper or communicate any information obtained at such counting as to the candidate for whom any vote is given in any ballot paper.

Penalty: A fine of £1,000 or imprisonment for 12 months, or both.

(3) It is an offence for a person directly or indirectly to induce any elector to display his or her ballot paper after the elector has marked it so as to make known to any person the name of the candidate for or against whom he or she has marked it.

Penalty: A fine of £1,000 or imprisonment for 12 months, or both.

(4) *Omitted*

Personation

21. (1) Subject to subsections (1A) and (1B), the offence of personation is committed by any person who, otherwise than is permitted by the provisions for proxy voting—

(a) applies for a ballot paper in the name of any other person (whether that name be of a person living, dead or fictitious); or

- (b) having voted once at an election applies at the same election for a ballot paper in his own name.

Penalty: As prescribed in section 25.

(1A) It is not an offence for a person who is an authorised proxy to apply for a ballot paper for and on behalf of the elector for whom the person is or has been proxy unless at the time the person so applies the person knows that—

- (a) he or she has no authority to do so; or
 (b) the elector for whom he or she is the authorised proxy has already applied for and been given a ballot paper to enable that elector to vote on his or her own behalf.

(1B) It is not an offence for an elector who has been granted the right to vote by proxy to apply to vote in person unless at the time the elector so applies he or she knows that his or her authorised proxy has already applied for and been given a ballot paper on behalf of the elector.

(2) If at the time a person applies for a ballot paper, or after he or she has applied for a ballot paper, and before he or she has left the polling station, a candidate or his or her polling agent declares to the Presiding Officer that such person has reasonable cause to believe that the applicant has committed an offence of personation, and undertakes to substantiate the charge in a court of law, the Presiding Officer may order a police officer to arrest the applicant, and the order of the Presiding Officer is sufficient authority for the police officer to do so.

(3) A person against whom a declaration is made under subsection (2) must not, because of that declaration, be prevented from voting.

Treating

22. (1) The offence of treating is committed by any person who corruptly by himself or herself or by any other person either before, during or after an election directly or indirectly gives or provides, or pays wholly or in part the expenses of giving or providing any food, drink, entertainment or provision to or for any person –

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election; or
 (b) on account of such person or any other person having voted or refrained from voting at such election.

Penalty: As prescribed in section 25

(2) An elector who corruptly accepts or takes any such food, drink, entertainment or provision commits the offence of treating.

Penalty: As prescribed in section 25.

Undue influence

23. (1) The offence of undue influence is committed by any person who directly or indirectly by himself or herself or by any other person on his or her behalf makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to

inflict by himself or herself or by any other person any injury, damage, harm or loss upon or against any person –

- (a) in order to induce or compel such person to vote or refrain from voting; or
- (b) on account of such person having voted or refrained from voting at an election.

(2) Any person who by abduction, duress or any fraudulent contrivance impedes or prevents the free exercise of the franchise of any elector or thereby compels, induces or prevails upon any elector either to give or refrain from giving his or her vote at an election commits the offence of undue influence.

Penalty: As prescribed in section 25.

Bribery

24. The offence of bribery is committed by any person who—

- (a) directly or indirectly by himself or herself or by any other person on his or her behalf gives, lends, or agrees to give or lend, or offers, promises or promises to procure or to endeavour to procure, any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act on account of such elector having voted or refrained from voting at an election;
- (b) directly or indirectly by himself or herself or by any other person on his or her behalf gives or procures or agrees to give or procure, or offers, promises or promises to procure or to endeavour to procure any office, place or employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act on account of any elector having voted or refrained from voting at an election;
- (c) directly or indirectly by himself or herself or by any other person on his or her behalf makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to procure or endeavour to procure the return of any person as an elected Member, or the vote of any elector at an election;
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person as an elected Member or the vote of any elector at an election;
- (e) advances or pays or causes to be paid any money to or to the use of any other person with the intent that such money or any part of it will be expended in bribery at an election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election;
- (f) before or during an election, directly or indirectly by himself or herself or by any other person on his or her behalf receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or herself or for any person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at an election; or
- (g) after any election, directly or indirectly by himself or herself or by any other person on his or her behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at an election.

Penalty: As prescribed in section 25.

Punishment and incapacities for corrupt practice

- 25. (1)** A corrupt practice is committed by any person who—
- (a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation;
 - (b) commits the offence of treating, undue influence or bribery;
 - (c) knowingly makes or publishes, before or during any election, for the purpose of affecting the return of any candidate, any false statement of fact in relation to the personal conduct or character of that candidate;
 - (d) knowingly makes or publishes, before or during an election, for the purpose of promoting or procuring the election of any candidate, any false statement of the withdrawal of any other candidate at that election;
 - (e) appears before a Presiding Officer at any election and produces an authority to vote as a proxy which to the person's knowledge is false; or
 - (f) having produced before a Presiding Officer at any election an authority to vote as proxy makes any declaration which is to the person's knowledge false.

Penalty: A fine of £2,000 and imprisonment for 18 months, or both.

(2) A person convicted of a corrupt practice may not, for 7 years after the date of the conviction, be registered as an elector or vote at an election of a Member or be elected a Member, or if elected before conviction, retain his or her seat as a Member.

Offences by election officers

- 26.** It is an offence for an election officer —
- (a) to make in any record, return or other document which the officer is required to keep or make under the provisions of this Ordinance any entry which the officer knows or has reasonable cause to believe to be false or does not believe to be true;
 - (b) to permit any person whom the officer knows or has reasonable cause to believe not to be a blind person or an incapacitated person or an illiterate person to vote in the manner provided for blind persons or incapacitated persons or illiterate persons, as the case may be;
 - (c) to refuse to permit any person whom the officer knows or has reasonable cause to believe to be a blind person or an incapacitated person or an illiterate person to vote in the manner provided for blind persons or incapacitated persons or illiterate persons, as the case may be;
 - (d) wilfully to prevent any person from voting at the polling station at which the officer knows or has reasonable cause to believe that person to be entitled to vote;
 - (e) wilfully to reject or refuse to count any ballot paper which the officer knows or has reasonable cause to believe to be validly cast for any candidate; or
 - (f) wilfully to count any ballot paper as being cast for any candidate which the officer knows or has reasonable cause to believe not to have been validly cast for that candidate.

Penalty: A fine of £2,000 or imprisonment for 18 months, or both.

PART VI GENERAL

Orders for production of documents

27. (1) The Chief Justice may make an order that any ballot paper or other document relating to an election, which has been sealed up in pursuance of any regulations made under this Ordinance, be inspected, copied or produced at such time and place and subject to such conditions as the Chief Justice may deem expedient.

(2) The Chief Justice must not make an order under subsection (1) unless satisfied that the inspection, copy or production is required for the purpose of instituting or maintaining a prosecution or an election petition in connection with the election.

Governor in Council may make regulations

28. (1) The Governor in Council may make regulations generally for carrying into effect the provisions of this Ordinance, and (without limiting that power) such regulations may, in particular, provide for—

- (a)* the fees to be paid in connection with anything done under the provisions of this Ordinance;
- (b)* the appointment and duties of election agents and sub-agents;
- (c)* the expenses that may be incurred by candidates;
- (d)* defining and imposing penalties for illegal practices and other offences.

(2) Regulations made under this section or section 3 may make provision for authorising the arrest of persons suspected of committing offences against such regulations or against this Ordinance.

Punishment of offences

29. A person who commits an offence against this Ordinance, or against any regulations made under it, for which no other penalty is provided, is liable on conviction to a fine of £1,000 or to imprisonment for 6 months, or to both.

Repeal and transitional provisions

30. *Omitted*

ELECTIONS ORDINANCE, 2009

ELECTIONS REGULATIONS, 2009

(Sections 3 and 28)

TABLE OF CONTENTS

1. Citation and commencement
2. Presiding Officers and Clerks
3. Polling stations
4. Procedure on close of nominations
5. The poll

6. Voting by blind electors, etc.
 7. Sick or absent voters
 8. Method of voting
 9. Questions to voters
 10. Spoilt ballot papers
 11. Tendered ballot papers
 12. Polling agents and counting agents
 13. Behaviour of persons in polling stations
 14. Ballot boxes
 15. Close of poll
 16. The count
 17. Votes excluded from count
 18. Recount
 19. Declaration of result
 20. Preservation of records
 21. Forms: Schedule
- Schedule: Forms

Citation and commencement

1. These Regulations may be cited as the Elections Regulations, 2009, and come into force on publication.

Presiding Officers and Clerks

2. (1) The Returning Officer may (with the consent of the Governor as to numbers and remuneration) from time to time appoint such Presiding Officers, Assistant Presiding Officers, and Clerks as are necessary for the conduct of any election.

(2) The Returning Officer must ensure that each polling station is attended by a Presiding Officer and at least one Assistant Presiding Officer or Clerk.

(3) An Assistant Presiding Officer has all the powers and may perform all the duties of a Presiding Officer; and any reference in these Regulations to a Presiding Officer is, unless the context requires otherwise, deemed to include a reference to an Assistant Presiding Officer.

Polling stations

3. The Returning Officer must, at each election, make such arrangements as may from time to time be approved by the Governor for ensuring that a Polling Station is available throughout the hours of the poll in each of the electoral districts established pursuant to section 3(3) of the Ordinance, and in each constituency which is not divided into electoral districts.

Procedure on close of nominations

4. (1) During the period of one hour after the close of nominations, the Returning Officer must permit the candidates, and their sponsors and supporters, to examine the nomination papers received by the Returning Officer for the constituency concerned,

which papers must be in the form set out in Form A of the Schedule, and to make representations to the Returning Officer as to the validity of any nomination.

(2) The Returning Officer must, with the least possible delay after the expiry of the said period, decide on the validity of every nomination and inform the candidates concerned of his or her decision; and the decision of the Returning Officer, if he or she disallows any objection, is final; but, if the Returning Officer allows an objection, his or her decision is subject to reversal on an election petition

(3) As soon as is practicable after the close of nominations, the Returning Officer must cause a list of persons duly nominated to be published in the *Gazette*, and in any other manner the Governor may approve.

(4) If the number of candidates does not exceed the number of vacancies to be filled, the Returning Officer must include in the notice published under paragraph (3) a declaration that the candidates named in it stand duly elected as Members of the Legislative Council.

(5) If the number of candidates exceeds the number of vacancies to be filled, the Returning Officer must include in the notice published under paragraph (3) a declaration that a poll is to be taken and a statement of the place or places at which, and the date and times during which, the poll is to be taken.

The poll

5. (1) Except as is expressly otherwise provided in the Ordinance or in these Regulations, all persons voting as electors must do so in person.

(2) Every ballot paper and counterfoil for use in a poll must be in Form B in the Schedule and—

- (a) be capable of being folded;
- (b) contain a list of candidates, described as in their respective nomination papers and arranged alphabetically in the order of their surnames (and, if there are 2 or more candidates with the same surname, in alphabetical order of their first, other or principal other name);
- (c) have a unique number printed on the back, with the same number printed on the front of the counterfoil.

Voting by blind electors, etc.

6. (1) In respect of any elector who is blind or makes an oral declaration of inability to read, the Presiding Officer must cast the vote of such elector (if requested by the elector so to do), in the manner directed by the elector, having made such arrangements as may be necessary (including, if necessary, temporarily excluding other persons from the polling station) to ensure the secrecy of the vote.

(2) The Presiding Officer must write, in the register of electors opposite the serial number and name of the elector, a statement that the ballot paper was marked by the Presiding Officer and the reason.

Sick or absent voters

7. (1) An application under section 12 of the Ordinance must be made to the Returning Officer in Form C in the Schedule.

(2) The Returning Officer may, with the approval of the Governor, make arrangements for applications to be received by fax or by electronic mail provided that the signature of the applicant appears on the faxed or electronic copy of the application.

(3) If the Returning Officer is satisfied that the application complies with the conditions specified in the Ordinance, he or she must issue an authority, in Form D in the Schedule, authorising the nominated proxy to vote on behalf of the absent or sick elector.

(4) The Returning Officer must compile a list of authorities issued in respect of each polling station, and give a copy to the Presiding Officer at each polling station; but the absence of an entry from the list is not in itself a ground for refusing to accept the authority tendered if the Presiding Officer is otherwise satisfied that the authority presented to him or her is authentic.

(5) The proxy –

- (a)* must attend in person at the polling station at which the voter would be entitled to vote and produce to the Presiding Officer the authority in Form D in the Schedule provided for the proxy by the Returning Officer; and
- (b)* if the Presiding Officer is satisfied as to the authenticity of the authority and as to the identity of the proxy, and if the proxy signs the declaration at the bottom of Form D, will be issued with a ballot paper.

(6) After issuing a ballot paper in accordance with paragraph (5), the Presiding Officer must retain the authority and return it with other election papers in accordance with regulation 15.

Method of voting

8. (1) Except as provided in regulation 6, every voter (or proxy) must obtain from the Presiding Officer a ballot paper bearing the names of candidates and, in some convenient secret place within the polling station, mark an 'X' against the names of not more candidates than the seats to be filled in the election.

(2) Before handing a ballot paper to an elector, the Presiding Officer must —

- (a)* mark the ballot paper on both sides with the official mark;
- (b)* call out the serial number, name and description of the elector as stated in the register of electors;
- (c)* mark the serial number of the elector on the counterfoil of the ballot paper; and
- (d)* place a mark in the register of electors against the serial number of the elector, to denote that a ballot paper has been delivered, but without showing the number of the particular ballot paper that has been delivered.

(3) After marking his or her ballot paper, the elector must fold the ballot paper in such a way that his or her vote cannot be seen but the official mark is visible, show the official mark to the Presiding Officer, then place the ballot paper in the locked ballot box

provided.

(4) Each elector must vote without undue delay and leave the polling station as soon as he she has placed his or her ballot paper in the ballot box.

(5) The Presiding Officer must –

- (a) before the opening of the poll, ensure that the arrangements in the polling station are such as to ensure that a sufficient number of convenient and secret places is available for the purposes of paragraph (1); and
- (b) ensure that such arrangements continue throughout the hours of the poll.

Questions to voters

9. (1) The Presiding Officer may, and if so requested by a candidate or his or her polling agent must, require any person applying for a ballot paper, at the time of application, but not afterwards, to answer the following questions, or either of them, that is to say—

- (a) “Are you the person registered in the register of electors now in force as follows (*read the whole entry from the register*)?”;
- (b) “Have you already voted at the present election?”.

(2) A ballot paper must not be delivered to any person required to answer the above questions, or either of them, unless the person has answered the question or questions to the satisfaction of the Presiding Officer.

(3) Except as provided by this Regulation, no enquiry is permitted as to the right of any person to vote.

Spoilt ballot papers

10. An elector who has inadvertently dealt with his or her ballot paper in such a manner that it cannot be used as a ballot paper may, on satisfying the Presiding Officer as to his or her inadvertence and delivering the ballot paper to the Presiding Officer, obtain another ballot paper. The Presiding Officer must cancel the ballot paper so spoilt and retain it in a separate packet.

Tendered ballot papers

11. (1) If a person representing himself or herself to be an elector named in the register of electors applies for a ballot paper after another person has voted as that elector, the applicant, after making a declaration in Form E in the Schedule, is entitled to mark a ballot paper different in colour from other ballot papers, (hereinafter referred to as “a tendered ballot paper”).

(2) A tendered ballot paper must, instead of being put into the ballot box, be given to the Presiding Officer who must –

- (a) endorse it with the name of the elector and his or her number in the register of electors; and
- (b) set it aside in a separate packet.

(3) The name of the elector and his or her number in the register of electors must be entered in a list provided for the purpose by the Returning Officer.

Polling agents and counting agents

12. (1) Each candidate may, before the commencement of the poll, appoint –
- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
 - (b) counting agents to attend at the counting of the votes.

(2) The number of such appointments made by each candidate must not exceed one polling agent for each polling station and 2 counting agents for each place where the votes are to be counted; but any such polling agent is not limited to a single polling station and may attend different polling stations for the purpose set out in paragraph (1).

(3) The candidate must, not later than 48 hours before the time fixed for the poll to commence, give to the Returning Officer notice in writing of the appointment of polling agents and counting agents, stating the names and addresses of the persons appointed.

Behaviour of persons in polling stations

13. (1) The Presiding Officer must regulate the number of electors to be admitted to the polling station at any time and must exclude all other persons except—
- (a) the candidates and their polling agents;
 - (b) any assistant Presiding Officer or clerk appointed to attend at the polling station to assist the Presiding Officer;
 - (c) police officers on duty;
 - (d) the Returning Officer; and
 - (e) electors, and the companions of incapacitated electors.

(2) No person other than the Returning Officer, Presiding Officer, Assistant Presiding Officer, or clerk may communicate with an elector at a polling station, and the Presiding Officer may order any other person so communicating to leave the polling station.

(3) Any person who misconducts himself or herself in a polling station or fails to comply with the lawful directions of the Presiding Officer may immediately, by order of the Presiding Officer, be removed from the polling station by a police officer in or near the polling station and the person so removed must not, without the permission of the Presiding Officer, enter again the polling station during that day.

- (4) It is an offence for a person to –
- (a) fail to comply with an order of the Presiding Officer under this regulation; or
 - (b) enter a polling station without lawful reason to do so.

Penalty: As prescribed in section 29 of the Ordinance.

(5) The order of the Presiding Officer is sufficient authority for any police officer to arrest a person committing an offence under sub-regulation (4).

Ballot boxes

14. (1) Every ballot box must be so constructed that the ballot papers can be inserted in it while it is locked, but cannot be taken out unless the box is unlocked.

(2) The Presiding Officer must –

- (a) immediately before the commencement of the poll, show the ballot box empty and unlocked to any persons present at the polling station so that they may see that it is empty;
- (b) lock the box and place his or her seal upon it in such a manner as to prevent it being opened without the breaking of the seal; and
- (c) keep the box locked and sealed and place it for the receipt of ballot papers so that it is always in his or her view.

Close of poll

15. (1) A ballot paper must not be delivered to an elector after the hour fixed for the closing of the poll; but if, at that hour, there is in the polling station any elector to whom a ballot paper has been delivered, the elector must be allowed to record his or her vote.

(2) As soon as practicable after the close of the poll, the Presiding Officer must, in the presence of any candidates and polling agents that attend, make up into separate sealed packets—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the ties and seals provided;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot papers;
- (d) the counterfoils of used ballot papers;
- (e) the marked copy of the register of electors;
- (f) the tendered votes list; and
- (g) the authorities to vote as proxy on behalf of absent or sick electors, in respect of whom ballot papers have been issued,

and must deliver the packets to the Returning Officer.

The count

16. (1) The Returning Officer must –

- (a) cause the votes to be counted as soon as reasonably practicable after the Returning Officer has received all the ballot boxes for the election; and
- (b) not less than 48 hours before the time appointed for the commencement of the poll, give notice to the candidates of the time and place (or places) at which the Returning Officer will begin to count the votes.

(2) No person other than—

- (a) the Returning Officer and his or her clerks;
- (b) the candidates; and
- (c) the counting agents,

may, except with the approval of the Returning Officer, be present at the counting of the votes.

(3) Before the Returning Officer proceeds to count the votes he or she must, in the presence of any candidates and their counting agents that attend—

- (a) open each ballot box in turn, count the total number of ballot papers in it, announce the result and make a written record of the result; and
- (b) mix together all of the ballot papers contained in the several ballot boxes.

(4) The Returning Officer must not open the sealed packets containing the tendered ballot papers or the counterfoils of used ballot papers.

(5) The Returning Officer, while counting the votes, must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers on the backs of the papers.

(6) The Returning Officer must, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment.

Votes excluded from count

17. (1) Any ballot paper—

- (a) which does not bear the official mark;
- (b) on which votes are given for more candidates than the elector is entitled to vote for;
- (c) on which anything is written or marked, except the printed number on the back, by which the elector can be identified; or
- (d) which is unmarked or void for uncertainty,

is, subject to the provisions of this regulation, void and must not be counted.

(2) If the elector is entitled to vote for more than one candidate, a ballot paper is not deemed to be void for uncertainty as respects any vote as to which no uncertainty arises and that vote must be counted.

(3) A ballot paper on which a vote is marked—

- (a) elsewhere than in the proper place;
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

is not for that reason deemed to be void (either wholly or in respect of that vote) if an intention that a vote is to be for one or other of the candidates clearly appears, the way in which the paper is marked does not of itself identify the elector, and it is not shown that the elector can be identified by the paper.

(4) The Returning Officer must endorse—

- (a) the word “rejected” on any ballot paper which, under the provisions of this regulation, is not to be counted; and
- (b) in the case of a ballot paper on which any vote is counted under the provisions of subsection (2), the words “rejected in part” and a memorandum specifying the votes counted,

and must add the words “rejection objected to” if objection is made to the Returning Officer’s decision by a candidate or counting agent.

(5) The decision of the Returning Officer on any question arising in respect of a ballot paper is final except in so far as it may be brought under review on an election petition.

Recount

18. (1) A candidate or a counting agent, if present when the counting or any recount of the votes is completed, may require the Returning Officer to have the votes recounted or again recounted, but the Returning Officer may refuse to do so if in his or her opinion the request is unreasonable.

(2) No step is to be taken on the completion of the counting or any recount of votes until the candidates and counting agents present at the completion have been given a reasonable opportunity to exercise the right conferred by this regulation.

Declaration of result

19. (1) Subject to regulation 18, the Returning Officer must, immediately upon the completion of the counting of the votes, declare the result of the election.

(2) The number of candidates equal to the number of seats to be filled who obtain the greatest number of votes validly cast must be declared elected. If there is an equality of votes between 2 or more candidates, and the number of votes for each of them would affect the result of the election, the matter must be resolved by drawing lots.

(3) The Returning Officer must –

- (a)* endorse on the writ a certificate under his or her hand recording the names of the candidates, the number of votes cast for each, and the name or names of the successful candidate or candidates; and
- (b)* forward the writ to the Governor, who must cause the certificate to be published in the *Gazette*, and in any other manner the Governor considers appropriate.

Preservation of records

20. (1) The Returning Officer, after declaring the result of the poll, must seal up all ballot papers and other documents relating to the election, and deliver all the packets to the Chief Secretary.

(2) The Chief Secretary must retain all the packets sent under paragraph (1) for 6 months and must then, unless otherwise directed by the Supreme Court, cause them to be destroyed.

(3) Except by order under section 27 of the Ordinance, no person may inspect any ballot paper or document after it has been sealed up in pursuance of paragraph (1).

Forms

21. The forms in the Schedule are to be used for the purposes of these Regulations.

FORM A
ELECTIONS ORDINANCE, 2009
ELECTIONS REGULATIONS, 2009
NOMINATION FORM
(Regulation 4(1))

St Helena Constituency

1. Full name of Candidate:

2. Declaration by Candidate:

I (name of Candidate) declare that I am willing to be nominated for election.

.....
Candidate.

3. Full names of sponsors:

1. Signature*:
2. Signature*:

Signed by the above named sponsors in my presence, this day
of, 20.....

.....
Returning Officer / Justice of the Peace.

*Please read declaration of conformity with section 5(4) in paragraph 5 below.

4. Full names of supporters:

1.
Signature*:

Witness: Full Names:
Witness: Signature:

2.
Signature*:

Witness: Full Names:
Witness: Signature:

3.
Signature*:

Witness: Full Names:
Witness: Signature:

4.
Signature*:

Witness: Full Names:
Witness: Signature:

5.
Signature*:

Witness: Full Names:
Witness: Signature:

*Please read declaration of conformity with section 5(4) of the Elections Ordinance, 2009 in

paragraph 5 below.

The witness must be a person who would be eligible to be either a sponsor or supporter

5. Declaration of conformity with section 5(4):

By signing this nomination form, each sponsor and supporter declares that he or she does not act as sponsor or supporter for more candidates than the number of seats to be filled in the election.

Handed in at a.m./p.m. on the day of, 20.....

.....

Returning Officer

FORM B

ELECTIONS ORDINANCE, 2009

ELECTIONS REGULATIONS, 2009

BALLOT PAPER AND COUNTERFOIL

(Regulation 5)

LEGISLATIVE COUNCIL ELECTION held on [date].

St Helena Constituency

Ballot paper no.

Ballot Paper

AAA (Candidate's name)

BBB

CCC

Elector's serial no.

Counterfoil

[Ballot paper no. and elector's serial no.]

FORM C

ELECTIONS ORDINANCE, 2009

ELECTIONS REGULATIONS, 2009

APPLICATION TO BE TREATED AS AN ABSENT OR SICK VOTER

(Regulation 7(1))

To the Registration Officer Electoral District.

1. I am registered as an elector on the Register of Electors for the above named electoral district.

*2. On the date of the next election I anticipate being away from St. Helena.

*3. On the date of the next election it will not be practicable for me to attend in person at the polling station because—

* (a) I am physically handicapped; or

* (b) I am now sick, and it is medically undesirable that I should travel to the polling station.

4. I desire to nominate another person as proxy to record my vote on my behalf, and hereby nominate for this purpose—

[The nominated person must be registered as an elector in the same electoral district. Do not nominate anyone who is already a proxy for anyone else]

Full Name (in capitals)

Address

.....

I certify that the information given above is true.

..... Signature.

*Delete as necessary.

This form, when completed, must be delivered to the Electoral Registration Officer, The Castle, Jamestown not later than 48 hours before the opening of the poll on polling day.

FORM D

ELECTIONS ORDINANCE, 2009

ELECTIONS REGULATIONS, 2009

(Regulation 7(3))

AUTHORITY TO VOTE AS PROXY ON BEHALF OF AN ABSENT OR SICK ELECTOR

1. Application has been made to me in due form by of in the electoral district of that the applicant should be entitled to vote by proxy in accordance with the provisions made for proxy voting.

2. I am satisfied that the applicant is so entitled and hereby authorise of to apply to the Presiding Officer at the

appropriate polling station for a ballot paper and to vote as proxy on behalf of the said applicant.

3. Before delivering the ballot paper as stated above, the proxy is required by law to complete the declaration at the foot of this form in the presence of the Presiding Officer. Any person making such a declaration is warned that it is a criminal offence to state in this form any fact which is false to the knowledge of the declarant.

.....
Registration Officer.

Declaration by the above named proxy.

I, of do hereby declare that I am the proxy named above and that to the best of my knowledge, information and belief the above named elector is alive and not otherwise disqualified from voting.

This day of, 20

.....
(to be signed in the presence of the Presiding Officer)

FORM E

ELECTIONS ORDINANCE, 2009

ELECTIONS REGULATIONS

DECLARATION BY APPLICANT FOR TENDERED BALLOT PAPER

(Regulation 11)

I, of solemnly and sincerely declare that I am the same person whose name appears as, No, in the register of electors in force for the Electoral District.

Signature

Declared before me, this day of, 20.....

.....
Presiding Officer

ELECTIONS ORDINANCE, 2009

REGISTRATION OF ELECTORS REGULATIONS, 2009

(Sections 3 and 28)

ARRANGEMENT OF REGULATIONS

1. Citation and commencement
 2. Register of Electors
 3. Compilation of Provisional Register
 4. Objections to Provisional Register
 5. Appeal to Magistrates' Court
 6. Publication of Register of Electors
 7. Amendments to Register
 8. Preservation of records
 9. Forms: Schedule
- Schedule: Forms

Citation and commencement

1. (1) These Regulations may be cited as the Registration of Electors Regulations, 2009, and, except as provided in paragraph (2), come into force on publication.

(2) Paragraph (b) in Regulation 7(2) comes into force on 1 October 2010.

Register of Electors

2. (1) If St Helena is divided into more than one constituency, there must be a separate Register of Electors for each constituency.⁴

(2) Each Register must be in a form approved by the Governor and record, in respect of each person entitled to be included in the Register—

- (a) the full name;
- (b) the address;
- (c) the electoral district in which the person will be allowed to vote (which must, unless the person requests otherwise by an application under regulation 4(d), be the electoral district in which the person has his or her home); and
- (d) a unique reference number to be allocated to each elector.

Compilation of Provisional Register

3. (1) On or before 1st May in each year, the Registration Officer must compile a Provisional Register of Electors for each constituency, to have effect for the period of one year commencing on 1st July that year, which must be based on information collected from—

- (a) the then current Register;
- (b) registers of births, deaths and marriages;
- (c) immigration and emigration records; and
- (d) such other sources as the Registration Officer considers appropriate.

(2) On or before 10th May each year, the Registration Officer must publish the Provisional Register of Electors in the *Gazette*, and in any other manner the Governor approves, together with an explanation of the rights of persons to apply to have the Provisional Register amended under the following provisions of these Regulations.

⁴ Only one constituency existed at 31 December 2016

Objections to Provisional Register

4. (1) Any person who is eligible to have his or her name entered in any Register may, within 14 days of the date on which a Provisional Register of Electors is published for that constituency, apply in writing to the Registration Officer to have that Register amended by—

- (a) removing from it the name of a person who has died, or left St Helena, or otherwise is ineligible for inclusion in the Register;
- (b) adding the person's name in the Register;
- (c) correcting any other error in the details recorded in the register;
- (d) changing the electoral district in which the person will be allowed to vote; or
- (e) removing the applicant's name from the Register.

(1A) The Attorney General may, within the time referred to in sub-regulation (1), apply in writing to the Registration Officer to have that Register amended in the manner referred to in paragraph (a) thereof.

(2) As soon as is practicable after receiving an application under paragraph (1), the Registration Officer must give notice of it to every person who appears to be likely to be affected by the application.

(3) If any person notified under paragraph (2) objects to the application, the Registration Officer may by notice call upon the person and the applicant to appear before the Registration Officer at a date and time and place specified in the notice and must at that time and place enquire into the matter and either—

- (a) amend the Provisional Register in a manner that appears to be appropriate to make it conform to the provisions of the Ordinance and these regulations; or
- (b) refuse to make any amendment.

Appeal to Magistrates' Court

5. (1) A person who is dissatisfied with the decision of the Registration Officer under regulation 4(2) may, within 7 days from the date on which the decision was given, appeal to the Magistrates' Court, in writing, stating the grounds of the appeal.

(2) The Magistrates' Court must hear and determine any such appeal within 10 days of receiving it and its decision is final.

(3) Upon the determination of any such appeal, the Magistrates' Court must forthwith inform the Registration Officer of its decision and the Registration Officer must give effect to it.

Publication of Register of Electors

6. As soon as is practicable after all proceedings under regulations 4 and 5 have been completed, the Registration Officer must publish (in the same manner as the Provisional Register of Electors) the Register or Registers for the year commencing 1st July that year, and the Register so published for each constituency is, subject to regulation 7, conclusive evidence as to the eligibility of a person to vote in any election held in that constituency

during its period of validity.

Amendments to Register

7. (1) The Attorney General, or any person who is eligible to have his or her name entered in any Register may at any time, subject to paragraph (2), apply to the Registration Officer to amend that Register, in any of the ways mentioned in regulation 4(1).

(2) An application may not be made under this regulation—

(a) during the period between the publication of a writ of election and the declaration of the result of such election; or

(b) during the period between 1st May in any year and the next date on which a new Register is published under regulation 6,

and proceedings upon any such application which has been made but not determined at the commencement of either such period must be suspended until the end of that period.

(3) On receipt of an application under paragraph (1), the Registration Officer must publish notice of it in the *Gazette*, and in any other manner that appears to the Registration Officer to be appropriate —

(a) specifying a date and time at which the Registration Officer will consider the application; and

(b) stating that any person who is registered or eligible to be registered as an elector may submit objections or comments in writing to the Registration Officer by a date and time (not being less than 7 days after the date of the notice) specified in the notice.

(4) At the time specified in the notice published under paragraph (3), or as soon as is practicable thereafter, the Registration Officer must enquire into the matter and either—

(a) amend the Register in such manner as is necessary to make it conform to the provisions of the Ordinance and these regulations; or

(b) refuse to make any amendment.

(5) The provisions of regulation 5 apply to a determination under paragraph (4) as they do to a determination under regulation 4(2).

Preservation of records

8. The Registration Officer must preserve all forms, documents and other records used for or in connection with the preparation of any Register for a period of one year from the last day on which that Register remained in force, and must then cause them to be destroyed.

Forms

9. The forms in the Schedule are to be used for the purposes of these Regulations.

FORM A

ELECTIONS ORDINANCE, 2009

REGISTRATION OF ELECTORS REGULATIONS, 2009

APPLICATION TO AMEND REGISTER OF ELECTORS

(Regulation 4(1))

PART 1

To the Registration Officer

I hereby apply to have the Register of Electors for the
Electoral District amended as provided in Part 2 below.

Surname (in capitals)

Other names

Address

.....

PART 2

(Please strike out parts which do not apply)

A

I apply to have my name added to the Register of Electors.

I certify that—

- (a) I have St Helenian status, as defined in the Immigration Ordinance, 2011;
- (b) I have attained the age of 17 years;
- (c) I am both present in St. Helena and ordinarily resident* in the
..... Electoral Area; and
- (d) I am not ineligible for registration as an elector or to vote as a result of being—
 - (i) under an acknowledgment of allegiance, obedience or adherence to a foreign power or state by virtue of my own act;
 - (ii) certified to be incapable by reason of mental disorder of managing and administering my property and affairs;
 - (iii) under sentence of imprisonment imposed by a court in any part of the Commonwealth for a term of at least 12 months; or
 - (iv) disqualified for registration under any law for the time being in force in St Helena relating to offences connected with elections.

(*If you are temporarily absent from St Helena, please also obtain and complete Form B)

B

I apply to change the electoral district in which I will be allowed to vote.

My name is currently included in the Register for the Electoral District but I wish to vote in the Electoral District.

C

I apply to have my name removed from the Register of Electors.

D

I apply to have any other error in the Register of Electors corrected.
(Please provide details of other error in the Register to be corrected)

E

I apply to have the name of a person who has died, or left St Helena, or who is otherwise ineligible for inclusion, removed from the Register of Electors.

The following person's name is currently included in the Register for the
..... Electoral District.

I hereby apply for his/her name to be removed from the Register on the following grounds:

(Set out the grounds)

Signature:

Date:



FORM B

ELECTIONS ORDINANCE, 2009

REGISTRATION OF ELECTORS REGULATIONS, 2009

DECLARATION FOR PURPOSES OF BEING TREATED AS BEING PRESENT AND ORDINARILY RESIDENT IN ST HELENA

To the Registration Officer

I declare that—

- (a) I have St Helenian status;
- (b) I am ordinarily resident in St Helena but am absent from there in connection with employment, education or training (of myself/my spouse/my life partner*) or for the purposes of medical treatment (of myself/my spouse/my life partner/a dependant)*; and
- (c) I have not been absent from St Helena for a continuous period of 30 months or for periods exceeding in aggregate 625 days in the preceding 30 months.

*(*delete whichever does not apply)*

I claim to have my name included in the Register of Electors for the Electoral District.

Surname (in capitals)

.....

Other names

.....
Address

.....
.....

Date

(Signature)

ELECTIONS ORDINANCE, 2009

ELECTIONS (ELECTORAL DISTRICTS) REGULATIONS, 2013
(Section 3(3)(b))

Citation

1. These regulations may be cited as the Electoral Districts Regulations, 2013.

Electoral districts

2. (1) For the purpose of electing elected members of the Legislative Council, the Constituency established by section 50(1) of the Constitution is to be divided into 8 electoral districts.

- (2) The boundaries of the electoral districts are as described in the Schedule.

SCHEDULE
(Regulation 2(2))

ELECTORAL DISTRICTS

Jamestown:

Starting from a point on the coast due North of the head of Jacob’s Ladder, thence in a straight line to the head of Jacob’s Ladder; thence along the cliff edge (overlooking Jamestown) to the Northern bastion of High Knoll Fort; thence in a straight line to the intersection of the valleys below Francis Plain; thence in a Northerly direction down the middle of the valley to Drummond’s Point; thence along the road to the turning above Estcourt Gardens; thence in a straight line to the junction of Side Path and Field Road; thence along Field Road to a point due West of the intersection of the valleys in Ruperts below Bunkers Hill; thence due East to the said intersection; thence North Easterly in a straight line to Sugar Loaf Point; thence along the line of the coast in a South Westerly direction to the point of origin.

Alarm Forest:

Starting at a point at the intersection of the valleys in Ruperts below Bunkers Hill; thence in a Southerly direction along the Western boundary of Longwood Electoral area to a point where the Dungeon-Hutts Gate road crosses Grape Vine Gut; thence along the road to Lemon Tree

Gut Gate via the Dungeon; thence in a Northerly direction down the middle of Lemon Tree Gut to the intersection of the valleys below Francis Plain; thence along the South Eastern boundary of Jamestown Electoral area to the point of origin.

Longwood:

Starting from Gill Point; thence Westerly along the Northern boundary of Levelwood Electoral area to Trigonometrical Station 71/18; thence in a straight line to the top of Grape Vine Gut; thence down the middle of the said Gut to a point where the Dungeon-Hutts Gate road crosses the said Gut; thence along the road in a North Easterly direction to the junction with the Jamestown-Longwood road; thence in a Northerly direction down the middle of Sane Valley and Ruperts Valley to the intersection of the valleys below Bunkers Hill; thence along the North Eastern boundary of Jamestown Electoral area to Sugar Loaf Point; thence along the line of the coast in a South Easterly direction to the point of origin.

Levelwood:

Starting on the coast at Gill Point; thence North Westerly in a straight line to the intersection of Fishers Valley and Beale's Valley; thence up the middle of Beale's Valley to the Hutts Gate-Woody Ridge road; thence along the said road in a South Westerly direction to Leggs Gut; thence in a straight line to Trigonometrical Station 71/18; thence along the Eastern boundary of Sandy Bay Electoral area to the coast; thence along the line of the coast in a North Easterly direction to the point of origin.

Sandy Bay:

Starting at a point on the coast in the middle of Deep Valley; thence up the middle of Deep Valley to Trigonometrical Station 71/18; thence in a straight line to the top of Grape Vine Gut; thence along the Southern and South Eastern boundaries of St Paul's and Blue Hill Electoral areas respectively, to the Chimney; thence along the line of the coast in an Easterly direction to the point of origin.

Half Tree Hollow:

Starting from a point on the coast in the middle of the bay at the bottom of Breakneck Valley; thence up the middle of the said valley to a point where New Ground/White Wall road crosses the valley at Clay Gut; thence in a North Easterly direction along the road to the South West corner of Half Tree Hollow School; thence Eastward along the Southern boundaries of the said school and Half Tree Hollow National Forest; thence in a straight line from the South East corner of the said Forest boundary to the Northern bastion of High Knoll Fort; thence along the Western boundary of Jamestown Electoral area to the coast; thence along the line of the coast in a Westerly direction to the point of origin.

St Paul's:

Starting from a point on the coast in the middle of the bay at the bottom of Lemon Valley; thence up the middle of the said valley which merges with Broad Bottom Gut, to Iron Pot; thence in a North Easterly direction to Goldmine Gate; thence along the track to the junction with the Blue Hill/White Gate road; thence North Westerly in a straight line to Trigonometrical Station 71/6; thence along Sandy Bay Ridge in an Easterly direction to the

top of Grape Vine Gut; thence down the middle of the said Gut to a point where the Dungeon-Hutts Gate road crosses the said Gut; thence along the said road via the Dungeon, to a point where the main road crosses Lemon Tree Gut; thence down the middle of Lemon Tree Gut to the intersection of the valleys below Francis Plain; thence along the Southern boundary of Jamestown Electoral area and the Southern and Eastern boundaries of Half Tree Hollow electoral area to the coast; thence along the line of the coast in a South Westerly direction to the point of origin.

Blue Hill:

Starting at a point on the coast in the middle of the bay at the bottom of Lemon Valley; thence along the coast line via South West Point and Castle Rock Point to the Chimney; thence in a straight line to Lot; thence in a straight line to Coles Rock; thence in a straight line in a North Westerly direction to the road junction with the Goldmine Gate track; thence along the Western boundary of the St Paul's Electoral area to the point of origin.

**THE ST HELENA, ASCENSION AND TRISTAN DA CUNHA CONSTITUTION
ORDER 2009**

**Provision made by the Governor for enabling Public Officers to be Qualified to be
Elected as Elected Members of the Legislative Council
(Schedule 1, section 49(3))**

1. No public officer may stand for election except with the Consent of the Governor and in accordance with one of the Schemes set out in the Schedule below. The Governor's consent will not be given unless the Governor is satisfied that the granting of it would not be detrimental to either the interests of good governance or the effectiveness of the public service.
2. Applications for permission to stand for election to the Legislative Council must be addressed to the Chief Secretary, through Directors and in writing, and must state which of the Schemes set out in the Schedule below they wish to adopt in the event of being elected. Such notice must be received by the Chief Secretary not later than 7 days prior to the close of nominations in the election.
3. A public officer who is granted permission to stand for election will be allowed to take up to 7 days leave (unpaid if no paid leave is due) during the election campaign; any such leave which is unpaid is deemed to have been granted with the approval of the Governor on grounds of public policy in accordance with Regulation 7 of the Pensions Regulations, 2012.
4. The provisions of this Notice will apply to all elections of Councillors until replaced or amended by a further notice.
5. Directors have a duty to ensure that this Notice is brought to the attention of all their staff.

6. This Notice replaces Gazette Notice No. 20 of 24 April 2012.

SCHEDULE

SCHEME “A”

A non-pensionable officer who is not otherwise disqualified by section 49 of the Constitution may stand for election on the basis that, if elected, his or her employment with Government will thereupon terminate and he or she will receive such gratuity (if any) as the Governor finds he or she is entitled to receive.

In such cases, if the candidate is elected:

- (a) he or she is deemed to have given notice to terminate his or her employment effective 7 days after the date of the election, but may elect to take paid or unpaid leave during that period;
- (b) any gratuity payable will be paid as soon as is reasonably practicable after the date the resignation takes effect; and
- (c) any accrued leave will be commuted to cash (subject to Income Tax) at the rate of pay prevailing at the date of the election.

SCHEME “B”

This Scheme applies in respect of—

- (a) a pensionable officer or a non-pensionable officer; or
- (b) an officer who is not an active member of the Defined Benefits Pension Scheme governed by the Pensions Ordinance 2012, but who receives a contribution into an approved Defined Contribution Pension Scheme under his or her contract of employment.

An officer referred to in paragraph (a) or (b), who is not otherwise disqualified by section 49 of the Constitution, may stand for election on the basis that, if elected, he or she will be released from his or her duties without pay, for the duration of his or her term as a Councillor.

In such cases if the candidate is elected—

- (i) he or she will be released from performance of his or her duties with effect from 7 days after the date of the election, but may elect to take paid or unpaid leave during that period;
- (ii) on cessation of his or her term as a Councillor, he or she will return to the public service and be assigned to such office or employment as the Governor may consider suitable, at the same grade or level as that prior to election credited with any increment that might be due to him or her as a result of a performance appraisal for work in his or her previous position in the public service; and, with any cost of living increases he or she would have received if he or she had remained in service; and
- (iii) in the case of—
 - (aa) a pensionable officer or non-pensionable officer, the term as Councillor will be treated as a temporary suspension of employment in the public service in accordance with Regulation 6(1) of the Pensions Regulations 2012. It will not in itself count towards pensionable service but service prior to and

- after the period of temporary suspension will be regarded as continuous service for pension purposes; or
- (bb) an officer referred to in paragraph (b), the contribution into an approved defined pension contribution scheme under his or her contract of employment will cease temporarily due to the temporary suspension of his or her contract of employment and will recommence upon his or her return to the public service

SCHEME “C”

An officer, who is not otherwise disqualified by section 49 of the Constitution, may stand for election on the basis that, if elected, he or she will resign from the public service.

In such cases if the candidate is elected—

- (a) he or she must cease his or her duties, and commence leave of absence pending resignation, 7 days after the date of the election;
- (b) if the officer—
- (i) holds a pensionable office and is an active member of the Defined Benefits Pension Scheme governed by the Pensions Ordinance 2012, and has completed at least 10 years pensionable service, his or her pension will be preserved until he or she reaches normal retirement age in accordance with Regulation 3 of the Pensions Regulations 2012; or
- (ii) receives a contribution into an approved Defined Contribution Pension Scheme under his or her contract of employment, this contribution will cease due to the termination of his or her contract of employment.

Dated this 2nd day of August 2016
Sean G P Burns, Acting Governor
