

## ST HELENA

L.S.



**THE ST HELENA, ASCENSION AND TRISTAN DA CUNHA CONSTITUTION  
ORDER 2009  
SELECT COMMITTEES (ESTABLISHMENT) ORDER, 2022**

Made by the Governor in exercise of the powers conferred upon him by section 69A of the Constitution.

**Citation**

1. This Order may be cited as the Select Committees (Establishment) Order, 2022.

**Interpretation**

2. In this Order unless the context otherwise requires—  
“**Chair**” means the Chair of the relevant Select Committee appointed under paragraph 4(3) and includes an acting Chair selected under paragraph 6(1);  
“**Committee**” means a Select Committee established under paragraph 3;  
“**Elected Member**” means an Elected Member of the Legislative Council;  
“**Portfolio Director**” means the public officer in charge of a Government Department, and includes an officer appointed temporarily to act in that capacity;  
“**responsible Minister**” means the Minister or Chief Minister, as the case may be, who has responsibility for the relevant department or function of government in accordance with section 37B of the Constitution;  
“**working day**” means a day which is not a Saturday, Sunday, or public holiday.

**Establishment of Committees**

3. (1) Pursuant to the provisions of section 69A of the Constitution, two Select Committees, to be known respectively as Select Committee 1 and Select Committee 2, are hereby established for purposes of scrutiny of sectors of Government activity.

(2) The two Select Committees are responsible for after-the-fact review and scrutiny of decisions and activities of the Government.

(3) The two Committees are respectively responsible for review and scrutiny of the following sectors of Government:

(a) Select Committee 1—

- (i) Health and Social Care,
- (ii) Environment, Natural Resources and Planning, and
- (iii) Education, Skills and Employment;

(b) Select Committee 2—

- (i) Treasury, Infrastructure and Sustainable Development, and
- (ii) Safety, Security and Home Affairs.

#### **Members and Chair of Committees**

4. (1) The Elected Members of the Legislative Council present and voting at a formal meeting of the Legislative Council must elect a Chair and members of the Select Committees, in accordance with the Standing Orders, from among the Elected Members who are not Ministers, who are to be appointed by the Governor under subparagraph (2).

(2) The Governor must appoint—

- (a) four members, including the Chair, to Select Committee 1; and
- (b) three members, including the Chair, to Select Committee 2.

(3) Where the office of Chair or member of the Committee is vacant and a Chair or member, as the case may be, is not elected in accordance with subparagraph (1) within a reasonable period, the Governor may appoint a Chair or member at the Governor's discretion.

(4) The Chair of the Committee may, with approval of the Governor, appoint specialist advisers to advise the members.

#### **Meetings of Committee**

5. (1) A Select Committee may convene formally or informally at any time, but may not take live evidence for more than one day (or, if sitting more than one day, for a total of eight hours) in any calendar month.

(2) The Committee may consider a maximum of two matters at any one time and may not consider another matter until the report on at least one of those matters has been signed as required by paragraph 8(1).

(3) Meetings shall be held in public except where the Chair directs, or the Committee resolves, that the public should be excluded due to the matter before the Committee being such that it ought to be treated as confidential.

- (4) The Chair may—
  - (a) compel the Chief Secretary and any Portfolio Director to attend the Committee meeting;
  - (b) request attendance of any other public officers through the Chief Secretary or the relevant Portfolio Director.

(5) The Chair may invite persons other than public officers to attend and address the Committee with respect to any relevant matter being considered by the Committee.

(6) The Chair must determine which matters are to be considered by the Committee after consultation with the Chief Minister.

### **Quorum and voting**

6. (1) If, due to absence or any other reason, the Chair is unable to preside at a meeting of the Committee, another member selected by the members present from among themselves must preside as acting Chair.

(2) No business may be conducted at any Committee meeting unless a quorum of two members (including the Chair) are present.

(3) If a member or members of a Select Committee are unable to attend, or are not counted as part of the quorum under paragraph 9(3), which results in the Committee not being quorate, the Chair may select a member or members of the other Select Committee to attend and to substitute as members.

(4) All questions for decision of the Committee must be determined by the majority of the votes of members present and voting and, in the case where the votes are equal, the Chair shall have a second or casting vote.

### **Use of non-public documents**

7. (1) Documents that are not in the public domain are not allowed before the Committee otherwise than in accordance with the provisions of this paragraph.

(2) Subject to subparagraph (3), the responsible Minister must decide whether a Committee has access to a document that is not in the public domain and which relates to the subject matter within the relevant portfolio of that Minister.

(3) If a document that is not in the public domain relates to a special responsibility of the Governor under section 44 of the Constitution, the Governor (after consulting the responsible Minister, if applicable) must decide whether a Committee has access to such document.

- (4) The responsible Minister or Governor, as the case may be, must determine—
  - (a) how access to the document will be granted;
  - (b) which part of the document access will be granted and the extent of redactions to be made, where necessary;
  - (c) how the document is to be used; and
  - (d) what reference may be made to the document in a report by the Committee.

(5) When being granted access to any document which is not in the public domain, the Chair and members of the Committee are required to sign a confidentiality agreement with respect to such document, containing such provisions as may be determined by the relevant Government Department.

### **Report to Legislative Council**

**8.** (1) A conclusion by the Committee must be contained in a report signed by the Chair, which may include recommendations to the Legislative Council concerning the matter, and the Chair must lay the Committee report before the Legislative Council.

(2) The Chair must give written notice to the responsible Minister, allowing the responsible Minister at least seven working days to respond before submitting the report to the Clerk of Councils for purposes of laying the report before Legislative Council under subparagraph (1).

(3) The responsible Minister notified under subparagraph (2) may respond to the report which must be submitted to the Chair to be laid before the Legislative Council together with the Committee report under subparagraph (1).

(4) A member or members of the Committee may make and lay a minority report before the Legislative Council and the provisions of subparagraphs (2) and (3) apply in the same manner in respect of such minority report.

### **Conflict of interest**

**9.** (1) If a member has any direct or indirect conflict of interest relating to the matter before the Committee, the member must, as soon as reasonably possible before commencement of the meeting of the Committee, disclose that conflict of interest.

(2) Where a disclosure is made under subparagraph (1), the Chair, acting in his or her discretion, may—

- (a) require the member to withdraw from the meeting;
- (b) order that the member be allowed to remain but may neither participate in the discussion nor vote; or
- (c) order that the member be allowed to remain and participate in the discussion but may not vote;

(d) declare that the conflict of interest disclosed is not one which materially affects the ability of the member to participate objectively in the determination of the matter, in which case the member may participate and vote on the matter.

(3) Where subparagraph (2)(a), (b) or (c) applies, the member must not be counted as part of the quorum.

(4) If the member disclosing the conflict of interest under subparagraph (1) is the Chair, an acting Chair needs to be selected in accordance with paragraph 6(1) to make a determination with respect to the disclosure under subparagraph (2), and if the acting Chair makes a declaration under subparagraph (2)(d), the selection of the acting Chair shall lapse and the Chair may continue to preside at the meeting.

### **Rules of procedure**

10. Subject to the Constitution and this Order, the members of both Select Committees may agree and make rules of procedure which rules shall apply to both Committees.

Made this 28<sup>th</sup> day of April 2022.

Philip Rushbrook  
Governor

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order establishes two Select Committees under section 69A of the Constitution. The order makes provision relating to the membership of the Committees and prescribes matters dealing with meetings and quorum of the Committees and the procedures when dealing with documents not in the public domain. The Select Committees are also required to report to the Legislative Council.