



# **The St. Helena Government Gazette**

## **EXTRAORDINARY**

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### **The St Helena, Ascension and Tristan da Cunha Constitution Order 2009 Schedule 1, section 49(3)**

#### **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"**

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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

Dated this 24<sup>th</sup> day of April 2012