



ST. HELENA

(Chapter No. not allocated yet)

ELECTIONS ORDINANCE

Non-authoritative Consolidated Text

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Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email pa.lawofficers@legalandlands.gov.sh]¹

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¹ These contact details may change during 2011 or early in 2012. In case of difficulty, email shgwebsite@sainthelena.gov.sh or telephone (+290) 2470.

ELECTIONS ORDINANCE, 2009

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This e-version of the text is not authoritative for use in court.

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ELECTIONS ORDINANCE

(Ordinance 7 of 2009)

AN ORDINANCE TO PROVIDE FOR THE ELECTION OF MEMBERS TO THE LEGISLATIVE COUNCIL OF ST. HELENA AND FOR MATTERS CONNECTED THEREWITH AND INCIDENTAL THERETO.

Commencement
[1 September 2009]

PART I
PRELIMINARY

Citation

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

Interpretation

2. In this Ordinance, unless the context requires otherwise—
“**candidate**” means a person who is nominated as a candidate for election as a Member;
“**constituency**” means an area designated as a separate constituency by regulations made under section 3(3)(a);
“**corrupt practice**” means any offence so designated by section 25;
“**Council**” means the Legislative Council established by the Constitution;
“**election officer**” includes a Returning Officer, Registration Officer, Presiding Officer, clerk or other person having any duty to perform under this Ordinance;
“**elector**” means a person whose name is on the relevant register and, in relation to the conduct of any poll, includes (unless the context requires otherwise) a proxy for an elector;
“**electoral district**” means an area designated as such by regulations made under section 3(3)(b);
“**illegal practice**” means any offence so designated by regulations made under section 28;
“**Member**” means an elected member of the Council;
“**proxy**” means a person who is authorised, in accordance with section 12, to vote on behalf of another elector;
“**Register**” means a register of electors maintained pursuant to regulations made under section 3(3)(c).

Administration

3. (1) The Governor shall by notice in the *Gazette* appoint—

- (a) a Registration Officer to be responsible for the maintenance of a register or registers of electors for the purposes of this Ordinance; and
- (b) a Returning Officer to be responsible for managing the conduct of every election held under this Ordinance,

and may appoint such Assistant Registration Officers and Assistant Returning Officers as he may from time to time think fit.

(2) An Assistant Registration Officer shall have all the powers and may perform all the duties of the Registration Officer and an Assistant Returning Officer shall have all the powers and may perform all the duties of the Returning Officer and any reference in this Ordinance to the Registration Officer or the Returning Officer shall, unless the context requires otherwise, be deemed to include a reference to an Assistant Registration Officer or Assistant Returning Officer, as the case may be.

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

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

PART II

QUALIFICATION AND DISQUALIFICATION OF ELECTORS AND CANDIDATES

Eligibility to be registered as elector

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

- (a) has St. Helenian status, as defined in the Immigration Control Ordinance, 2008, or is the spouse or life partner of such a person; and
- (b) has attained the age of 18 years; and
- (c) is, on the date on which he applies to be registered, both present in St. Helena and ordinarily resident in the constituency for which he applies to be registered.

(2) A person who has St. Helenian status or is the spouse or life partner of such a person shall be treated as being present and ordinarily resident in St. Helena if he makes a declaration in the prescribed form to the effect that he—

- (a) has St. Helenian status or is or the spouse or life partner of such a person, as the case may be; and
- (b) is ordinarily resident in St. Helena but is absent therefrom in connection with employment, education, or training (of himself or of his spouse or life partner) or for the purposes of medical treatment:

Provided that this subsection does not apply to a person who has been absent from St. Helena for a continuous period of 30 months or for periods exceeding in aggregate 625 days in the preceding 30 months.

(3) No person shall be entitled to be registered as an elector, or to vote, if—

- (a) he is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;
- (b) he is certified to be incapable by reason of mental disorder of managing and administering his property and affairs;
- (c) he is under sentence of imprisonment (by whatever name called) imposed on him by a court in any part of the Commonwealth for a term of or exceeding twelve months, other than a sentence *in lieu* of a fine, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or
- (d) he is disqualified for registration as an elector under any law for the time being in force in St. Helena relating to offences connected with elections.

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

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

Eligibility and nomination of candidates

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

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

(2) Every nomination of a candidate shall be in the prescribed form and shall contain—

- (a) the full name of the candidate, and;
- (b) the full names and signatures of two sponsors, whose signatures shall be attested by the Returning Officer or by a justice of the peace;
- (c) the full names and signatures of five supporters, whose signatures shall be witnessed by persons who would be eligible themselves to be either sponsors or supporters; and
- (d) a declaration or declarations of conformity with subsection (4).

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

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

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

Provided that a candidate may, not later than noon on the last day appointed for the nomination of candidates, withdraw from his candidature by giving notice to that effect in writing signed by him to the returning officer.

(6) Nomination papers on which are inscribed the names of more than one candidate, or which are not subscribed and attested as required by this section, or which are not accompanied by the statement in writing required by subsection (5), or which are delivered after the period prescribed by that subsection shall be rejected and the nominations in any such nomination papers shall be void.

PART III ELECTIONS

Writs of election

6. (1) The Governor shall, for the purpose of—
(a) every general election of Members; and
(b) the election of Members to fill vacancies caused by death, resignation or otherwise,
issue writs of election under the public seal directed to the Returning Officer.

(2) A writ of election shall specify—

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

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

(4) The Returning Officer shall upon receipt of a writ of election proceed to hold the election thereby directed in accordance with the provisions of this Ordinance and the regulations made hereunder;

Provided that, if a duly nominated candidate dies before the poll has commenced, the Returning Officer shall, upon being satisfied as to the death, countermand the notice of the poll and report the matter to the Governor, and the Governor shall thereupon issue a fresh writ of election (so, however, that no further nomination shall be required in respect of a candidate who has been duly nominated at the time of the countermanding of the poll).

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

Failure to comply with provisions of Ordinance

7. No election shall be invalid by reason of any failure to comply with any provision of this Ordinance relating to elections if it appears 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.

Elector not bound to disclose for whom he voted

8. No elector shall in any legal proceedings be required to state for whom he voted.

Employers to allow employees period for voting

9. (1) Every employer shall, on polling day, allow to every elector in his employ a reasonable period for voting and no employer shall make any deduction from the pay or other remuneration of any such elector or impose upon or exact from him any penalty by reason of his absence during that period.

(2) Any employer who directly or indirectly refuses or by intimidation, undue influence, or in any other manner, interferes with the granting to any elector in his employment, of a reasonable period for voting, as in this section provided, shall be liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Cost of elections

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

Power to vary dates

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

Absent and sick electors

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

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

(2) Application under subsection (1)—

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

Provided that no person shall be appointed to be proxy to vote, or shall vote, on behalf of more than one absent or sick elector.

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

(4) Any person who—

- (a) without proper cause, applies for a ballot paper to vote by proxy for a sick or absent elector;
- (b) knowingly, seeks or allows himself to be nominated as proxy for more than one absent or sick elector;
- (c) signs or makes any declaration on any authority to vote as proxy which is false to his knowledge or belief,

shall be guilty of an offence and shall be liable upon summary conviction to a fine not exceeding £500 or to imprisonment for three months, or to both such fine and imprisonment.

PART IV
ELECTION PETITIONS

Power to question elections by petition

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

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

Presentation of petition

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

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

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

(3) An election petition shall be presented within 14 days after the day on which the result of the election has been declared:

Provided that an election petition complaining of the election on the grounds of any corrupt or illegal practice and specifically alleging that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on his account or with his 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.

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

Provided that, if the said costs, charges and expenses amount in total to less than the said sum, the unexpended balance shall be refunded to the petitioner.

Relief which may be claimed

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

- (a) a declaration that the election is void;
 - (b) a declaration that the return of the person elected was undue;
 - (c) a declaration that any candidate was duly elected and ought to have been returned.
- (2) For the avoidance of doubt, a declaration that the election of a candidate was void or undue does not affect the validity of the election of other candidates returned in the same election.

Trial of election petitions

16. (1) An election petition shall be tried in open court.
- (2) At the conclusion of the trial of an election petition the court shall 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 shall certify its determination to the Governor.
- (3) Upon a certificate being given under subsection (2), the determination shall be final and the return shall be confirmed or altered or the Governor shall within one month of such determination by notice in the *Gazette* order the holding of an election in the constituency concerned, as the case may require, in accordance with such certificate.

Where candidate is guilty of corrupt or illegal practice, etc

17. (1) Subject to subsection (2), where upon the trial of an election petition the court finds that a candidate who has been elected was personally guilty or guilty by his agents of any corrupt or illegal practice, his election shall be void.
- (2) Where upon the trial of an election petition the court finds that a candidate at an election has been guilty by his agents of the offence of treating, undue influence or illegal practice in reference to the election, and the candidate proves to the court—
- (a) that no corrupt or illegal practice was committed at the election by the candidate or with his knowledge or consent, and the offences committed were committed without the sanction or connivance of the candidate;
 - (b) that all reasonable means for preventing the commission of corrupt and illegal practices were taken by and on behalf of the candidate;
 - (c) that the offences committed were of a trivial, unimportant and limited character; and
 - (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents,
- then, if the candidate was elected, his election shall not, by reason of the offences found to have been committed, be void; and, whether he was elected or not, the candidate shall not be subject to any incapacity under section 25.

Rules of court

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

PART V
OFFENCES

Offences in connection with registration and election

19. (1) Any person who—

- (a) knowingly registers himself or causes or permits himself to be registered as an elector for an electoral district when he is registered in another electoral district;
- (b) forges or fraudulently defaces or destroys any nomination paper or delivers a nomination paper to a Returning Officer knowing it to be wholly or partly forged;
- (c) votes or induces or procures any person to vote knowing that he or such other person is prohibited from voting;
- (d) forges or counterfeits or fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper;
- (e) without due authority supplies a ballot paper to any person;
- (f) not being authorised to do so by the provisions of this Ordinance makes any mark on any ballot paper delivered to any person other than himself;
- (g) fraudulently takes any ballot paper out of the polling station; or
- (h) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of the election,

is guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding 12 months, or to a fine not exceeding £1,000, or to both such fine and imprisonment.

(2) Any person who attempts to commit an offence specified in this section shall be 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 shall be deemed to be the property of the Returning Officer.

Duty of secrecy

20. (1) Every person in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting therein, and shall not, except for a purpose authorised by law, communicate to any person before the poll is closed any information as to the name or number on the register of electors of any elector who has or has not applied for a ballot paper or voted at that polling station or as to the official mark; and no person shall interfere with or attempt to interfere with an elector when marking his ballot paper or shall 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 shall 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 shall maintain and aid in maintaining the secrecy of the voting; and no person shall 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) No person shall directly or indirectly induce any elector to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for or against whom he has marked it.

(4) Any person who acts in contravention of any of the provisions of this section is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

Personation

21. (1) Any person who, otherwise than is permitted by the provisions for proxy voting—

- (a) applies for a ballot paper in the name of any other person (whether that name be of a person living, dead or fictitious); or
- (b) having voted once at an election applies at the same election for a ballot paper in his own name,

is guilty of the offence of personation:

Provided that—

- (i) it shall not be an offence for an authorised proxy to apply for a ballot paper for and on behalf of the elector for whom he is or has been proxy unless at the time he so applies—
 - (a) he knows that he has no authority to do so; or
 - (b) he knows that the elector for whom he is the authorised proxy has already applied for and been given a ballot paper to enable that elector to vote on his own behalf;
- (ii) it shall not be 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 so applies he knows that his authorised proxy has already applied for and been given a ballot paper on his behalf.

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

(3) A person against whom a declaration is made under subsection (2) shall not, by reason thereof, be prevented from voting.

Treating

22. Every person who corruptly by himself 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 every elector who corruptly accepts or takes any such food, drink, entertainment or provision is guilty of the offence of treating.

Undue influence

23. Every person who directly or indirectly by himself or by any other person on his behalf makes use of or threatens to make use of any force, violence or restraint, or inflicts or

threatens to inflict by himself 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 who by abduction, duress or any fraudulent contrivance impedes or prevents the free exercise of the franchise of any elector or thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at an election is guilty of the offence of undue influence.

Bribery

24. Every person who—

- (a) directly or indirectly by himself or by any other person on his 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 by any other person on his 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 by any other person on his 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 thereof shall 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 by any other person on his behalf receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself 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 by any other person on his 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,

is guilty of the offence of bribery.

Punishment and incapacities for corrupt practice

25. Any person who—

This e-version of the text is not authoritative for use in court.

- (a) commits the offence of personation, or aids, abets, counsels or procures the commission of the offence of personation;
- (b) commits the offence of treating, undue influence or bribery;
- (c) knowingly makes or publishes, before or during any election, for the purpose of affecting the return of any candidate, any false statement of fact in relation to the personal conduct or character of that candidate;
- (d) knowingly makes or publishes, before or during an election, for the purpose of promoting or procuring the election of any candidate, any false statement of the withdrawal of any other candidate at that election;
- (e) appears before a Presiding Officer at any election and produces an authority to vote as a proxy which to 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,

shall be guilty of a corrupt practice and shall be liable on summary conviction to a fine not exceeding £2,000 or to imprisonment for a term not exceeding 18 months, or to both such fine and imprisonment, and shall during a period of seven years from the date of his conviction be 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 his conviction of retaining his seat as a Member.

Offences by election officers

26. Any election officer who—

- (a) makes in any record, return or other document which he is required to keep or make under the provisions of this Ordinance any entry which he knows or has reasonable cause to believe to be false or does not believe to be true;
- (b) permits any person whom he 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) refuses to permit any person whom he 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 prevents any person from voting at the polling station at which he knows or has reasonable cause to believe that person to be entitled to vote;
- (e) wilfully rejects or refuses to count any ballot paper which he 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 he knows or has reasonable cause to believe not to have been validly cast for that candidate,

is guilty of an offence and liable on summary conviction to a fine not exceeding £2,000 or to imprisonment for a term not exceeding 18 months, or to both such fine and imprisonment.

PART VI GENERAL

Orders for production of documents

27. The Chief Justice may make an order that any ballot paper or other document relating to an election, which has been sealed up in pursuance of any regulations made under the Ordinance, be inspected, copied or produced at such time and place and subject to such conditions as the Chief Justice may deem expedient, but shall not make such an order unless he 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.

Governor in Council may make regulations

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

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

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

Punishment of offences

29. A person who commits an offence against this Ordinance, or against any regulations made under it, for which no other penalty is provided, is liable on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Repeal and transitional provisions

30. (1) The Elections Ordinance, Cap 5, is repealed.

(2) Until Regulations made under section 3(3) make different provision—

- (a) St Helena shall be divided into the two constituencies (known previously as ‘electoral areas’) provided for in the Electoral Areas Regulations 2005; and
- (b) the said constituencies shall continue to be divided into electoral districts (known previously as ‘polling districts’) as provided for in the Elections Regulations, 2005.

(3) Any register or registers of electors in force immediately prior to the commencement of this Ordinance shall remain in force as if made for the purposes of this Ordinance—

- (a) until replaced by a Register or Registers published in accordance with regulations made under section 3(3)(c); and
- (b) subject to such modifications, adaptations, or transitional provisions (if any) as may be prescribed by the Governor by Order published in the *Gazette*.

ELECTIONS REGULATIONS – SECTION 3 AND 28

(Legal Notice 24 of 2009)

Citation and commencement

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

Presiding Officers and Clerks

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

(2) The Returning Officer shall 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 shall have all the powers and may perform all the duties of a Presiding Officer; and any reference in these Regulations to a Presiding Officer shall, unless the context requires otherwise, be deemed to include a reference to an Assistant Presiding Officer.

Polling Stations

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

Procedure on close of nominations

4. (1) During the period of one hour after the close of nominations, the Returning Officer shall permit the candidates, and their proposers and seconders, to examine the nomination papers received by him for the constituency concerned, which shall be in the form set out in Form A of the Schedule, and to make representations to him as to the validity of any nomination.

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

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

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

(5) If the number of candidates exceeds the number of vacancies to be filled, the Returning Officer shall include in the notice published under paragraph (3) a declaration that a

poll shall be taken and a statement of the place or places at which, and the date and times during which, the poll shall be taken.

The Poll

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

(2) Every ballot paper and counterfoil for use in a poll shall be in the prescribed form (Form B in the Schedule), and shall—

- (a) be capable of being folded; and
- (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 two or more candidates with the same surname, in alphabetical order of their first, other or principal other name);
- (c) have a unique number printed on the back, with the same number printed on the front of the counterfoil.

Voting by blind electors etc

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

(2) The Presiding Officer shall 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 and the reason therefor.

Sick or absent voters

7. (1) Application under section 12 of the Ordinance shall be made to the Returning Officer in the prescribed form (Form C in the Schedule).

(2) The Returning Officer may, with the approval of the Governor, make arrangements for applications to be received by fax.

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

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

(5) The proxy shall attend in person at the polling station at which the voter would be entitled to vote, and shall produce to the Presiding Officer the authority (Form D) provided for him by the Returning Officer, and he will thereupon (if the Presiding Officer is satisfied as to the authenticity of the authority and as to the identity of the proxy, and 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 paragraph (5), the Presiding Officer shall retain the authority and return it with other election papers in accordance with Regulation 15.

Method of voting

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

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

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

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

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

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

Questions to voters

9. (1) The Presiding Officer may, and if so requested by a candidate or his or her polling agent shall, 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 shall not be delivered to any person required to answer the above questions, or either of them, unless he has answered the question or questions to the satisfaction of the Presiding Officer.

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

Spoilt ballot papers

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

Tendered Ballot Papers

11. (1) If a person representing himself 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 shall, after making a declaration in the Form E in the Schedule, be entitled to mark a ballot paper different in colour from other ballot papers, (hereinafter referred to as “a tendered ballot paper”).

(2) A tendered ballot paper shall, instead of being put into the ballot box, be given to the Presiding Officer and endorsed by him with the name of the elector and his number in the register of electors and set aside in a separate packet.

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

Polling Agents and Counting Agents

12. (1) Each candidate may, before the commencement of the poll, appoint 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 shall not exceed one polling agent for each polling station and two 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, shall 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

13. (1) The Presiding Officer shall regulate the number of electors to be admitted to the polling station at any time and shall exclude all other persons except—

- (a)** the candidates and their polling agents;
- (b)** any assistant Presiding Officer or clerk appointed to attend at the polling station to assist the Presiding Officer;
- (c)** police officers on duty;
- (d)** the Returning Officer; and
- (e)** electors, and the companions of incapacitated electors.

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

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

(4) A person is guilty of an offence if he fails to comply with an order of the Presiding Officer under this Regulation or if he enters a polling station without lawful reason to do so, and the order of the Presiding Officer shall be sufficient authority for any police officer to arrest that person.

Ballot Boxes

14. (1) Every ballot box shall be so constructed that the ballot papers can be inserted therein while the box is locked, but cannot be withdrawn therefrom unless the box is unlocked.

(2) The Presiding Officer shall, immediately before the commencement of the poll, show the ballot box empty and unlocked to such persons as may be present at the polling station so that they may see that it is empty, and shall then lock the box and place his seal upon it in such a manner as to prevent it being opened without the breaking of the seal; and he shall keep it locked and sealed and shall place it for the receipt of ballot papers so that it is always in his view.

Close of Poll

15. (1) No ballot paper shall 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 shall be allowed to record his vote.

(2) As soon as practicable after the close of the poll, the Presiding Officer shall, in the presence of such candidates and polling agents as 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 spoilt ballot papers placed together;
- (c) the tendered ballot papers;
- (d) the counterfoils of used ballot papers;
- (e) the marked copy of the register of electors;
- (f) the tendered votes list; and
- (g) the authorities to vote as proxy on behalf of absent or sick electors, in respect of whom ballot papers have been issued,

and shall deliver the packets to the Returning Officer.

The Count

16. (1) The Returning Officer shall cause the votes to be counted as soon as may be after he has received all the ballot boxes for the election, and shall (not less than 48 hours before the time appointed for the commencement of the poll) give notice to the candidates of the time and place (or places) at which he will begin to count the votes.

(2) No person other than—

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

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

(3) Before the Returning Officer proceeds to count the votes he shall, in the presence of such candidates and their counting agents as attend—

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

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

Votes excluded from count

17. (1) Any ballot paper—

- (a) which does not bear the official mark; or
- (b) on which votes are given for more candidates than the elector is entitled to vote for; or
- (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,

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

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

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

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

shall not by reason thereof be deemed to be void (either wholly or in respect of that vote) if an intention that a vote shall 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 can be identified thereby.

(4) The Returning Officer shall endorse—

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

and shall add the words “rejection objected to” if objection is made to his decision by a candidate or counting agent.

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

Recount

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

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

Declaration of Result

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

(2) The number of candidates equal to the number of seats to be filled who obtain the greatest number of votes validly cast shall be declared elected; in the event of an equality of votes between two or more candidates, where the number of votes for each of them would affect the result of the election, the matter shall be resolved by drawing lots.

(3) The Returning Officer shall endorse on the writ, a certificate under his 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 shall forward the same to the Governor, who shall cause the said certificate to be published in the *Gazette*, and in such other manner (if any) as he may deem appropriate.

Preservation of records

20. (1) The Returning Officer shall, after he 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 Chief Secretary.

(2) The Chief Secretary shall retain all the packets sent to him under paragraph (1) for a period of six months and shall then, unless otherwise directed by the Supreme Court, cause them to be destroyed.

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

Forms

21. The forms shown in the Schedule shall be used for the purposes of these Regulations.

SCHEDULE

Form A
ELECTIONS ORDINANCE, 2009
<i>ELECTIONS REGULATIONS</i>
<i>(Section 5(2) and Regulation 4(1))</i>
NOMINATION FORM
..... Constituency.
1. Full name of Candidate:
2. Declaration by Candidate: I (<i>name of Candidate</i>) declare that I am willing to be nominated for election. Candidate.
3. Full names of sponsors: 1. Signature*: 2. Signature*: Signed by the above named sponsors in my presence, this day of, 20..... Returning Officer / Justice of the Peace. <i>*Please read declaration of conformity with section 5(4) in paragraph 5 below.</i>
4. Full names of supporters: 1. Signature*: Witness: 2. Signature*: Witness: 3. Signature*: Witness: 4. Signature*: Witness: 5. Signature*: Witness: <i>*Please read declaration of conformity with section 5(4) in paragraph 5 below.</i> <i>Witness must be person who would be eligible to be either a sponsor or supporter</i>
5. Declaration of conformity with section 5(4): By signing this nomination form, each sponsor and supporter declares that he does not act as sponsor or supporter for more candidates than the number of seats to be filled in the election.
Handed in at a.m. on the day of, 20.....

..... Returning Officer.

Form B																	
ELECTIONS ORDINANCE, 2009																	
<i>ELECTIONS REGULATIONS</i>																	
BALLOT PAPER AND COUNTER FOIL																	
<i>(Regulation 5)</i>																	
No. Ballot Paper Counterfoil Constituency. Elector's Serial No.	<table border="1"> <tr> <td colspan="2">Legislative Council Election.</td> </tr> <tr> <td colspan="2">..... Constituency.</td> </tr> <tr> <td colspan="2">Ballot Paper.</td> </tr> <tr> <td>ADAMS, John Peter</td> <td></td> </tr> <tr> <td>BROWN, Marion</td> <td></td> </tr> <tr> <td>BROWN, Henry</td> <td></td> </tr> <tr> <td>MORRIS, Lydia Valerie</td> <td></td> </tr> <tr> <td>SMITH, James Phillip</td> <td></td> </tr> </table>	Legislative Council Election.	 Constituency.		Ballot Paper.		ADAMS, John Peter		BROWN, Marion		BROWN, Henry		MORRIS, Lydia Valerie		SMITH, James Phillip	
Legislative Council Election.																	
..... Constituency.																	
Ballot Paper.																	
ADAMS, John Peter																	
BROWN, Marion																	
BROWN, Henry																	
MORRIS, Lydia Valerie																	
SMITH, James Phillip																	

Note:

The counterfoil is to have a number corresponding with that on the back of the ballot paper

Form C	
ELECTIONS ORDINANCE, 2009	
<i>ELECTIONS REGULATIONS</i>	
<i>(Section 12 and Regulation 7(1))</i>	
APPLICATION TO BE TREATED AS AN ABSENT OR SICK VOTER	
To the Registration Officer Electoral district.	
1. I am registered as an elector on the Register of Electors for the above named electoral district.	
*2. On the date of the next election I anticipate being away from St. Helena.	
*3. On the date of the next election it shall not be practicable for me to attend in person at the polling station because—	
	*(a) I am physically handicapped;
or	*(b) I am now sick, and it is medically undesirable that I should travel to the polling station.
4. I desire to nominate another person as proxy to record my vote on my behalf, and hereby nominate for this purpose—	
[THE NOMINATED PERSON MUST BE REGISTERED AS AN ELECTOR IN THE SAME ELECTORAL DISTRICT. DO NOT NOMINATE ANYONE WHO IS ALREADY A PROXY FOR ANYONE ELSE]	
Full Name (in capitals)
Address
I certify that the information given above is true.	
Full Name (in capitals)
Address
..... Signature.	

**Delete as necessary.*

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

Form D
ELECTIONS ORDINANCE, 2009 <i>ELECTIONS REGULATIONS</i>
<i>(Regulation 7(3))</i>
AUTHORITY TO VOTE AS PROXY ON BEHALF OF AN ABSENT OR SICK ELECTOR
1. Application has been made to me in due form by of in the electoral district of that the said applicant should be entitled to vote by proxy in accordance with the provisions made therefor.
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 <i>any person</i> making such a declaration is <i>warned that it is a punishable offence</i> to state therein any fact which is false to the knowledge of the declarant.
..... Registration Officer.
<i>Declaration</i> by the above named proxy.
I, of do hereby declare that I am the proxy named above and that to the best of my knowledge, information and belief the above named elector is alive and not otherwise disqualified from voting.
This day of, 20
..... (to be signed in the presence of the Presiding Officer)

Form E
ELECTIONS ORDINANCE, 2009 <i>ELECTIONS REGULATIONS</i>
<i>(Regulation 11)</i>
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 the Electoral District.
Signature
Declared before me, this day of, 20.....
..... Presiding Officer.

REGISTRATION OF ELECTORS REGULATIONS – SECTION 3 AND 28

(Legal Notices 25 of 2009 and 2 of 2011)

Citation and commencement

1. (1) These regulations may be cited as the Registration of Electors Regulations, 2009, and, except as provided in paragraph (2), shall come into force on publication.
- (2) Paragraph (b) in Regulation 7(2) shall come into force on 1 October 2010.

Register of Electors

2. (1) At any time when St. Helena is divided into two or more constituencies, there shall be a separate Register of Electors for each constituency.
- (2) Each Register shall be in a form approved by the Governor and shall record, in respect of each person entitled to be included in the Register,—
- (a) full name;
 - (b) address;
 - (c) the electoral district in which he will be allowed to vote (which shall, unless he requests otherwise by way of an application under Regulation 4(d), be the electoral district in which he has his home); and
 - (d) a unique reference number to be allocated to each elector.

Compilation of Provisional Register

- 3.² (1) On or before the first day of May in each year, commencing in 2010, the Registration Officer shall compile a Provisional Register of Electors for each constituency, to have effect for the period of one year commencing on 1 July that year, which shall be based on information collected from—
- (a) the then current Register;
 - (b) Registers of Births, Deaths and Marriages;
 - (c) Immigration and Emigration Records; and
 - (d) such other sources as to the Registration Officer seem appropriate.
- (2) On or before the tenth day of May each year, the Registration Officer shall publish the Provisional Register of Electors in the *Gazette*, and in such other manner (if any) as the Governor may approve, 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

4. (1) Any person who is eligible to have his name entered in any Register may, within 14 days of the date on which a Provisional Register of Electors is published for that constituency, apply in writing to the Registration Officer to have that Register amended—
- (a) by removing therefrom the name of a person who has died, left St. Helena, or otherwise is ineligible for inclusion in the Register; or
 - (b) by adding the name of any person who is eligible for inclusion in the register but whose name has been omitted; or

² Regulation 3 amended by LN 2 of 2011

- (c) by correcting any other error in the details recorded therein; or
- (d) by changing the electoral district in which he will be allowed to vote; or
- (e) by removing his name from the register.

(2) As soon as is practicable after receiving an application under paragraph (1), the Registration Officer shall (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 shall, 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

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

(2) The Magistrates' Court shall hear and determine any such appeal within ten days of receiving it and its decision shall be final.

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

Publication of Register of Electors

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

Amendments to Register

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

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

- (a) during the period between the publication of a writ of election and the declaration of the result of such election; or
- (b) during the period between the first day of October in any year and the next date on which a new Register is published under regulation 6,

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

(3) On receipt of an application under paragraph (1), the Registration Officer shall publish notice thereof in the *Gazette* (and in such other manner, if any, as appears to the Registration Officer to be appropriate)—

³ Regulation 6 amended by LN 2 of 2011

- (a) specifying a date and time at which the Registration Officer will consider the application; and
- (b) stating that any person who is registered or eligible to be registered as an elector may submit objections or comments in writing to the Registration Officer by a date and time (not being less than seven days after the date of the notice) specified in the notice.
- (4) At the time specified in the notice published under paragraph (3), or as soon as is practicable thereafter, the Registration Officer shall enquire into the matter and either—
 - (a) amend the Register in such manner as is necessary to make it conform to the provisions of the Ordinance and these Regulations; or
 - (b) refuse to make any amendment.
- (5) The provisions of regulation 5 apply to a determination under paragraph (4) as they do to a determination under regulation 4(2).

Preservation of records

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

Forms

9. The forms shown in the Schedule shall be used for the purposes of these Regulations.

SCHEDULE

FORM A	
APPLICATION TO AMEND REGISTER OF ELECTORS	
PART 1	
To the Registration Officer	
I hereby apply to have the Register of Electors for the Electoral District amended as provided in Part 2 below.	
Surname (in capitals)	
Other names	
Address	
PART 2	
<i>(Please strike out parts which do not apply)</i>	
A	I apply to have my name added to the Register of Electors

<p>I certify that—</p> <p>(a) I have St. Helenian status, as defined in the Immigration Control Ordinance, 2008, or I am the spouse or life partner of such a person; and</p> <p>(b) I have attained the age of 18 years; and</p> <p>(c) I am both present in St. Helena and ordinarily resident* in the Electoral Area.</p> <p><i>(*If you are temporarily absent from St Helena, please also obtain and complete 'Form B')</i></p>	
B	I apply to change the electoral district in which I will be allowed to vote
<p>My name is currently included in the Register for the Electoral District.; but I wish to vote in theElectoral District</p>	
C	I apply to have my name removed from the Register of Electors
D	I apply to have any other error in the details recorded in the Register of Electors corrected
<p>Please provide details of other error in the Register to be corrected</p>	
E	I apply to have the name of a person who has died, left St. Helena, or who is otherwise ineligible for inclusion, removed from the Register of Electors
<p>The following person's name is currently included in the Register for the Electoral District.</p> <p>I hereby apply for his/her name to be removed from the Register on the following grounds:</p>	
<p>Signature: _____ Date: _____</p>	

Form B	
ELECTIONS ORDINANCE, 2009	
REGISTRATION OF ELECTORS REGULATIONS, 2009 (Section 4(2))	
DECLARATION FOR PURPOSES OF BEING TREATED AS BEING PRESENT AND ORDINARILY RESIDENT IN ST. HELENA	
To the Registration Officer	
<p>I declare that—</p> <p>(a) I have St. Helenian status / I am or the spouse or life partner of a person who has St. Helenian status*;</p> <p>(b) I am ordinarily resident in St. Helena but am absent therefrom in connection with employment, education, or training (of myself or my spouse or life partner) / for the purposes of medical treatment*; and</p> <p>(c) I have not been absent from St. Helena for a continuous period of 30 months or for periods exceeding in aggregate 625 days in the preceding 30 months.</p> <p>I claim to have my name included in the Register of Electors for the Electoral District.</p> <p>(*delete whichever is not applicable)</p>	
Surname (in capitals)
Other names
Address
Date	(Signature)

**THE ST HELENA, ASCENSION AND TRISTAN DA CUNHA CONSTITUTION
ORDER 2009: SCHEDULE 1, SECTION 49(3)**

(Gazette Notice No. 30 of 24 April 2012)

**Provision made by the Governor for enabling Public Officers to be Qualified to be
Elected as Elected Members of the Legislative Council**

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

SCHEDULE

SCHEME "A"

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

In such cases, if the candidate is elected:

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

SCHEME “B”

A pensionable officer or a non-pensionable officer who is not otherwise disqualified by section 49 of the Constitution may stand for election on the basis that, if elected, he will be released from his duties without pay, for the duration of his term as a Councillor.

In such cases if the candidate is elected:

(a) he will be released from performance of his duties with effect from seven days after the date of the election, but may elect to take paid or unpaid leave during that period; and,

(b) on cessation of his term as a Councillor, he will return to the public service and be assigned to such office or employment as the Governor may consider suitable, at the same grade or level as that prior to election credited with any increment that might be due to him as a result of a performance appraisal for work in his previous position in the public service; and, with any cost of living increases he would have received if he had remained in service.

The term as Councillor will be treated as a temporary suspension of employment in the public service in accordance with Regulation 6(1) of the Pensions Regulations 2012. It will **not** in itself count towards pensionable service but service prior to and after the period of temporary suspension will be regarded as continuous service for pension purposes.

SCHEME “C”

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

In such cases if the candidate is elected:

(a) he shall cease his duties, and commence leave of absence pending resignation, seven days after the date of the election;

(b) if the officer has completed at least 10 years pensionable service, his pension will be preserved until he reaches normal retirement age in accordance with Regulation 3 of the Pensions Regulations 2012