

ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008

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SCHEDULE



Ascension

No. 7 of 2008

Enacted12th September, 2008.
Date of CommencementAs Provided by Section 51.
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ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008

Amended by LN 3/2009, Ord 8/2010 & Ord 4/2012

An Ordinance to make provision for the constitution and functions of the Island Council and for purposes connected therewith or incidental thereto. *(Amended by LN 3/2009)*

Enacted by the Governor of St. Helena and its Dependencies.

PART I - PRELIMINARY

Citation and commencement

1. This Ordinance may be cited as the Island Government (Ascension) Ordinance, 2008, and shall come 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 45, 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 by reason of dissolution of the Council) in accordance with section 6;
 - “**Council**” means the Island Council; *(Amended by LN 3/2009)*
 - “**election offence**” means any offence specified in sections 31 to 37 of this Ordinance;
 - “**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;

“official notice board” means the notice board outside the Government’s main Administration Building in Georgetown; and
“reside” means to be lawfully present on Ascension in accordance with the Entry Control (Ascension) Ordinance 2007, and cognate expressions shall 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 such functions as are conferred upon it by this Ordinance or by any other law in force in Ascension.

(2) The Council shall (subject as hereinafter provided) consist of -

(a) the Governor;

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

(c) three 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 shall have a vote.

(3) Subject to the provisions of section 8, if the number of candidates duly nominated in a general election is fewer than eight, paragraph (b) in subsection (2) shall have effect (until the Council is next dissolved) with substitution of the number ‘five’ for the number ‘seven’. *(amended by Ord 8/2010)*

Qualification for election as members

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

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

(b) he 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). *(LN Ord 4/2012)*

Disqualification for elected membership

5. No person shall be qualified to be elected as a member of the Council if—

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

(b) he is serving, or has within the five years immediately preceding the date of election served, a sentence of imprisonment for a term of 12 months or more, imposed on him by a court of law in any country or substituted by a competent authority for some other sentence imposed on him by such a court, or is under such a sentence the execution of which has been suspended;

(c) he holds, or is acting in, any public office 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 shall become vacant—
- (a) in the event of his death;
 - (b) if he resigns his seat by writing under his hand addressed to the Governor;
 - (c) on dissolution of the Council in accordance with section 22;
 - (d) if he ceases to have actual or deemed permission to be or remain on Ascension in accordance with the Entry Control (Ascension) Ordinance, 2007, or, having been exempt from the provisions of sections 4 and 6 of that Ordinance (under section 5(2) thereof), ceases to be so exempt; or
 - (e) if any circumstance arises that, if he were not a member of the Council, would cause him not to be qualified for election thereto 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 shall be held on such date and in such manner as may be 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 seat therein,

shall be determined by the Supreme Court in accordance with the provisions of this Ordinance; and the decision of the Supreme Court shall be 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 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 shall 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 six, the provisions of this Ordinance shall stand suspended, except for the purposes of holding a further general election, until such time as a new Council of at least five members is duly elected.

(3) If, by virtue of subsection (2), the operation of this Ordinance stands suspended, it shall be the duty of the Governor to call a new general election within six months of the date on which subsection (2) took effect and (for the purposes of section 3(3), the Council shall be deemed to have been dissolved on the day prior to the date of the writ of election. *Ord 8/2010*

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, his 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 shall be eligible to be included in the Register of Electors if such person—

(a) is over 18 years of age;

(b) has been resident on Ascension for a period of at least six months immediately before the date of compilation of the Register; and

(c) is not exempt from income tax on his official emoluments under paragraph (a) or (i) of Schedule III of the Income Tax Ordinance, Cap. A7, or a dependant of a person who is so exempt;

Provided that for purposes of paragraph (b), any period of temporary absence shall 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 attains the age of 18 years. (Ord 4/2012)

Governor to consult Council

10. (1) Subject to the provisions of this section, the Governor shall consult the Council in the formulation of policy in relation to the exercise of all functions conferred upon him in relation to or in respect of Ascension by this or any other Ordinance, and shall act in accordance with the advice given to him by the Council.

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

(a) when acting under instructions given to him by Her Majesty through a Secretary of State;

(b) any function conferred upon him by this Ordinance or any other law which is expressed to be exercisable by him in his discretion or in his judgement 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 his judgment, the service of Her Majesty would sustain material prejudice thereby;

(e) where the matter to be decided is, in his judgment, too unimportant to require the advice of the Council;

(f) where the matter to be decided is, in his judgment, too urgent to admit of the giving of the Council's advice by the time within which it may be necessary for him to act:

Provided that in every such case the Governor shall as soon as practicable communicate to the Council the measures which he has adopted, with the reasons therefor.

(3) In any case where the Governor is required by this section to consult the Council, he may act otherwise than in accordance with the advice given to him by the Council if in his 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 shall not, under this subsection, act contrary to the advice given to him by the Council without the prior approval of a Secretary of State, unless, in his judgment, the matter is of such urgency that it is necessary for him to act before obtaining such approval; and if he does so

act he shall, as soon as practicable, report his action and the reasons therefor 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 by the Council, he shall inform the members of the Council (in writing) of his intention and his reasons therefor; and any member of the Council who wishes to do so may, within 21 days, submit his comments (in writing) to the Governor, who shall forward them to a Secretary of State as soon as practicable.

(4) Where 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, he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(5) Where 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 he has so exercised that function shall not be enquired into in any court.

Governor's special responsibilities

11. (1) The Governor shall be 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 discretion, may assign to the Administrator, for such period and under such conditions as he 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) of this section.

(3) Where the Governor, acting in his 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), he may, acting in his discretion, give directions as to the exercise of that function, and the Administrator or the authority concerned shall exercise the function in accordance with those directions;

Provided that nothing in this subsection shall affect the function of the Attorney General under section 14 of the Constitution.

Meetings of and proceedings in Council, etc

12. (1) The Council shall 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 such other details as may be prescribed in Rules made under section 16) shall, unless the Governor otherwise directs in case of urgency, be—

- (a) sent in writing (or in such other form as may be prescribed in Rules made under section 16) to each member of the Council; and
- (b) affixed to the official notice board,

not less than three working days prior to the meeting.

(2) A meeting of the Council shall 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:

Provided however that the Council shall be summoned to meet by the Governor if he receives a request for such a meeting signed by four or more elected members, and Rules made under section 16 may provide for such a request to be made by email or a series of separate emails, or by a series of separate written requests rather than by a single document bearing four or more signatures.

(3) The Governor shall normally preside at each meeting of the Council:

Provided that, if the Governor be absent or otherwise unable to preside, the Administrator shall preside and shall have (in relation to the conduct of that meeting) all the powers, functions and authority of the Governor;

Provided further that the person presiding over a meeting of the Council shall not have either a deliberative or a casting vote; and, if there is an equality of votes cast on any issue, the motion shall be lost.

(4) The Council shall 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. *(Ord 4/2012)*

(5) Subject to subsection (4) and section 8(2), the Council shall not be 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 shall be 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 shall 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) It shall be lawful for a Crown Counsel, if so authorised by the Attorney General, with the consent of the Governor, to take the place of the Attorney General at any meeting of the Island Council; *(Inserted By LN 3/2009)*

Voting in Council

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

(2) Votes shall 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 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, notwithstanding that such officer is not a member thereof, if in the opinion of the

Governor, the business before the Council renders the presence of such officer desirable; and such officer shall be entitled to take part in the proceedings of the Council relating to the matters in respect of which he was directed to attend as if he were a member of the Council, but he shall not have the right to vote.

Consultation as to making of laws

15. *Repealed by LN 3/2009*

Rules of Procedure of Council and Committees

16. **(1)** Subject to the provisions of this Ordinance and of any other law, the Governor (acting in his 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 prejudice to the generality of subsection (1), Rules made thereunder may provide for public servants to be required to attend meetings in order to assist a Committee.

Finance Committee

17. **(1)** There shall be a Finance Committee of the Council which shall consist of—

- (a)* the Director of Resources, as Chairman;
- (b)* three members appointed by the Governor from among the elected members of the Council having been nominated by the Council for such appointment:

Provided that, if the Director of Resources is absent from Ascension or otherwise unable to act as Chairman, the Administrator shall appoint one of the other members of the Committee to act as Chairman.

(2) The Finance Committee shall—

- (a)* consider draft estimates laid before it by the Director of Resources, and submit recommendations thereon to the Council;
- (b)* subject to sections 10 and 11, consider any other matters pertaining to finance which the Governor or the Council may submit 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 the provisions of this Ordinance, the Governor, acting in his discretion, may, by directions in writing, establish one or more committees of the Council for such general or special purposes as may be prescribed 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 shall consist of—

- (a)* such person as the Governor may appoint from among the members of the Council, as Chairman;
- (b)* three members appointed by the Governor from among the elected members of the Council having 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:

Provided that, if the Chairman of a committee is absent from Ascension or otherwise unable to act as Chairman, the Administrator shall appoint one of the other members of that committee to act as Chairman.

Rules relating to all committees

19. (1) The Governor may at any time by writing under his 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 shall vacate his seat as a member of the committee—

- (a) if he 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 committee shall be three members.

(4) In relation to any committee of the Council, without prejudice to 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 it shall be the duty of the committee to advise the Governor accordingly.

Reports of committees

20. (1) Subject to the provisions of subsections (2) and (3), each committee of the Council shall, at such times and either in writing or orally as may have been 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 judgement it is desirable so to do, exercise his powers in respect of such matter prior to the report of the committee thereon to the Council.

(3) The provisions of subsection (2) shall 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,

shall be permitted to take part in the proceedings of the Council or the committee (as the case may be) until he has made, before the Governor, or some other person authorised by the Governor in that behalf, oaths or affirmations—

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

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

Dissolution of Council

22. (1) The Governor may, at any time, acting in his discretion, dissolve the Council:

Provided that the Governor shall dissolve the Council at the expiration of **three** years from the date the Council first meets after the last dissolution of the Council. *Ord 8/2010*

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

General Election

23. A General Election shall be held not less than 14 days, nor more than 30 days, after every dissolution of the Council, on such date as the Governor shall appoint 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 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 under section 5; or
- (d) that the person whose election is questioned was not duly elected in accordance with the provisions of this Ordinance.

(2) The result of an election shall 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 to have been a candidate at the election; or
- (d) the Attorney General.

(2) An election petition shall be signed by the petitioner, or by all the petitioners if there are more than one, and shall 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:

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 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.

(3) At the time of presentation of an election petition, or within three days thereof, the petitioner shall 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 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:

Provided that the said Clerk shall forthwith inform the said 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 him) shall be served (by or on behalf of the petitioner or petitioners) on the Attorney General, within 48 hours of the same being presented to the Court, and no further proceedings shall take place on such petition until seven 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 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.

Trial of election petitions

27. (1) An election petition shall be tried in open court and, subject to section 25(5), shall 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 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) The determination of the Supreme Court shall be final; and the declared result of the election shall be 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 shall 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.

Where candidate is guilty of corrupt or illegal practice, etc

28. (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 any of 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 an 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 37.

Failure to comply with provisions of Ordinance

29. No election shall be 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 thereof.

PART IV – Election Offences

Offences in connection with registration and election

- 31.** (1) Any person who—
- (a) 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;
 - (b) votes, or induces or procures any person to vote, knowing that he or such other person is prohibited from voting;
 - (c) forges or counterfeits or fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper;
 - (d) without due authority, supplies a ballot paper to any person;
 - (e) 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;
 - (f) fraudulently takes any ballot paper out of the polling station; or
 - (g) 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,

shall be 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

32. (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 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 shall be guilty of an offence and shall be 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

33. Any 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 own name,

shall be 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.

Treating

34. 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, shall be guilty of the offence of treating.

Undue influence

35. 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 shall be guilty of the offence of undue influence.

Bribery

36. 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,
shall be guilty of the offence of bribery.

Punishment and incapacities for corrupt practice

37. Any 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,

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 of the Council.

Offences by election officers

38. 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,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2000 or to imprisonment for a term not exceeding 18 months or to both such fine and imprisonment.

PART V – Miscellaneous

Orders for production of documents

39. The Chief Justice 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 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; but, save as aforesaid, no person shall be allowed to inspect any such ballot paper or document except in the course of his duty as an election officer.

Elector not bound to disclose for whom he voted

40. No elector shall, in any legal proceedings or otherwise, be required to state for whom he voted in an election under this Ordinance.

Employers to allow employees period for voting

41. (1) Every employer shall, on polling day, allow to every elector in his employ a reasonable period of absence from work for the purpose of voting; and no employer shall make any deduction from the pay or other remuneration of any such elector, nor 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 right of any employee under subsection (1), shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £1000 or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

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

(4) Where an offence is committed under this section by a body corporate, every director, secretary, manager, or other official of that body corporate is liable to be convicted and sentenced for the same offence and punished accordingly unless he shows that he 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 the provisions of this Ordinance shall 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 thereunder) and may substitute other dates *in lieu* thereof.

Governor may make regulations

44. (1) The Governor may make regulations—

- (a) prescribing the fees to be paid in connection with anything done under the provisions of 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 imposing 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 thereof.

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

PART VI – Senior Public Offices

Administrator

45. (1) *Repealed by LN 3/2009*

(2) The Administrator shall have such functions as are conferred upon him by or under this Ordinance or any other law, and such other functions as the Governor may from time to time be pleased to assign to him and, subject to the provisions of this Ordinance and of any other law by which such functions are conferred, shall perform all such functions (including any functions which are expressed by any relevant law to be exercisable in his discretion or in his judgment) according to such instructions as the Governor may from time to time see fit to give him:

Provided that the question whether or not the Administrator has in any matter complied with such instructions shall not be inquired into in any court .

(3) Subject to subsection (4), where any office is created by any written law and the functions thereof 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 shall be 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 shall 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 by LN 3/2009*

Crown Counsel

48. *Repealed by LN 3/2009*

Oaths of Office

49. (1) A person appointed to the office of Administrator, Director of Resources, or Crown Counsel shall, before entering upon the duties of such office, make (before the Governor or a person authorised by the Governor in that behalf) 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, shall not be 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, Cap A3;
 - The Island Council (Temporary Provisions) Ordinance, 2007; and
 - The Island Council (Temporary Provisions) Ordinance, 2008.

Commencement and transitional provisions

51. (1) Subject to the provisions of this section, this Ordinance shall come 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, shall be deemed to be a Register of Electors prepared in accordance with such Regulations.

(3) The first general election held under this Ordinance shall be held on such date as the Governor may fix by Order, and such Order may contain such incidental, consequential, or transitional provisions as 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 shall be deemed to have been appointed under, and to have taken the oaths required by, this Ordinance, and shall hold office accordingly until the expiry or other lawful termination of their respective appointments.

Schedule

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

ASCENSION



THE ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008
THE REGISTRATION OF ELECTORS REGULATIONS, 2008

Amended by Ord 8/2010 & Ord 4/2012

In exercise of the powers conferred by sections 8 and 44 of the Island Government (Ascension) Ordinance, 2008, the Governor makes the following regulations:

Citation and commencement

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

Registration Officer

2. (1) The Administrator shall appoint a Registration Officer for the purpose of these Regulations, and may appoint such Assistant Registration Officers (if any) 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 any reference in these Regulations to the Registration Officer shall, unless the context otherwise requires, be deemed to include a reference to an Assistant Registration Officer.

Register of Electors

3. The Register of Electors shall be in a form approved by the Administrator and shall 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 date of birth;
- (d) the polling station at which he will be allowed to vote (which shall, unless he requests otherwise by way of an application under Regulation 6(d), be the polling station nearest to his 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 otherwise satisfies the criteria in section 9 of the Ordinance, but shall not be entitled to vote in any election held before he attains the age of 18 years.

Compilation of Provisional Register

5. (1) On or before the **sixteenth day of September** in each year, the Registration Officer shall 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 1 **November** that year.

(2) On or before the **sixteenth day of September** each year, the Registration Officer shall publish (by placing a copy thereof on the official notice Board, and in such other manner (if any) as the Administrator may approve) 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 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:

- (a) by removing therefrom the name of a person who has died, left Ascension, or otherwise ceased to be eligible 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
- (c) by correcting any other error in the details recorded therein; or
- (d) by changing the polling station at 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

7. (1) Any person who is dissatisfied with the decision of the Registration Officer under Regulation 6(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

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 1 November in each year, the Registration Officer shall publish (in the same manner as the Provisional Register of Electors) the Register of Electors for the year commencing on 1 November that year; and the Register so published shall be 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 between 1 January and 31 August of such year made by any person who is eligible to have his name entered in such Register.

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

- (a) add the person to such 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. (Ord 4/2012)



ASCENSION

THE ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008

PUBLIC OFFICES (DISQUALIFICATION FOR ELECTED MEMBERSHIP) REGULATIONS, 2011

In exercise of the powers conferred upon him by section 5(c) of the Island Government (Ascension) Ordinance, 2008, His Excellency the Acting Governor makes the following Regulations:

Citation and commencement

1. This Order may be cited as the Public Offices (Disqualification for Elected Membership) Regulations, 2011.

Public offices

2. The following public offices are designated for the purposes of section 5(c), namely:
- Conservation Officer
 - Crown Counsel
 - Director of Resources
 - Director of Operations
 - Finance Team Leader
 - Head Teacher
 - Human Resources Adviser/Corporate Services Team Leader
 - Member of the St. Helena Police Force (Ascension Detachment)
 - Senior Medical Officer

Revocation

3. The Public Officers (Disqualification for Elected Membership) Regulations, 2008, are revoked.

Made by the Acting Governor this 7th day of October 2011,

Legal Notice No. 7 of 2008.

ASCENSION

THE ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008
THE GENERAL ELECTION ORDER, 2008

In exercise of the powers conferred by section 51(3) of the Island Government (Ascension) Ordinance, 2008, the Governor makes the following Order:

Citation

1. This Order may be cited as the General Election Order, 2008.

Date of general election

2. The first general election held under the provisions of the Ordinance shall be held on the 14th day of October, 2008.

Closure of nominations

3. Nominations in relation to the said election shall be received on the 30th day of September, 2008 at the office of the Returning Officer.

Legal Notice No. 8 of 2008.

ASCENSION

THE ISLAND GOVERNMENT (ASCENSION) ORDINANCE, 2008

THE ELECTIONS REGULATIONS, 2008

Amended by LN 6/2010, Ord 8/2010, LN 1/2011& LN 5/2011

In exercise of the powers conferred by sections 8 and 44 of the Island Government (Ascension) Ordinance, 2008, the Governor makes the following regulations:

Citation and commencement

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

Returning Officer

2. (1) The Administrator shall appoint a Returning Officer for the purpose of these Regulations, and may appoint such Assistant Returning Officers (if any) as he may from time to time think fit.

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

Polling Stations

4. The Returning Officer shall, at each election, make such arrangements as may from time to time be 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 shall be as determined in accordance with section 23 of the Ordinance.

(2) A by-election shall be held on such date as the Governor may fix by notice given in writing under his hand and the public seal, and published on the official notice board, and such date shall be at least 21 days after the date of such notice.

Nominations

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

(2) Every nomination shall be in the prescribed form (Form A in the Schedule) and shall 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 consent to nomination; and
- (c) delivered to the Returning Officer by 6:00pm on the date fixed for the receipt of nominations. *(LN 1/2011)*

(2A) The Returning Officer may receive nominations on any day prior to the date fixed pursuant to paragraph (1) of the regulations. *LN 6/2010*

(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 the provisions of sub-regulation (2), the Returning Officer shall cause a list of persons nominated to be published (by affixing the same to the official notice board and in such other manner, if any, as the Administrator may approve) on the day following the date fixed for receipt of nominations; and a poll shall be held.

(2) If the number of valid nominations at a general election is less than six, the Returning Officer shall declare the election to be void and cause notice thereof to be given to the Administrator, who shall cause the same to be published on the official notice board and in the Gazette, and in such other manner (if any) as he may deem appropriate; and section 8(2) of the Ordinance shall apply accordingly. *Ord 8/2010 & LN 5/2011*

(3) If the valid nominations in a by-election does not exceed the number of vacancies to be filled, the Returning Officer shall declare the election to be void and cause notice thereof to be given to the Administrator, who shall cause the same to be published on the official notice board and in the Gazette, and in such other manner (if any) as he may deem appropriate. *LN 5/2011*

The Poll

8. (1) The poll shall be taken on the date fixed for the election, and polling stations shall 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 shall do so in person.

(3) Every ballot paper and counterfoil for use in a poll shall be in the form set out in 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

9. (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

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) Application shall be made to the Returning Officer in the prescribed form (Form C in the Schedule), and must be received by him at least 48 hours before the time specified for the opening of the poll; such application form shall nominate one person as a proxy to vote on behalf of the absent or sick elector, and no proxy shall 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 shall 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 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 in 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 24.

(7) Any person who—

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

is guilty of an offence and liable on summary conviction to a fine not exceeding £500 or to imprisonment not exceeding 3 months, or to both such fine and imprisonment

Method of voting

11. (1) Except as provided in Regulation 9, 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, each voter 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) The 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.

Questions to voters

12. (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 or she 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

13. 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.

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 shall be sufficient authority for the police officer to do so.

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

Tendered Ballot Papers

15. (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

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 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 twenty-four hours before the time appointed for the poll to commence.

Behaviour of persons in polling stations

17. (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) 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 office to arrest that person.

Ballot Boxes

18. (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

19. (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

20. (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 give notice to the candidates of the time and place 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, and make a written record thereof; 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

21. (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

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 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

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

(2) The seven *or, as the case may be, five* (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 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. *Ord 8/2010*

(3) The Returning Officer shall issue, to the Administrator, 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 the Administrator shall cause the said certificate to be published on the official notice board and in the *Gazette*, and in such other manner (if any) as he may deem appropriate.

Preservation of records

24. (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 Administrator.

(2) The Administrator 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 Governor, cause them to be destroyed.

The Schedule

FORM A – Nomination Form

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

Counterfoil	Island Council Election. Ballot Paper	
Ballot Paper No.	You may vote for any number of candidates up to the number of seats to be filled in this election; Place an 'X' in the box to the right of the name of each candidate for whom you wish to vote.	
	ADAMS, John Peter	<input type="checkbox"/>
	BROWN, Alice	<input type="checkbox"/>
	BROWN, Henry	<input type="checkbox"/>
Elector's Serial No.	MORRIS, William Patrick	<input type="checkbox"/>
	SMITH, Joanna	<input type="checkbox"/>

FORM C – Application to be Treated as a Sick or Absent Voter

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.

FORM D – Authority to Vote as Proxy

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.