



ST HELENA

REVISED EDITION OF THE LAWS, 2017

CONSTITUTIONAL & ADMINISTRATIVE LAW

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

*Statutory Instrument 2009 No. 1751 (UK)
In force 1 September, 2009 (G.N. 84/2009)*

No amendments to 1 November 2017

For the text of the Constitution, see the Annexes to the General Introduction

SH subsidiary legislation:¹

COUNCIL COMMITTEES (RULES OF PROCEDURE) ORDER, 2010

Legal Notice 2 of 2010

In force 25 January 2010

Amended by L.N. 22/2017 and L.N. 17/2020 (in force 18 June 2020)

COUNCIL COMMITTEES (CONSTITUTION)(NO. 2) ORDER, 2013

Legal Notice 39 of 2013

Revoked by Legal Notice 16 of 2020

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

COUNCIL COMMITTEES (RULES OF PROCEDURE) ORDER, 2010

(Section 59 of the Schedule)

TABLE OF CONTENTS

1. Citation and application
2. Interpretation
3. Meetings
4. Members may requisition a meeting
5. Agenda
6. Presiding in Committee
7. Quorum
8. Minutes
9. Committee recommendations

¹ Under section 10 of the Revised Edition of the Laws Ordinance, 1999 these texts are authoritative and are the sole authentic edition in respect of the law contained in them as at 18 June 2020.

10. Questions to be decided by majority vote
11. Method of voting
12. Conflict of interest
13. Committee's powers
14. Persons who may attend Committee
15. Cross-cutting issues
16. Sub-Committees
17. Chair may act on Committee's behalf between meetings
18. Use of email and fax
19. *Omitted*

Citation and application

1.² This Order may be cited as the Council Committees (Rules of Procedure) Order, 2010 and applies to all Council Committees constituted under section 56 of the Constitution; to facilitate the performance of the functions of the Council Committees appointed by the Governor pursuant to section 58(1) of the Constitution and charged with responsibility for the subjects or departments of government as directed by the Governor pursuant to section 58(2) of the Constitution and set out in the Schedule.

Interpretation

2. In this Order unless the context otherwise requires—
- “Chair”** means a member of Legislative Council appointed by the Governor to be the Chairman of a Council Committee under section 56 of the Constitution, and includes (when the context so admits) the Deputy Chair or an elected member presiding at a meeting in accordance with rule 6(2);
- “Committee Secretary”** means a public officer appointed by the Chief Secretary to conduct correspondence and keep Minutes of all proceedings and meetings of a Committee;
- “Deputy Chair”** means a member of the Committee, being an elected member, designated by the Governor (after consulting the Chair) to be the Deputy Chair of the Committee, to act as Chair whenever the Chair is absent or otherwise unable to perform the functions of Chair;
- “Elected Member”** means a member of the Committee who is an Elected Member of the Legislative Council;
- “Head of Department”** means the public officer in charge of a Government Department, and includes an officer appointed temporarily to act in that capacity.

Meetings

3. (1) Subject to rule 4, each Council Committee must meet at such times and at such places as the Chair (after consultation with any relevant Head of Department) directs.

(2) Written notice of the time and place of each meeting must be sent by the Committee Secretary to every member of the Committee, not less than 5 working days before the meeting; but if the Chair considers a meeting to be urgent and important, the period of notice may be reduced or dispensed with.

² Rule 1 amended by L.N. 17/2020

(3) Meetings must be held in public except where, in respect of any item of business, the Chair directs or the Committee resolves that the public should be excluded because the nature of that business is such that it ought to be treated as confidential.

(4) A direction or resolution under paragraph (3) may be made about the business of a future meeting, and the Chair must make arrangements for the public to be made aware in advance of the time and place of any meeting which includes items of business to be considered in public.

(5) A meeting of a Committee may be held by means of a conference between members of the Committee who are not all in one place but each of whom is able to hear (and be heard by) each of the others simultaneously.

Members may requisition a meeting

4. (1) Any 2 Elected Members of a Committee may requisition a meeting by giving notice of their request to the Chair in writing; the notice must be signed by both the members requisitioning the meeting and state the business to be considered; and the Chair must (after consultation with any relevant Head of Department) call a meeting of the Committee as soon as is practicable after the receipt of the notice.

(2) At the meeting of a Committee requisitioned under this rule, no business may be considered other than that stated in the notice requisitioning the meeting.

Agenda

5. (1) The Chair (in consultation with any relevant Head of Department) must decide the agenda for each meeting (other than a meeting requisitioned under rule 4), and a copy of the agenda must be sent to each member together with the notice of the meeting.

(2) Unless, in exceptional circumstances, the Chair dispenses with this requirement, each agenda item must be supported by a concise memorandum identifying the subject matter and the issues for consideration by the Committee ~~and~~. All such memoranda (together with any other papers referred to in them) must be circulated to members either with the notice of meeting or in any event not later than 2 working days before the meeting.

(3) When sending notices of meetings, agenda, and memoranda to Members of the Committee, the Committee Secretary must send copies of them to the Chief Secretary, the Financial Secretary, and the Attorney General, (but not additional papers referred to in memoranda).

(4) No business other than that shown on the agenda may be brought before a meeting, unless the Chair considers it of such urgency as would justify convening a special meeting with short notice under rule 3(2).

Presiding in Committee

6. (1) The Chair must, so far as is practicable, preside at every meeting of a Committee.

- (2) In the absence of the Chair, the persons to preside at a meeting are—
- (a) the Deputy Chair;
 - (b) if the Deputy Chair is absent, an Elected Member of the Committee, selected by the members present from among themselves.

Quorum

7. (1) No business may be conducted at any Committee meeting unless a quorum is present.

(2) There is a quorum if 3 members of the Committee (including the Chair or member presiding) are present, but a committee is not quorate unless the number of elected members in attendance exceeds the number of unelected members.

Minutes

8.³ (1) The Committee Secretary must, within 7 working days after each meeting (in consultation with the Chair) prepare a draft Minute of the meeting, and send a copy of it to each member of the Committee, to any relevant Head of Department.

(2) Any member of the Committee who wishes to challenge the accuracy of a draft Minute must give notice to the Chair no later than 4.00 p.m. on the third working day after the circulation of the draft; if no such notices are received by the Chair, the Chair or other person presiding must sign the draft Minute certifying it to be a true record of the meeting.

(3) If, in respect of any draft Minute, the Chair receives a notice under paragraph (2), he or she must cause the draft to be placed on the agenda for the next meeting of the Committee for approval (if necessary, calling an extra meeting for that purpose); when the draft has been approved by the Committee (with or without amendment), the Chair or other member presiding must sign the draft Minute certifying it to be a true record of the meeting.

(4) No objections as to the accuracy of a Minute are to be allowed after it has been certified as a true record pursuant to paragraph (2) or paragraph (3).

(5) Subject to paragraph (6), a copy of every signed Minute must be sent by the Committee Secretary to—

- (a) the Governor; and
- (b) each member of the Legislative Council.

(6) If a Chair (after consultation with any relevant Head of Department) considers that the Minute (or any part of it) is of such a confidential nature that distribution of all or part of the Minute should be restricted, that Chair may withhold distribution until he or she has sought the advice of the Governor; and the Governor may direct that circulation is to be restricted.

(7) The Chair must ensure, either during the consideration of each item of business or as a separate agenda item, that each meeting specifically addresses the question which (if any) items of business should be the subject of publicity and whether any of them may be

³ Rule 8 amended by L.N. 17/2020

publicised in advance of the Minutes of the meeting being approved.

Committee recommendations

9. Whenever a Committee decision contains any recommendation to the Governor or the Governor in Council, the recommendation must be clearly identified in the Minutes, and by a separate communication signed by the Chair and addressed to the Governor through the Chief Secretary.

Questions to be decided by majority vote

10. All questions for the decision of a Committee are to be determined by the majority of the votes of the Elected Members present and voting; the Chair or other Elected Member presiding has an original vote and, in the event of an equality of votes, a second or casting vote.

Inordinate delay in determination of matters

10A.⁴ (1) If, after a matter to be determined by a Committee of which the Chair is a member has been considered by the Committee and in the opinion of the Chair the matter is unlikely to be determined in what the Chair would consider to be a reasonable time in the circumstances given the matter to be determined, the Chair may, after consultation with the Governor and the relevant Head of Department on the matter to be determined, make a determination in respect of the matter.

(2) At the next meeting convened following a determination of the Chair under sub-rule (1), the Chair must—

- (a)** inform the Committee that the Chair has made a determination;
- (b)** inform the Committee of the determination made; and
- (c)** present the reasons for the determination to the Committee.

(3) A member of a Committee who disagrees with the determination of a Chair made in accordance with sub-rule (1) may, submitting the member's reasons for the member's disagreement, appeal to the Governor to quash the determination of the Chair.

(4) An appeal and the reasons submitted pursuant to sub-rule (3) may be made orally or in writing.

(5) Where an appeal has been made to the Governor under sub-rule (3) the Governor may, after considering the reasons submitted, uphold the determination of the Chair or quash the determination of the Chair and refer the matter back to the Committee for further consideration and determination.

Method of voting

11. Voting is to be by show of hands; but if at least 2 Elected Members so request, a roll call is to be taken of the Elected Members present, and the individual votes are to be listed in the Minutes. If the roll call differs from the show of hands, the roll call prevails.

⁴ Rule 10A inserted by L.N. 17/2020

Conflict of interest

12. (1) Subject to paragraph (1A), if a member has any financial or other interest, direct or indirect (such as is required to be registered by the Code of Conduct for Legislative Councillors, or by any rule of law), in any matter under consideration by a Committee, the member must, as soon as such business is entered upon, disclose the interest.

(1A) If it is apparent to a member in advance of a meeting that he or she will be required to make a declaration under this paragraph in relation to any item of business, the member must inform the Chair as soon as is reasonably practicable.

(2) When a declaration is made under paragraph (1), the Chair (acting in his or her discretion) may—

- (a)* require a member who has made the disclosure to withdraw from the meeting while the item of business is discussed;
- (b)* order that the member be allowed to remain and participate in the discussion but may not vote;
- (c)* order that the member be allowed to remain but may neither participate in the discussion nor vote; or
- (d)* declare that the interest disclosed is not one which materially affects the ability of the member to participate objectively in the determination of the item of business (in which case, the member may vote on the issue).

(3) A member who has made a disclosure under paragraph (1) must not, unless the Chair makes a declaration under paragraph (2)(d), be counted as part of the quorum; if the meeting thereby becomes inquorate, the item of business must stand adjourned to the next meeting of the Committee.

Committee's powers

13. (1) Each committee is responsible for—

- (a)* the formulation of policy, consistent with relevant laws and with policies or other lawful instructions given by the Governor or the Governor in Council; and
- (b)* the strategic monitoring of Government activities,

in relation to the subjects assigned to it by the Governor in accordance with section 58 of the Constitution.

(2) A committee—

- (a)* may make recommendations to the Governor in Council for the amendment or revocation of relevant laws or policies; but
- (b)* may not itself exercise any power or function—
 - (i)* in relation to any of the Governor's special responsibilities listed in paragraphs *(a)* to *(e)* in section 44(1) of the Constitution; or
 - (ii)* in a manner which is inconsistent with any law or with policies or other lawful instructions given by the Governor or the Governor in Council.

Persons who may attend Committee

14. (1) The Chair (after consultation with any relevant Head of Department) may

invite any person to attend a meeting of a Committee (either generally, or for a specific item of business), even if the person is not a member of the Committee, if in the opinion of the Chair the presence of that person is desirable. A person so attending may speak (but not vote) at the meeting.

(2) The Chief Secretary, the Financial Secretary, and the Attorney General each has the right to attend (either personally or by a proxy nominated by him or her) any Committee Meeting and may speak (but not vote) at such a meeting.

Cross-cutting issues

15. (1) If any business before a Committee touches upon any matter for which some other Committee has responsibility, the Committee must not proceed to a decision on such business until the other Committee or Department has been informed of the matter and its views on it, if any, have been received and considered.

(2) In the circumstances described in paragraph (1), the Chairs of the respective Committees may agree to appoint a Joint Working Party to consider the issue, and to make recommendations to both Committees.

(3) If 2 or more Committees are unable to resolve any point of difference, the matter must be referred to the Governor in Council.

(4) Without affecting the forgoing provisions of this section, the Chair must ensure –

- (a) either during the consideration of each item of business or as a separate agenda item, that each meeting specifically addresses any issues arising from the meeting (or the item of business) which are likely to affect the responsibilities of other Committees or to be affected by the work of other Committees; and
- (b) that appropriate arrangements are made for consultation and the exchange of information.

(5) The Minutes must record any action required arising from paragraph (4).

Sub-Committees

16. (1) The Chair may appoint sub-committees, for any purposes that may from time to time conveniently be addressed or managed by a sub-committee.

(2) Each sub-committee comprises—

- (a) a Convener, appointed by the Chair from amongst the Elected Members of the committee, to act as Chair of the sub-committee;
- (b) other members of the Committee that the Chair appoints to the sub-committee; and
- (c) persons other than members of the Committee that the Chair appoints with the consent of the Governor.

(3) The provisions of these rules apply with necessary changes to sub-committees as they apply to committees, except that –

- (a) copies of draft Minutes and Minutes are to be sent only to members of the

sub- committee, the Chair of the committee, and the *ex officio* members of the Legislative Council; and

- (b) copies of the notices of meeting, agenda, and any memoranda, are to be sent only to members of the sub-committee and the Chair of the Committee.

(4) Unless the Chief Secretary, at the request of the Chair, appoints separate Secretaries to sub-committees, the Committee Secretary is also to act as Secretary to each sub-committee.

Chair may act on Committee's behalf between meetings

17.⁵ Between meetings of a Committee, the Chair (in consultation with any relevant Head of Department) may act on the Committee's behalf on matters which are of a routine nature or which are of such a nature that it is impracticable for a meeting of the Committee to be convened by the time within which it might be necessary for the Chair to act and the Chair must report all acts of the Chair on behalf of the Committee at the next meeting of the Committee.

Governor to be consulted

17A.⁶ Consultation must be made with the Governor for a question relating to international shipping or international air access for which a Committee is required to make a determination and a determination in respect of such a question must be approved by the Governor.

Use of email and fax

18. Notices and documents relating to Committee business may, if the intended recipient has consented and provided the Secretary with an e-mail address or a fax number, be sent by e-mail or fax.

Revocation

19. *Omitted*

SCHEDULE⁷ (rule 1)

Council Committees

1. Economic Development Committee;
Education & Employment Committee;
Environment & Natural Resources Committee;
Public Health Committee;
Social & Community Development Committee; and

⁵ Rule 17 substituted by L.N. 17/2020

⁶ Rule 17A inserted by L.N. 17/2020

⁷ Schedule inserted by L.N. 17/2020

Finance Committee.

Committee Responsibilities

2. The Council Committees directed by the Governor pursuant to section 58(2) of the Constitution to have responsibility for the matters respectively assigned as follows:

Economic Development Committee

Subject to relevant laws, and to policies of the Governor in Council, the Committee has policy responsibility for Government business concerning economic development, investment, tourism, agriculture, fisheries, labour market, communications (including media, telecommunications, postal services); shipping and port management and air access; and for policy relating to any legislation relevant to those subjects.

Education & Employment Committee

Subject to relevant laws, and to policies of the Governor in Council, the Committee has policy responsibility for Government business concerning education (including, specifically, schools, skills and lifelong learning) and employment; and for policy relating to any legislation relevant to those subjects.

Environment & Natural Resources Committee

Subject to relevant laws, and to policies of the Governor in Council, the Committee has policy responsibility for Government business concerning infrastructure (including utilities); environmental management; lands (including crown estate); land use planning and development control; and forestry; and for policy relating to any legislation relevant to those subjects.

Public Health Committee

Subject to relevant laws, and to policies of the Governor in Council, the Committee has policy responsibility for Government business concerning health (including health services, preventive health services, environmental health, and public health); disaster management; health and safety; and for policy relating to any legislation relevant to those subjects.

Social & Community Development Committee

Subject to relevant laws, and to policies of the Governor in Council, the Committee has policy responsibility for Government business concerning social security; social services; pensions; housing (including Government Landlord Housing); legal system (including the Constitution, Human Rights, and Immigration); civil society (including non-government organisations); community centres; culture and heritage; leisure, sports and recreation; and for policy relating to any legislation relevant to those subjects.

Finance Committee

Subject to relevant laws, and to policies of the Governor in Council, the Committee has

policy responsibility for Government business concerning finance and audit; and for policy relating to any legislation relevant to those subjects.

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

COUNCIL COMMITTEES (CONSTITUTION)(NO. 2) ORDER, 2013
(Sections 57 & 58 of the Schedule)

(Revoked by L.N. 16 of 2020)