

# ASCENSION

## REVISED EDITION OF THE LAWS, 2017

### CONSTITUTIONAL & ADMINISTRATIVE LAW

#### **ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008<sup>1</sup>**

*Ordinance A7 of 2008*

*In force 12 September 2008*

*Amended by L.N. A3/2009 and Ordinances A8/2010, A4/2012, A1/2014 and A4/2020*

*Also amended by L.N. A4/2013 (ceased to have effect on publication of 2013 Register of Electors)*

*Subsidiary legislation:<sup>2</sup>*

#### **REGISTRATION OF ELECTORS REGULATIONS, 2008**

*[Page 23]*

*Legal Notice A5 of 2008*

*Amended by Ordinances A8/2010 and A4/2012*

#### **ELECTIONS REGULATIONS, 2008**

*[Page 25]*

*Legal Notice A8 of 2008*

*Amended by L.N. A6/2010, L.N. A2/2011, L.N. A5/2011, L.N. A4/2016,*

*Ordinance A8/2010 and L.N. A2/2018*

#### **COUNCIL COMMITTEES (PROCEDURE) RULES, 2014**

*[Page 38]*

*Legal Notice A1 of 2014*

#### **ISLAND COUNCIL (PROCEDURE) RULES, 2020**

*[Page 42]*

*Legal Notice A1 of 2014*

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#### **ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008**

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<sup>1</sup> 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 6 September 2022.

<sup>2</sup> There was also temporary legislation suspending, dissolving and re-appointing the Island Council; see the Island Council (Temporary Provisions) Ordinance A3 of 2007 and Ordinance A2 of 2008 and L.N. A3/2008.

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**ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008**

AN ORDINANCE to make provision for the constitution and functions of the Island Council and for connected or incidental purposes.

**PART I  
PRELIMINARY**

**Short title and commencement**

**1.** This Ordinance may be cited as the Island Government (Ascension) Ordinance, 2008 and comes into force as provided in section 51.

**Interpretation**

**2.** In this Ordinance, unless inconsistent with the context—  
**“the Administrator”** means the person appointed to that office under section 147 of the Constitution, and includes any person for the time being lawfully acting in that office;  
**“by-election” means** an election held to fill one or more seats which have become vacant (otherwise than by reason of dissolution of the Council) in accordance with section 6;  
**“Council”** means the Island Council;  
**“election offence”** means an offence specified in any of sections 31 to 37;

“**election officer**” includes a Returning Officer, Registration Officer, Presiding Officer, Clerk or other person having any duty to perform in connection with an election under this Ordinance;

“**general election**” means a general election of the elected members of the Council, either following a dissolution of the Council or pursuant to section 51(3);

“**official notice board**” means the notice board outside the Government’s main Administration Building in Georgetown;

“**reside**” means to be lawfully present on Ascension in accordance with the Entry Control Ordinance 2007, and cognate expressions are to be construed accordingly.

## **PART II THE ISLAND COUNCIL**

### **Island Council**

**3.** (1) There shall continue to be a council in and for Ascension, to be known as “the Island Council”, having the functions conferred upon it by this Ordinance or by any other law in force in Ascension.

(2) The Council (subject as hereinafter provided) consists of—

(a) the Governor;

(b) 7 elected members, who must be persons qualified for election and duly elected in accordance with the provisions of this Ordinance; and

(c) 3 ex officio members, namely the persons for the time being lawfully performing the functions of:

(i) the Administrator;

(ii) the Attorney General of Ascension; and

(iii) the Director of Resources,

but none of the ex officio members has have a vote.

(3) Subject to section 8, if the number of candidates duly nominated in a general election is fewer than 8, (2)(b) has effect (until the Council is next dissolved) with the substitution of the number ‘5’ for the number ‘7’.

### **Qualification for election as members**

**4.** Subject to section 5, a person is qualified to be elected as a member of the Council if, and is not so qualified unless, the person—

(a) has attained the age of 21 years and is eligible to vote in the election for which he or she is nominated; and

(b) is a British Overseas Territories Citizen, a British Overseas Citizen, or a British Citizen who is registered in the current Register of Electors created and published in accordance with regulations made pursuant to section 8(1)(a).

### **Disqualification for elected membership**

**5.** A person is not qualified to be elected as a member of the Council if the person—

(a) has been convicted of an election offence and is as a result thereof disqualified from voting as an elector;

- (b) is serving, or has within the 5 years immediately preceding the date of election served, a sentence of imprisonment for a term of 12 months or more, imposed on the person by a court of law in any country or substituted by a competent authority for some other sentence imposed on the person by such a court, or is under such a sentence the execution of which has been suspended;
- (c) holds, or is acting in, any public office<sup>3</sup> designated by the Governor (by notice in the *Gazette*) for the purpose of this section.

### **Tenure of office of members of Council**

- 6. (1)** The seat of an elected member of the Council becomes vacant—
- (a) in the event of the member's death;
- (b) if the member resigns his or her seat by writing under his or her hand addressed to the Governor;
- (c) on dissolution of the Council in accordance with section 22;
- (d) if the member ceases to have actual or deemed permission to be or remain on Ascension in accordance with the Entry Control Ordinance, 2007, or, having been exempt from the provisions of sections 4 and 6 of that Ordinance (under section 5(2) of it), ceases to be so exempt; or
- (e) if any circumstance arises that, if the member were not a member of the Council, would cause him or her not to be qualified for election to the Council under section 5 of this Ordinance.

**(2)** If the seat of an elected member of the Council becomes vacant otherwise than by reason of a dissolution of the Council, a by-election must be held on a date and in a manner prescribed by regulations made pursuant to section 8(1)(b).

### **Determination of questions as to membership of Council**

**7. (1)** Any question whether—

(a) a person has been validly elected an elected member of the Council; or

(b) an elected member of the Council has vacated his or her seat on the Council,

must be determined by the Supreme Court in accordance with the provisions of this Ordinance; and the decision of the Supreme Court is final and not subject to any appeal.

**(2)** An application to the Supreme Court for the determination of any question under subsection (1) may be made by the Attorney General or by any person who is a registered

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<sup>3</sup> The following public offices have been designated by Gazette Notice No. 202 of 6 September 2022:

- Crown Counsel
- Senior Medical Officer
- Director of Conservation and Fisheries
- Director of Resources
- Director of Operations and Facilities
- Assistant Director of Resources
- Assistant Director of Human Resources
- Shipping and Operations Manager
- Facilities Manager
- Head Teacher
- Police Officers
- Policy, Projects and Communications Officer

elector; and an application for the determination of any question under paragraph (b) of that subsection may also be made by any member of the Council.

### **Regulations governing elections to Council**

- 8.** (1) Regulations made under section 44 must provide for—
- (a) the compilation and maintenance of a Register of Electors;
  - (b) the conduct of elections; and
  - (c) the appointment and duties of election officers.

(2) If the number of candidates duly nominated for election at a general election is fewer than 6, the provisions of this Ordinance stand suspended, except for the purposes of holding a further general election, until such time as a new Council of at least 5 members is duly elected.

(3) If, by virtue of subsection (2), the operation of this Ordinance stands suspended, the Governor must call a new general election within 6 months of the date on which subsection (2) took effect and (for the purposes of section 3(3), the Council is deemed to have been dissolved on the day prior to the date of the writ of election.

### **Eligibility to be registered as an elector**

**9.** (1) A person is eligible to vote in an election under this Ordinance if, but only if, at the date of the election, the person's name appears in the current Register of Electors created and published in accordance with regulations made pursuant to section 8(1)(a).

- (2) A person is eligible to be included in the Register of Electors if the person—
- (a) is over 18 years of age;
  - (b) has been resident on Ascension for a period of at least 6 months immediately before the date of compilation of the Register; and
  - (c) is not exempt from income tax on his or her official emoluments under paragraph (a) or (i) of Schedule III of the Income Tax Ordinance, 2001, or a dependant of a person who is so exempt:

Provided that for purposes of paragraph (b), any period of temporary absence does not constitute a break in the continuity of a period of residence.

(3) Regulations made pursuant to section 8(1)(a) may provide for persons under the age of 18 years to be included in a register of electors but such a person may not vote in any election until he or she attains the age of 18 years.

### **Governor to consult Council**

- 10.** (1) Subject to this section, the Governor must –
- (a) consult the Council in the formulation of policy in relation to the exercise of all functions conferred upon the Governor in relation to or in respect of Ascension by this or any other Ordinance; and
  - (b) act in accordance with the advice given to him or her by the Council.

(2) The Governor is not obliged to consult, nor act in accordance with the advice given to him or her by, the Council in any of the following matters or circumstances—

- (a) when acting under instructions given to the Governor by Her Majesty through a Secretary of State;
- (b) when performing any function conferred upon the Governor by this Ordinance or any other law which is expressed to be exercisable by the Governor in his or her discretion or in his or her judgment or in accordance with the advice of, or after consultation with, any person or authority other than the Council;
- (c) any matter referred to in section 11(1) of this Ordinance;
- (d) any matter in which, in the Governor's judgment, the service of Her Majesty would sustain material prejudice thereby;
- (e) where the matter to be decided is, in the Governor's judgment, too unimportant to require the advice of the Council;
- (f) where the matter to be decided is, in the Governor's judgment, too urgent to admit of the giving of the Council's advice by the time within which it may be necessary for him or her to act:

Provided that in every such case the Governor must as soon as practicable communicate to the Council the measures which he or she has adopted, with the reasons for doing so.

**(3)** In any case where the Governor is required by this section to consult the Council, the Governor may act otherwise than in accordance with the advice given to him or her by the Council if in his or her judgment it would be inexpedient in the interest of public order, public faith or good government to act in accordance with that advice:

Provided that—

- (a) the Governor must not, under this subsection, act contrary to the advice given to him or her by the Council without the prior approval of a Secretary of State, unless, in the Governor's judgment, the matter is of such urgency that it is necessary for him or her to act before obtaining such approval; and if the Governor does so act he or she must, as soon as practicable, report the action and the reasons for it to a Secretary of State;
- (b) except when, under the foregoing proviso, the Governor may act without the prior approval of a Secretary of State, whenever the Governor proposes (under this subsection) to act contrary to the advice given to him or her by the Council, the Governor must inform the members of the Council (in writing) of his or her intention and the reasons for it; and any member of the Council who wishes to do so may, within 21 days, submit his or her comments (in writing) to the Governor, who must forward them to a Secretary of State as soon as practicable.

**(4)** If the Governor is, by this or any other law, directed to exercise any function after consultation with any person or authority other than the Island Council, the Governor is not obliged to exercise that function in accordance with the advice of that person or authority.

**(5)** If the Governor is, by this Ordinance or any other law, directed to exercise any function in accordance with the advice of, or after consultation with, any person or authority, the question whether the Governor has so exercised that function must not be enquired into in any court.

### **Governor's special responsibilities**

**11. (1)** The Governor is responsible for the conduct (subject to the provisions of this Ordinance and any other law) of any business of the Government of Ascension, including the administration of any department of Government, with respect to the following matters—

- (a) the appointment of any person to any public office; the suspension, termination of employment, dismissal, or retirement of any public officer; the taking of disciplinary action in respect of such an officer; or the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, leave, passages or pensions) for which financial provision has been made;
- (b) defence;
- (c) external affairs;
- (d) internal security, including the Police;
- (e) the administration of justice;
- (f) the establishment of Council Committees under section 18.

**(2)** The Governor, acting in his or her discretion, may assign to the Administrator, for such period and under such conditions as the Governor thinks fit, responsibility for the conduct on behalf of the Governor of any business of the Government of Ascension with respect to any of the matters mentioned in subsection (1).

**(3)** If the Governor, acting in his or her discretion, determines that the exercise of any function conferred by any law upon the Administrator or upon any authority (other than the Council or a duly-constituted court or tribunal) would involve or affect any matter mentioned in subsection (1) –

- (a) the Governor may, acting in his or her discretion, give directions as to the exercise of that function; and
- (b) the Administrator or the authority concerned must exercise the function in accordance with those directions;

Provided that nothing in this subsection affects the functions of the Attorney General under section 150 of the Constitution.

### **Meetings of and proceedings in Council, etc**

**12.<sup>4</sup> (1)** The Council must not be summoned to meet except by or on the authority of the Governor, and notice of all such meetings (specifying the date, time and place at which the meeting will be held and any other details prescribed in Rules made under section 16) must, unless the Governor otherwise directs in case of urgency, be—

- (a) sent in writing (or in some other form prescribed in Rules made under section 16) to each member of the Council; and
  - (b) affixed to the official notice board,
- not less than 3 working days prior to the meeting.

**(2)** A meeting of the Council must be held as soon as practicable after the holding of a general election, and thereafter as often as is necessary for the conduct of its business:

**(2A)** The Council must be summoned to meet by the Governor if the Governor receives a request for such a meeting signed by more than half of the total number of members required

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<sup>4</sup> Section 12 amended by Ordinance A4 of 2020



to be elected under section 3(2)(b) or section 3(3), as the case may be, and Rules made under section 16 may provide for such a request to be made by e-mail or a series of separate e-mails, or by a series of separate written requests, rather than by a single document, bearing the required number of signatures.

- (3) The Governor is normally to preside at each meeting of the Council, but –
  - (a) if the Governor is absent or otherwise unable to preside, the Administrator must preside and has (in relation to the conduct of that meeting) all the powers, functions and authority of the Governor; and
  - (b) the person presiding over a meeting of the Council does not have either a deliberative or a casting vote; and, if there is an equality of votes cast on any issue, the motion is lost.

(4) The Council must not transact any business, except that of adjournment, if the number of elected members present is fewer than half of the total number of members required to be elected under section 3(2)(b) or section 3(3), as the case may be.

(5) Subject to subsection (4) and section 8(2), the Council is not disqualified for the transaction of business by reason only of any vacancy in its membership.

(6) Meetings of the Council may be held by means of a conference between members of the Council who are not all in one place but each of whom is able to hear (and be heard by) each of the others simultaneously, and each member taking part in such a conference is deemed (for all purposes of this Ordinance) to be present at the place stated in the notice convening the meeting as the place at which the meeting would be held.

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

(8) A Crown Counsel may, if so authorised by the Attorney General, with the consent of the Governor, take the place of the Attorney General at any meeting of the Island Council.

### **Voting in Council**

13. (1) All questions proposed for decision at any meeting of the Council are to be determined by a majority of the votes of the members present and voting.

(2) Votes must be cast by a show of hands, or (in the case of a meeting held by the procedure provided for in section 12(6)) by each member entitled to vote stating audibly whether he or she votes for or against the motion or abstains from voting.

### **Direction to public officers to assist Council**

14. The Governor may direct any public officer to attend any meeting of the Council, even if the officer is not a member of the Council, if in the opinion of the Governor, the business before the Council renders the presence of such officer desirable; and such officer is entitled to take part in the proceedings of the Council relating to the matters in respect of

which he or she was directed to attend as if he or she were a member of the Council, but does not have the right to vote.

### **Consultation as to making of laws**

**15.**     *Repealed.*

### **Rules of Procedure of Council and Committees**

**16.**     **(1)**     Subject to this Ordinance and other law, the Governor (acting in his or her discretion, but after consulting the Council) may make Rules for regulating the calling of meetings, and the conduct of the business and proceedings, of the Council and of any Committee of the Council.

**(2)**     Without limiting subsection (1), Rules made under it may provide for public servants to be required to attend meetings in order to assist a Committee.

### **Finance Committee**

**17.**     **(1)**     There is to be a Finance Committee of the Council consisting of—  
**(a)**     the Director of Financial Services, as Chair;  
**(b)**     3 members appointed by the Governor from among the elected members of the Council who have been nominated by the Council for such appointment:

Provided that, if the Director of Financial Services is absent from Ascension or otherwise unable to act as Chair, the Administrator must appoint one of the other members of the Committee to act as Chair.

**(2)**     The Finance Committee must—  
**(a)**     consider draft estimates laid before it by the Director of Resources, and submit recommendations on them to the Council;  
**(b)**     subject to sections 10 and 11, consider any other matters pertaining to finance which the Governor or the Council submits to it for its consideration, and report to the Governor or the Council, as the case may be.

### **Other Council committees**

**18.**     **(1)**     Subject to this Ordinance, the Governor, acting in his or her discretion, may, by directions in writing, establish one or more committees of the Council for any general or special purposes specified by such directions, and may from time to time revoke or amend any such directions.

**(2)**     A committee of the Council, other than the Finance Committee, consists of—  
**(a)**     a person the Governor appoints from among the members of the Council, as Chair;  
**(b)**     2 members appointed by the Governor from among the elected members of the Council who have been nominated by the Council for such appointment; and  
**(c)**     if the Governor so directs, one person (who need not be a member of the Council) appointed by the Governor after consultation with the elected members of the Council.

(3) If the Chair of a committee is absent from Ascension or otherwise unable to act as Chair, the Administrator must appoint one of the other members of that committee to act as Chair.

### **Rules relating to all committees**

19. (1) The Governor may at any time by writing under his or her hand revoke the appointment of any member of a committee of the Council who was not appointed on the nomination of the Council.

(2) A member of any committee appointed on the nomination of the Council must vacate his or her seat as a member of the committee—

- (a) if the member ceases to be a member of the Council for any reason other than a dissolution of the Council; or
- (b) in any event, on the date when the Council first meets following a general election.

(3) The quorum for—

- (a) the finance committee – is 3 members; and
- (b) all other committees - is one less than the total number of members appointed under section 18(2).

(4) In relation to any committee of the Council, without affecting any other provision of this Ordinance requiring the Governor to obtain the advice of the committee, the Governor may refer any matter concerning any purpose for which the committee was established to the committee for their consideration and advice and the committee must advise the Governor accordingly.

### **Reports of committees**

20. (1) Subject to subsections (2) and (3), each committee of the Council must, at times and either in writing or orally as determined by the Council, report to the Council on the exercise by the committee of its functions in respect of all matters entrusted to the committee.

(2) With respect to any matter on which the Governor has consulted and obtained the advice of any committee, the Governor may, if in his or her judgement it is desirable so to do, exercise his or her powers in respect of such matter prior to the report of the committee on the matter to the Council.

(3) Subsection (2) does not apply where the matter is the estimates of the revenues and expenditure of Ascension for any financial year or the matter is one in respect of which the approval of the Council is required by, or under, this Ordinance or any other enactment.

### **Oaths by members of Council or committees thereof**

21. Neither—

- (a) an elected member of the Council; nor
- (b) a person who, not being a member of the Council, has been appointed as a member of a committee of the Council under section 18,

may take part in the proceedings of the Council or the committee (as the case may be) until he or she has made, before the Governor, or some other person authorised by the Governor for the purpose, oaths or affirmations—

- (i) of allegiance;
- (ii) of confidentiality; and
- (iii) for the due execution of his or her office,

in the forms respectively set out in the Schedule to this Ordinance.

### **Dissolution of Council**

- 22.** (1) The Governor –
- (a) may, at any time, acting in his or her discretion, dissolve the Council;
  - (b) must dissolve the Council at the expiration of 3 years from the date the Council first meets after the last dissolution of the Council.

(2) Every dissolution of the Council must be by notice given by the Governor in writing, under his or her hand and the public seal; and copies of it must be published in the *Gazette* and affixed to the official notice board as soon as practicable after the notice has been given.

### **General Election**

**23.** A General Election must be held not less than 14 days, nor more than 30 days, after every dissolution of the Council, on a date the Governor appoints in the notice of dissolution.

## **PART III ELECTION PETITIONS**

### **Power to question elections by petition**

**24.** (1) The result of an election may be questioned by a petition (hereinafter referred to as “**an election petition**”) on any of the following grounds—

- (a) that offences under this Ordinance, committed with reference to the election for the purpose of promoting or procuring the election of a person at the election, 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 under section 5; or
- (d) that the person whose election is questioned was not duly elected in accordance with this Ordinance.

(2) The result of an election must not be questioned except by an election petition.

### **Presentation of petition**

**25.** (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) Subject to subsection (2A), an election petition must be signed by the petitioner, or by all the petitioners if there are more than one, and be presented to the Registrar of the Supreme Court within 14 days after the day on which the result of the election has been declared.

(2A) 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 by a person elected at the election, or on his or her account or with his or her privity, 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.

(3) At the time of presentation of an election petition, or within 3 days after, the petitioner must deposit the sum of £500 with the Registrar of the Supreme Court, or give security for such sum by recognisance to be entered into before the Registrar, for the payment of all costs, charges, and expenses that may become payable by the petitioner to anyone summoned as a witness on his or her behalf or to the respondent.

(4) For the purposes of this section, anything required to be presented to, deposited with, or otherwise done to or by the Registrar of the Supreme Court may be presented to, deposited with, or done to or by the Clerk of the Ascension Magistrates' Court: and the Clerk must forthwith inform the Registrar of anything done by or to the Clerk pursuant to this subsection.

(5) A copy of every election petition (other than one presented by the Attorney General) must be served (by or on behalf of the petitioner or petitioners) on the Attorney General, within 48 hours of it being presented to the Court; and no further proceedings may take place on such petition until 7 days after the date on which it is established to the satisfaction of the court that this subsection has been complied with.

### **Relief which may be claimed**

26. All or any of the following relief to which the petitioner might 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.

### **Trial of election petitions**

27. (1) An election petition must be tried in open court and, subject to section 25(5), be tried within 28 days from the date on which it was presented.

- (2) At the conclusion of the trial of an election petition, the court must –
- (a) determine whether the person whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void; and
- (b) certify its determination to the Governor.

(3) The determination of the Supreme Court is final; and the declared result of the election is deemed to have been confirmed or (as the case may be) altered in conformity with the determination; if the original election has been declared void, the Governor must cause a by-election to be held in all respects as if a casual vacancy had arisen on the date on which the Supreme Court gave its determination.

### **If candidate is guilty of corrupt or illegal practice, etc**

28. (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 any of his or her agents) of any corrupt or illegal practice, the candidates' 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 his or her agents of an 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 sanction 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 agents,

then, if the candidate was elected, the election is not void, by reason of the offences found to have been committed; and, whether the candidate was elected or not, he or she is not subject to any incapacity under section 37.

### **Failure to comply with provisions of Ordinance**

29. An election is not invalid by reason of any failure to comply with any provision of this Ordinance relating to elections if it appears to the Court that the election was conducted in accordance with the principles laid down in such provisions, and that such failure did not affect the result of the election.

### **Rules of court**

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

## **PART IV ELECTION OFFENCES**

### **Offences in connection with registration and election**

- 31.** (1) It is an offence for a person to—
- (a) 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;
  - (b) vote, or induce or procure any person to vote, knowing that he or she or that other person is prohibited from voting;
  - (c) forge or counterfeit or fraudulently deface or destroy any ballot paper or the official mark on any ballot paper;
  - (d) without due authority, supply a ballot paper to any person;
  - (e) not being authorised to do so by this Ordinance, make any mark on any ballot paper delivered to any person other than himself or herself;
  - (f) fraudulently take any ballot paper out of the polling station; or
  - (g) without due authority, 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) A person who attempts to commit an offence specified in subsection (1) commits an offence and is liable to the punishment 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**

- 32.** (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 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) A person must not –
- (a) interfere with or attempt to interfere with an elector when marking his or her ballot paper;
  - (b) otherwise 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
  - (c) 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.

- (2) Every person in attendance at the counting of the votes –
- (a) maintain and aid in maintaining the secrecy of the voting; and
  - (b) must not 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.

(3) A person must not directly or indirectly 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.

**(4)** A person who contravenes subsection (1), (1A), (2) or (3) commits an offence.  
Penalty: A fine of £1,000 or imprisonment for 12 months, or both.

### **Personation**

**33. (1)** Subject to subsection (2), a person who, otherwise than as 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 or her own name,

commits the offence of personation.

Penalty: As provided in section 37.

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

- (i) he or she has no authority to do so; or
- (ii) 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.

**(b)** 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 he or she so applies he or she knows that his or her authorised proxy has already applied for and been given a ballot paper on his or her behalf.

### **Treating**

**34.** Every—

- (a) 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 for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election; and
- (b) elector who corruptly accepts or takes any such food, drink, entertainment or provision,

commits the offence of treating.

Penalty: As provided in section 37.

### **Undue influence**

**35.** Every person who—

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



- (b) 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 vote at an election, commits the offence of undue influence.  
Penalty: As provided in section 37.

### **Bribery**

- 36.** Every 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 as aforesaid 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 as aforesaid 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 is to 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, commits the offence of bribery.  
Penalty: As provided in section 37.

### **Punishment and incapacities for corrupt practice**

- 37.** (1) A person who—

- (a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation;
- (b) commits an 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 his 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 his knowledge false,

commits a corrupt practice.

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

(2) A person convicted of a corrupt practice is during a period of 7 years from the date of the conviction incapable of being registered as an elector, or of voting at an election of a member, or of being elected a member, or (if elected before the conviction) of retaining his or her seat as a member of the Council.

### **Offences by election officers**

- 38.** It is an offence for an election officer to —
- (a) make, in any record, return or other document which the officer is required to keep or make under 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) 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) 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 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 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 counts 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.

Commits shall be guilty of an offence and shall be liable on summary conviction to a fine not

## **PART V MISCELLANEOUS**

### **Orders for production of documents**

- 39.** (1) The Chief Justice –
- (a) may make an order that any ballot paper or other document relating to an election (whether or not it has been sealed up or otherwise secured in accordance with provisions for the time being in force in relation to the security of election records) be inspected, copied or produced at a time and place and subject to conditions the Chief Justice considers expedient; but
  - (b) must not make such an order unless he or she is satisfied that such inspection, copy or production is required for the purpose of instituting or maintaining a prosecution or an election petition in connection with the election.
- (2) Except as provided in subsection (1), no person may be allowed to inspect any ballot paper or document as mentioned in that subsection except in the course of his or her duty as an election officer.

### **Elector not bound to disclose for whom he voted**

**40.** An elector must not, in any legal proceedings or otherwise, be required to state for whom he or she voted in an election under this Ordinance.

### **Employers to allow employees period for voting**

**41.** (1) Every employer must, on polling day, allow to every elector in the employer's employment a reasonable period of absence from work for the purpose of voting; and an employer must not make any deduction from the pay or other remuneration of any such elector, nor impose upon or exact from him or her any penalty by reason of his or her absence during that period.

(2) An employer who directly or indirectly refuses, or by intimidation, undue influence, or in any other manner, interferes with, the right of any employee under subsection (1), commits an offence.

Penalty: A fine of £1000 or imprisonment for 6 months, or both.

(3) For the purposes of this section, "employer" includes any person who, in the course of his or her employment, is in fact responsible for managing the day to day work of an elector, whether or not he or she has a contractual relationship with the elector.

(4) If an offence is committed under this section by a corporate body, every director, secretary, manager, or other official of that body is liable to be convicted and sentenced for the same offence and punished accordingly unless he or she shows that he or she was not personally culpable in relation to the offence.

### **Cost of elections**

**42.** All expenses properly incurred by an election officer in connecting with an election held under this Ordinance are to be defrayed from the Consolidated Fund without further appropriation than this section.

### **Power to vary dates**

**43.** The Governor may, by order published in the *Gazette* and posted on the official notice board, vary all or any dates mentioned in this Ordinance (or any writ of election or order issued under it) and may substitute other dates instead.

### **Governor may make regulations**

- 44.** (1) The Governor may make regulations—
- (a) prescribing the fees to be paid in connection with anything done under this Ordinance;
  - (b) as to the appointment and duties of election agents and sub-agents;
  - (c) as to the expenses that may be incurred by candidates;
  - (d) defining, and prescribing maximum penalties for, illegal practices and other offences;
  - (e) generally for carrying into effect the provisions of this Ordinance; and
  - (f) as to the procedures to be adopted in the Council or any Committee of the Council.

(2) Regulations made under subsection (1) may make provision for authorising the arrest of persons suspected of committing offences against the regulations or against this Ordinance.

## **PART VI SENIOR PUBLIC OFFICES**

### **Administrator**

**45.** (1) *Repealed.*

(2) The Administrator has the functions conferred upon him or her by or under this Ordinance or any other law, and such other functions as the Governor from time to time is pleased to assign to the Administrator and, subject to this Ordinance and any other law by which such functions are conferred, must perform all such functions (including any functions which are expressed by any relevant law to be exercisable in the Administrator's discretion or in his or her judgment) according to any instructions that the Governor from time to time see fit to give the Administrator.

(2A) The question whether or not the Administrator has in any matter complied with such instructions as mentioned in subsection (2) must not be inquired into in any court.

(3) Subject to subsection (4), where any office is created by any written law and the functions of it need to be exercised at a time when the office is vacant, or the holder of the office is absent from Ascension or otherwise unable to act, the Administrator –

- (a) is deemed to have been appointed to such office and to have all the rights, powers, privileges and immunities enjoyed by the holder of such office; and
  - (b) must perform the duties of such office,
- until such time as a lawful appointment is made to fill the vacancy or the holder of the office is again able to act.

(4) Subsection (3) does not apply where the vacant office is—

- (a) the office of Attorney General;

- (b) the office of Magistrate, Justice of the Peace, or any other office of a judicial character.

### **Director of Resources**

46. The Governor may appoint a suitably qualified and experienced person to be the Director of Resources.

### **Attorney General**

47. *Repealed*

### **Crown Counsel**

48. *Repealed*

### **Oaths of Office**

49. (1) A person appointed to the office of Administrator or Director of Resources or Crown Counsel must, before entering upon the duties of the office, make (before the Governor or a person authorised by the Governor for the purpose) oaths or affirmations—

- (a) of allegiance;
- (b) of confidentiality; and
- (c) for the due execution of his office,

in the forms respectively set out in the Schedule to this Ordinance.

(2) A person who has made the oaths or affirmations required by subsection (1), or who has made corresponding oaths or affirmations upon assuming the office of Attorney General of St Helena, is not required to repeat the oath or affirmation for the purposes of section 21.

## **PART VII SUPPLEMENTAL**

### **Repeals**

50. The following enactments are repealed:  
The Island Council Ordinance, Cap A4;  
The Ascension Island Administrator Ordinance, 1965;  
The Island Council (Temporary Provisions) Ordinance, 2007; and  
The Island Council (Temporary Provisions) Ordinance, 2008.

### **Commencement and transitional provisions**

51. (1) Subject to this section, this Ordinance comes into force on publication.

(2) Until such time as a Register of Electors has been prepared in accordance with regulations made pursuant to section 8(1)(a), the Interim Register of Electors compiled under the Interim Registration of Electors Order, 2008 is deemed to be a Register of Electors prepared in accordance with such regulations.

(3) The first general election held under this Ordinance must be held on a date the Governor fixes by Order, and such Order may contain any incidental, consequential, or transitional provisions that appear to the Governor to be necessary or expedient for the purpose of enabling such election to take place.

(4) The persons holding the Offices of Administrator, Director of Resources, and Crown Counsel, immediately before the commencement of this Ordinance are deemed to have been duly appointed, and to have taken the oaths required by this Ordinance, and may hold office accordingly until the expiry or other lawful termination of their respective appointments.<sup>5</sup>

SCHEDULE  
(Sections 21 and 49(1))

FORMS OF OATH AND AFFIRMATION

Oath of Allegiance

I ..... do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

Affirmation of Allegiance

I ..... do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

Oath for due execution of office

I ..... do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of (here insert the description of the office). So help me God.

Affirmation for due execution of office

I ..... do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of (here insert the description of the office).

Oath of Confidentiality

I ..... do swear that, except with the authority of the Governor, I will not directly or indirectly reveal the business or proceedings of the Island Council or the nature or contents of any document communicated to me as a member of the Council or any matter coming to my knowledge in my capacity as a member of the Council. So help me God.

Affirmation of Confidentiality

I ..... do solemnly and sincerely affirm and declare that except with the authority of the Governor, I will not directly or indirectly reveal the business or proceedings of the Island Council or the nature or contents of any document communicated to me as a

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<sup>5</sup> This provision was superseded by section 147 of the Constitution as regards the Administrator and section 150(4) as regards the Crown Counsel.

member of the Council or any matter coming to my knowledge in my capacity as a member of the Council.

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## ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008

### REGISTRATION OF ELECTORS REGULATIONS, 2008

(Section 44)

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6. Objections to Provisional Register
7. Appeal to Magistrates' Court
8. Publication of Register of Electors

#### **Citation and commencement**

1. These Regulations may be cited as the Registration of Electors Regulations, 2008, and come into force on 1st January 2009.

#### **Registration Officer**

2. (1) The Administrator must appoint a Registration Officer for the purpose of these Regulations, and may appoint any Assistant Registration Officers the Administrator from time to time thinks fit.

(2) An Assistant Registration Officer has all the powers and may perform all the duties of the Registration Officer; and any reference in these Regulations to the Registration Officer, unless the context otherwise requires, includes a reference to an Assistant Registration Officer.

#### **Register of Electors**

3. The Register of Electors must be in a form approved by the Administrator and must record (in respect of each person entitled to be included in the Register):

- (a) full name;
- (b) address;
- (c) in the case of a person included in accordance with Regulation 4 -- his or her date of birth;
- (d) the polling station at which he or she will be allowed to vote (which must, unless he requests otherwise by way of an application under Regulation 6(d), be the polling station nearest to his or her home address); and
- (e) a unique reference number to be allocated to each elector.

### **Provisions concerning persons under 18 years of age**

4. A person who will attain the age of 18 years during the period of validity of any Register of Electors may be included in that Register, if he or she otherwise satisfies the criteria in section 9 of the Ordinance, but is not entitled to vote in any election held before he or she attains the age of 18 years.

### **Compilation of Provisional Register**

5. (1) On or before the 16th day of September in each year, the Registration Officer must compile, based on information collected from:

- (a) the then current Register of Electors;
- (b) Registers of Births, Deaths and Marriages;
- (c) Immigration and Emigration Records; and
- (d) such other sources as to the Registration Officer seem appropriate,

a Provisional Register of Electors for the period of one year commencing on 1st November that year.

(2) On or before the 16th day of September each year, the Registration Officer must publish (by placing a copy of it on the official notice Board, and in any other manner the Administrator approves, the Provisional Register of Electors, together with an explanation of the rights of persons to apply to have the Provisional Register amended under the following provisions of these Regulations.

### **Objections to Provisional Register**

6. (1) Any person who is eligible to have his or her name entered in the Register of Electors may, within 14 days of the date on which a Provisional Register of Electors is published, 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, left Ascension, or otherwise ceased to be eligible for inclusion in the Register;
- (b) adding the name of any person who is eligible for inclusion in the register but whose name has been omitted;
- (c) correcting any other error in the details recorded therein;
- (d) changing the polling station at which he or she will be allowed to vote; or
- (e) removing his or her name from the register.

(2) As soon as is practicable after receiving an application under paragraph (1), the Registration Officer must, by notice in writing, call upon the applicant and every other person who appears to be likely to be affected by the application, to appear before the Registration Officer at a date and time and place specified in the notice; and must, at the time and place specified, enquire into the matter and either:

- (a) amend the Provisional Register in such manner as 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**



7. (1) A person who is dissatisfied with the decision of the Registration Officer under regulation 6(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 his or her 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**

8. (1) As soon as is practicable after all proceedings under regulations 6 and 7 have been completed, and in any event no later than 1st November in each year, the Registration Officer must publish (in the same manner as the Provisional Register of Electors) the Register of Electors for the year commencing on 1st November that year; and the Register so published is conclusive evidence as to the eligibility of a person to vote in any election held during its period of validity.

(2) The Registration Officer may amend the Register of Electors for the year referred to in paragraph (1) upon application received by him or her between 1st January and 31st August of such year made by any person who is eligible to have his or her name entered in the Register.

(3) As soon as practicable after receiving an application under paragraph (2), the Registration Officer must by public notice in writing—

- (a) add the person to the Register of Electors; or
- (b) refuse the application.

(4) A person who is dissatisfied with the decision of the Registration Officer under paragraph (3) may appeal against that decision following the procedure set out in regulation 7.

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## **ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008**

### **ELECTIONS REGULATIONS, 2008**

(Section 44)

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### **Citation and commencement**

**1.** These Regulations may be cited as the Elections Regulations, 2008, and come into force on publication.

### **Returning Officer**

**2. (1)** The Administrator must appoint a Returning Officer for the purpose of these Regulations, and may appoint any Assistant Returning Officers the Administrator from time to time thinks fit.

**(2)** An Assistant Returning Officer has all the powers and may perform all the duties of the Returning Officer; and any reference in these Regulations to the Returning Officer, unless the context otherwise requires, includes a reference to an Assistant Returning Officer.

### **Presiding Officers and Clerks**

**3. (1)** The Returning Officer may (with the consent of the Administrator as to numbers) 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, unless the context otherwise requires, includes a reference to an Assistant Presiding Officer.

### **Polling stations**

**4.** The Returning Officer must, at each election, arrangements as from time to time approved by the Administrator for ensuring that a polling station is available throughout the hours of the poll in each of the following locations, namely—

- (a) Georgetown;
- (b) Two Boats Village;
- (c) US Base; and
- (d) Travellers' Hill.

### **Dates of elections**

**5. (1)** The date of each general election must be as determined in accordance with section 23 of the Ordinance.

**(2)** A by-election must be held on a date the Governor fixes by notice given in writing under his or her hand and the public seal, and published on the official notice board; and the date must be at least 21 days after the date of such notice.

### **Nominations**

**6.<sup>6</sup> (1)** The notice of the date of the election must fix a date and place for receipt of nominations, which date must not be less than 14 days before the date fixed for holding the election:

**(2)** Every nomination must be in the prescribed form (Form A in the Schedule) and be:

- (a) signed by a proposer and a seconder (each of whom must be eligible to vote in the election), each signature being witnessed by a Justice of the Peace or by the Returning Officer;
- (b) signed by the person nominated, indicating his or her consent to nomination; and
- (c) delivered to the Returning Officer by 4:30 p.m. on the date fixed for the receipt of nominations.

**(2A)** The Returning Officer may receive nominations on any day prior to the date fixed pursuant to paragraph (1) of the regulation.

**(3)** No elector may propose or second (in aggregate) more candidates than the number of vacancies to be filled in the election.

### **Procedure on close of nominations**

**7. (1)** Subject to sub-regulation (2), the Returning Officer must cause a list of persons nominated to be published (by affixing the same to the official notice board and in any other manner the Administrator approves) on the day following the date fixed for receipt of nominations; and a poll must be held.

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<sup>6</sup> Regulation 6 amended by L.N. A2 of 2018

(2) If the number of valid nominations at a general election is less than 6, the Returning Officer must declare the election to be void and cause notice of it to be given to the Administrator, who must cause the notice to be published on the official notice board and in the *Gazette*, and in any other manner he or she considers appropriate; and section 8(2) of the Ordinance applies accordingly.

(3) If the number of valid nominations in a by-election does not exceed the number of vacancies to be filled, the Returning Officer must declare the election to be void and cause notice of the declaration to be given to the Administrator, who must cause it to be published on the official notice board and in the *Gazette*, and in any other manner the Administrator considers appropriate.

### **The poll**

8. (1) The poll must be taken on the date fixed for the election, and polling stations must be open continuously between the hours of 8:00 a.m. and 8:00 p.m.

(2) Except as expressly otherwise provided in these Regulations, all persons voting as electors must do so in person.

(3) Every ballot paper and counterfoil for use in a poll must be in the form set out in Form B in the Schedule, and must—

- (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.**

9. (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 him or her so to do), in which case the Presiding Officer must cast the vote in the manner directed by such elector, having made such arrangements as are 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 him or her and the reason for that.

### **Sick or absent voters**

10. (1) Subject to the following provisions of this regulation, a registered 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 Ascension;
- 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 must be made to the Returning Officer in the prescribed form (Form C in the Schedule), and be received by him or her at least 48 hours before the time specified for the opening of the poll.

(2A) The application form must nominate one person as a proxy to vote on behalf of the absent or sick elector, and no proxy may be appointed to vote on behalf of more than one absent or sick elector.

(3) If the Returning Officer is satisfied that the application complies with the conditions specified above, he or she must issue an authority, as 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 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 provided for him or her by the Returning Officer.

(5A) The proxy will thereupon (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) be issued with a ballot paper.

(6) After issuing a ballot paper in accordance with sub-regulation (5), the Presiding Officer must retain the authority and return it with other election papers in accordance with regulation 24.

(7) It is an offence for a person—

- (a) without proper cause, to apply to the Returning Officer to vote by proxy as 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;
- (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.

### **Method of voting**

**11.<sup>7</sup> (1)** Except as provided in regulation 9, 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, must mark an 'X' against the names of not more candidates than the seats to be filled in the election.

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<sup>7</sup> Regulation 11 amended by L.N. A2 of 2018

- (2) Before handing a ballot paper to an elector, the Presiding Officer must—
- (a) mark the ballot paper on the reverse side with the official mark;
  - (b) call out the serial number, name and description of the elector as stated in the register of electors; and
  - (c) 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 it 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) The elector must vote without undue delay and must leave the polling station as soon as he or she has placed his or her ballot paper in the ballot box.

### **Questions to voters**

12. (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 he or she 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**

13. 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.

### **Personation**

14. (1) 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.

(2) A person against whom a declaration is made under this section must not, by reason thereof, be prevented from voting.

### **Tendered Ballot Papers**

15. (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 is, after making a declaration in the Form E in the Schedule, entitled to mark a ballot paper different in colour from other ballot papers, (“**a tendered ballot paper**”).

(2) A tendered ballot paper must, instead of being put into the ballot box, be given to the Presiding Officer and endorsed by him or her with the name of the elector and the elector’s number in the register of electors and set 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**

16. (1) Each candidate may, before the commencement of the poll, appoint polling agents to attend at polling stations for the purpose of detecting personation, and 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.

(3) Notice in writing of such appointments, stating the names and addresses of the persons appointed, must be given by the candidate to the Returning Officer not later than 24 hours before the time appointed for the poll to commence.

### **Behaviour of persons in polling stations**

17. (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;
- (e) electors; and
- (f) 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) 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,

and the order of the Presiding Officer is sufficient authority for any police office to arrest that person.

### **Ballot Boxes**

**18. (1)** Every ballot box must be so constructed that the ballot papers can be inserted in it while the box is locked, but cannot be withdrawn from it unless the box is unlocked.

**(2)** The Presiding Officer must, immediately before the commencement of the poll—

- (a)* show the ballot box empty and unlocked to any persons present at the polling station so that they can 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**

**19. (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, he or she 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 key attached;
- (b)* the unused and spoiled 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**

**20. (1)** The Returning Officer must cause the votes to be counted as soon as practicable after he or she has received all the ballot boxes for the election, and must give notice to the candidates of the time and place at which he or she 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, and make a written record of the number; then
- (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**

**21.** (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 this regulation, void and must not be counted.

(2) If the elector is entitled to vote for more than one candidate, a ballot paper must not be 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,

must not by reason thereof be 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, and the way in which the paper is marked does not of itself identify the elector and it is not shown that he or she can be identified thereby.

(4) The Returning Officer must endorse—

- (a) the word “rejected” on any ballot paper which, under this regulation, is not to be counted; and
- (b) in the case of a ballot paper on which any vote is counted under sub-regulation (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 his or her 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**

22. (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 present at the completion of it have been given a reasonable opportunity to exercise the rights conferred on them by these Regulations.

### **Declaration of result**

23. (1) Subject to regulation 22, the returning officer must, immediately upon the completion of the counting of the votes, declare the result of the election.

(2) The 7 or, as the case may be, 5 (or, in the case of a by-election, the number equal to the number of seats to be filled) candidates who obtain the greatest number of votes validly cast must be declared elected. In the event of an equality of votes between 2 or more candidates, where 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 issue to the Administrator 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 the Administrator must cause the said certificate to be published on the official notice board and in the *Gazette*, and in any other manner the Administrator considers appropriate.

### **Preservation of records**

24. (1) The Returning Officer must, after he or she has declared the result of the poll, seal up all ballot papers and other documents relating to the election, and deliver all the packets to the Administrator.

(2) The Administrator must retain all the packets sent to him or her under sub-regulation (1) for a period of 6 months and must then, unless otherwise directed by the Governor, cause them to be destroyed.

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SCHEDULE  
(Regulations 6, 8, 10 and 15)

FORM A – NOMINATION FORM  
(Regulation 6(2))

NOMINATION FORM

- 1. Name of candidate (in full) .....
- 2. Address .....
- 3. Name of proposer (in full) .....
- 4. Name of seconder (in full) .....

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

.....

Justice of the Peace/Returning Officer.

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

.....

Justice of the Peace/Returning Officer.

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

.....

Witness.

(Full name: .....) )

Handed in at ..... on the ..... day of ....., 20.....

.....

Presiding Officer.

FORM B – BALLOT PAPER  
(Regulation 8(3))

**ASCENSION ISLAND COUNCIL GENERAL ELECTION**

**Ballot Paper**

Note: You can vote for only one candidate or for any number of candidates up to the number of seats to be filled in this election

To vote for a candidate or candidates mark an ‘X’ in the box opposite the name or names of each candidate for whom you wish to vote

**ADAMS TONY**

**SMITH JOHN**

**BROWN MARY**

**KEOWN JO**

**JONES JANE**

**GEORGE TIM**

---

FORM C – APPLICATION TO BE TREATED AS A SICK OR ABSENT VOTER  
(Regulation 10(2))

APPLICATION TO BE TREATED AS AN ABSENT OR SICK VOTER

To the Returning Officer

- 1. I am registered as an elector on the Register of Electors for the  
..... Polling Station.
- \*2. On the date of the next election I anticipate being away from Ascension.
- \*3. On the date of the next election I shall be unable to attend personally at the polling  
station because—
  - \*(a) I am physically handicapped, and have no ready means of transport.
  - 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—

[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.

Full Name (in capitals) .....

Address .....

.....

..... Signature.

I confirm my willingness to be authorised to vote as proxy for the voter named above and that  
I have not consented to act as proxy for any other voter in the same election.

..... Signature.

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FORM D – AUTHORITY TO VOTE AS PROXY  
(Regulation 10(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 ..... that the said applicant should be entitled to vote by proxy in accordance with the provisions made therefore.

2. Being satisfied that the applicant is so entitled I 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 said proxy is required by law to complete the declaration at the foot hereof in the presence of the Presiding Officer and any person making such a declaration is warned that it is a punishable offence to state therein 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 – DECLARATION BY APPLICANT FOR A TENDERED BALLOT PAPER**

**DECLARATION BY APPLICANT FOR TENDERED BALLOT PAPER**

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 Ascension.

Signature .....

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

.....

Presiding Officer.

\_\_\_\_\_

# ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008

(Section 44)

## COUNCIL COMMITTEES (PROCEDURE) RULES, 2014

(Section 16)

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#### **Citation and application**

1. These Rules may be cited as the Council Committees (Procedure) Rules, 2014, and apply to all Council Committees constituted under section 18 of the Island Government (Ascension) Ordinance, 2008.

#### **Interpretation**

2. In these Rules—  
“**Chair**” means a member of Council appointed by the Governor to be the Chair of a Council Committee under section 18 of the Ordinance, and includes an elected member presiding at a meeting in accordance with rule 6(2);  
“**Elected Member**” means a member of the Committee who is an Elected Member of the Island Council.

#### **Meetings**

3. (1) Subject to rule 4, each Council Committee must meet at times and at places the Chair directs.

(2) Written notice of the time and place of each meeting must be sent by the Chair to every member of the Committee, not less than 3 working days before the meeting:  
Provided that, in a case where the Chair considers a meeting to be of urgency and importance, the period of notice may be reduced or dispensed with.

(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 two Elected Members of a Committee may requisition a meeting by giving notice of their request to the Chair in writing; such notice must be signed by both the members requisitioning the meeting and must state the business to be considered. The Chair must call a meeting of the Committee as soon as is practicable after the receipt of such notice.

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

### **Agenda**

5. (1) The Chair 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) The Chair must, at the same time as sending the same to Members of the Committee, send to the Administrator, the Director of Resources, and the Attorney General, copies of all notices of meetings, agenda, and memoranda (but not additional papers referred to in memoranda).

(4) No business other than that shown on the agenda is to 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, there is to preside at the meeting a committee

member (who is an elected member) appointed by the Administrator under section 18(2) of the Ordinance.

### **Quorum**

7. The quorum is one less than the total number of members appointed under section 18(2) of the Ordinance.

### **Minutes**

8. (1) The Chair must, within 7 working days after each meeting, prepare a draft Minute of the meeting, and send a copy of it to each member of the Committee.

(2) If any member of the Committee wishes to challenge the accuracy of a draft Minute, he or she must give notice of it 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, he or she 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 sub-regulation (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 objection is to be allowed as to the accuracy of a Minute after it has been certified as a true record pursuant to sub-regulation (2) or (3).

(5) Subject to sub-regulation (6), a copy of every signed Minute must be sent by the Chair to—

- (a) the Administrator; and
- (b) each member of the Island Council.

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

(7) It is the duty of the Chair to 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 publicised in advance of the minutes of the meeting being approved.

### **Committee recommendations**

9. Whenever a Committee decision contains any recommendation to the Island Council, such recommendation must be clearly identified in the Minutes, and by a separate communication signed by the Chair and addressed to the Island Council through the Administrator.

### **Questions to be decided by majority vote**



**10.** All questions for the decision of a Committee must be determined by the majority of the votes of the members present and voting; the Chair or other member presiding has an original vote and, in the event of an equality of votes, a second or casting vote.

### **Method of voting**

**11.** Voting must be by show of hands.

### **Conflict of interest**

**12. (1)** If a member has any financial interest, direct or indirect in any matter under consideration by a Committee, the member must, as soon as such business is entered upon, disclose the fact.

**(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 sub-regulation (1) in relation to any item of business, the member must inform the Chair as soon as it is reasonably practicable to do so.

**(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; and
- (b)* the strategic monitoring of Government activities,

in relation to the subjects assigned to it by the Governor in accordance with section 18 of the Ordinance.

**(2)** A Committee—

- (a)* may make recommendation to the Island 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

- (ii) paragraphs (a) to (f) in section 11(1) of the Ordinance; or  
 in a manner which is inconsistent with any law or with policies or other lawful instructions given by the Governor.

### **Persons who may attend Committee**

**14. (1)** The Chair 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 may not vote, at the meeting.

**(2)** The Administrator, the Director or Resources, 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 may not vote, at the meeting.

### **Chair may act on Committee's behalf between meetings**

**15.** Between meetings of a Committee, the Chair may take action on the Committee's behalf on matters which are of a routine nature or are of such urgency that it is impossible to convene a meeting by the time within which it may be necessary for him or her to act. The Chair must report all such action at the next meeting of the Committee.

### **Use of email and fax**

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

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## **ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008**

### **ISLAND COUNCIL (PROCEDURE) RULES, 2020**

(Sections 12 and 16)

1. Citation
2. Interpretation
3. Meetings
4. Elected Members may requisition meeting
5. Agenda
6. Confidentiality
7. Persons who may attend Council meeting
8. Quorum
9. Conflict of interest
10. Voting in Council
11. Minutes
12. Use of e-mail

## Citation

1. These Rules may be cited as the Island Council (Procedure) Rules, 2020.

## Interpretation

2. In these Rules—
  - “**Chair**” means the Governor, unless the Governor is absent or otherwise unable to preside, in which case it means the Administrator;
  - “**Clerk**” means the person from time to time performing the duties of clerk to the Council;
  - “**Elected Member**” means a member of the Council duly elected in accordance with the provisions of the Ordinance (as opposed to *ex officio* members);
  - “**FCO Desk Officer**” means a UK Government official at the Foreign and Commonwealth Office from time to time fulfilling the role of desk officer with responsibility for Ascension Island;
  - “**official e-mail address**” means an e-mail address provided to each Elected Member by the Government, during the currency of their tenure, for the purposes of sending and receiving electronic correspondence concerning proceedings of the Council and for related purposes.

## Meetings

3. (1) The written notice of the date, time and place of each Council meeting sent to every member by, or on authority of, the Governor not less than three working days before the meeting in accordance with section 12(1) of the Ordinance, must also be displayed, where possible, on public notice boards (in addition to the official notice board) and published in the Islander newspaper.

(2) Save in exceptional circumstances, the written notice to members must be accompanied by the agenda referred to in rule 5.

(3) In accordance with section 12(1) of the Ordinance, in the case where the Governor considers a meeting to be of urgency, the period of notice in rule 3(1) may be reduced or dispensed with.

## Elected Members may requisition meeting

4. (1) If the Governor receives a request for a meeting from Elected Members in accordance with section 12(2A) of the Ordinance, the Governor must, without undue delay, summon the Council to meet by notice referred to in rule 3.

(2) A request by Elected Members to summon a meeting in accordance with section 12(2A) of the Ordinance must be made in writing signed by the Elected Members and may be made by a series of written requests, each signed by one or more Elected Members or by e-mail or a series of e-mails from the official e-mail addresses of the Elected Members so requesting the meeting.

(3) At a meeting of the Council summoned under this rule, no business is to be considered other than that stated in the request for it to be held.

## **Agenda**

**5. (1)** Save in exceptional circumstances, the Chair must decide the agenda for each meeting and a copy of the agenda must be sent to each member together with the notice of the meeting.

**(2)** Where an agenda is provided, each substantive agenda item must be supported by a concise memorandum identifying the subject matter and the issues for consideration by the Council (unless the Chair dispenses with this requirement).

**(3)** Each item on the agenda will either be for decision or for information, and the accompanying memorandum must make this clear, and where a decision is sought, the memorandum must contain a clear recommendation which is amenable to being decided by a vote.

**(4)** All such memoranda (together with any other papers referred to in the memoranda) must be circulated to members either with the agenda or, in any event, not later than two working days before the meeting.

**(5)** If the Chair considers that there is a matter on the agenda that could be of importance or interest (whether internationally or locally) to either the United States Air Force or the Royal Air Force based on Ascension, this must be brought to the attention of the FCO Desk Officer not later than the date on which the agenda is circulated to members.

**(6)** An item may be withdrawn from the agenda at the discretion of the Chair either before the relevant meeting has started, or as a matter arising at the start of that meeting.

**(7)** No business other than that shown on the agenda is to be brought before a meeting, unless the Chair considers it of such urgency as would justify convening a meeting at short notice pursuant to section 12 of the Ordinance. No decisions may be made about an item raised under Any Other Business until a memorandum has been prepared and members have had the opportunity properly to consider it.

## **Confidentiality**

**6. (1)** If the Chair directs or the Council resolves under section 12(7) of the Ordinance that the public should be excluded from all or part of an otherwise public meeting on the ground that the subject matter of the business to which it relates is such that it ought to be considered confidential, that direction or resolution and the content of the confidential business must be recorded in the Minute of the meeting.

**(2)** The Minute under paragraph (1) must not be published and an edited version, which includes the fact of the direction or resolution but excluding the content of the confidential business, may be published instead.

## **Persons who may attend Council meeting**

**7.** The Chair may invite any person to attend a meeting of the Council (either generally, or for a specific item of business) even if the person is not a member of the Council, if in the opinion of the Chair the presence of that person is desirable. A person attending in this

capacity may speak at that meeting but may not vote.

### **Quorum**

**8.** The Chair is responsible for ensuring that the Council remains quorate in accordance with section 12(4) of the Ordinance (i.e. that the number of Elected Members present and voting is no less than half of the total Elected Members); and if the Council becomes inquorate then the Chair must adjourn the meeting.

### **Conflicts of interest**

**9. (1)** If a member has any financial or other interest, direct or indirect, in any matter under consideration by the Council, the member must disclose the fact as soon as such business is entered upon.

**(2)** If it is apparent to a member in advance of a meeting that he or she will be required to make a declaration of interest in relation to any item of business, the member must inform the Chair as soon as it is reasonably practicable to do so.

**(3)** When a declaration of interest has been made by a member of the Council, 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 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 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).

**(4)** An Elected Member who has made a disclosure of interest must not be counted as part of the quorum, unless the Chair makes a declaration as outlined in paragraph(3)(d), and if the meeting thereby becomes inquorate, the item of business must stand adjourned to the next meeting of the Council.

**(5)** This rule applies notwithstanding that the member may have given notice of the interest previously, including by completing a register or other record to that effect.

### **Voting**

**10.** The Chair is responsible for ensuring that votes are cast in accordance with section 13 of the Ordinance, either by a show of hands, or where one or more members attends via telephone or similar means, each member must state audibly whether he or she votes for or against the motion or abstains from voting.

### **Minutes**

**11. (1)** Within seven working days of each meeting, the Chair must prepare (or cause to be prepared by the Clerk) a draft Minute of the meeting and send a copy of it to each

member.

(2) If any member wishes to provide a suggested correction to a draft Minute, he or she must give notice of it to the Chair (or the Clerk on behalf of the Chair) by 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 (or by the Clerk on behalf of the Chair), or if the matters raised in such notice or notices are subsequently resolved through correspondence to the satisfaction of all members, then the draft Minute will be taken to be approved as a true record of the meeting.

(3) Whether or not a notice as outlined in paragraph (2) is received within the prescribed timescale, the Chair must cause the draft Minute to be placed on the agenda for the next meeting of the Council either for information if it has been approved, or for approval if it has not been possible for it to be approved in advance of the meeting (and, if necessary, calling an extra meeting for that purpose).

(4) When the draft Minute has been approved by the Council (with or without amendment), the Chair must sign the approved Minute (including by electronic means) certifying it to be a true record of the meeting.

(5) Paragraph (3) does not apply to the draft Minute of the final Council meeting before dissolution in accordance with section 22 of the Ordinance.

(6) No objection is to be allowed as to the accuracy of a Minute after it has been certified as a true record.

(7) Subject to the requirements of confidentiality under rule 6, an agreed summary of the meeting, as may be prepared, may be circulated to the general public and be published in the Islander newspaper and / or electronically.

#### **Use of e-mail**

**12.** (1) Notices and documents relating to Council business may be sent to and by Elected Members by e-mail using their official e-mail address.

(2) This rule does not prevent correspondence from being sent by means other than e-mail.

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