



LEGISLATION PROPOSAL

to enact new legislation

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to amending existing legislation

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1. For the attention of the Chair of the:

- ☐ Economic Development Committee
- ☐ Education Committee
- ☐ Environmental and Natural Resources Committee
- ☐ Public Health Committee
- ☒ Social and Community Development Committee
- ☐ Other:

2. Name of Promoters: Karen Yon, Registrar and Christine Cooper, Crown Counsel, Ag's Chambers

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3. Background Information

The Births and Deaths (Registration) Ordinance only permits a birth that occurred on St Helena to be registered. The number of pregnant women sent to South Africa because of complications has increased and so there are now more babies born overseas. The birth can be registered in South Africa and, often also in the UK but not in St Helena. This does not have any impact on the immigration status but does create practical problems.

The most common problems are that it is very difficult: (i) to get copy birth certificates; and (ii) for an unmarried father get legal parental rights for the child.

The South African authorities require the application for a copy birth certificate to be made in person and so it is necessary to travel to South Africa to apply. It then takes several weeks for the certificate to arrive.

If the parents are unmarried, the father will only be recorded on the birth certificate if he is present when the birth is registered. If the father has not travelled to South Africa for the birth, he will cannot appear as the father on the birth certificate. If he does not appear on the birth certificate, he will have to go to court to get legal parental responsibility for the child.

It is less common but there is also a problem if the child's name is changed as the South African authorities will only issue a birth certificate in the name the child had at birth. In one case, the person had to change their name back in order to get travel documents.

It is proposed to amend the Ordinance to permit the birth of a child born overseas to be registered in St Helena provided that one parent was ordinarily resident here at the time of the birth. The plan is also to permit the registration of the death overseas of a person who was ordinarily resident on St Helena as this is likely to become more common in the future and could cause difficulties for the family.

4. Evidence Relied on

Experience of the Registrar and her staff and also matters raised by constituents with Councillors.

5. Details of Proposal
(attach further pages if necessary)

It is proposed to amend the Births and Deaths (Registration) Ordinance to permit the registration of a birth that occurred overseas upon production of a birth certificate from the country of birth and upon the Registrar being satisfied that one parent is ordinarily resident on St Helena. After the date of the enactment of the Bill, the birth will need to be registered within 21 days of the child's arrival on the Island. It is proposed that there will be transitional provisions to permit a birth overseas in the five years prior to the enactment of the Bill to be registered.

It is also proposed to amend the Ordinance to permit the registration of a death that occurred overseas upon production of a death certificate from the country where the death occurred and upon the Registrar being satisfied that the deceased was ordinarily resident on St Helena at the time of death. After the date of the enactment of the Bill, the death will need to be registered within 12 months. It is proposed that there will be transitional provisions to permit a death overseas in the five years prior to the enactment of the Bill to be registered.

6. What will happen if no legislation is made

There will continue to be difficulties for parents and children when the mother has been referred for overseas treatment due to complications during pregnancy. Difficulties could also arise when administering the estate of a person who lived on St Helena but died overseas.

7. Impact of the proposed legislation

The proposed legislation will remove some of the difficulties experienced by parents who live on St Helena but whose babies are born overseas. It will also make it easier to administer the estate of a person who lived on St Helena but died overseas.

8. Proposed timescales

The draft Bill should be ready to present to Executive Council in January with the intention that, if approved, it could be considered by the next Legislative Council sitting after that (probably March 2018).

9. Promoter's Signature & date

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DECISION OF THE LEGISLATIVE COMMITTEE AFTER CONSIDERATION OF THE PROPOSAL

10. The proposal was considered
on [date]

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11. Officials & guests who dis-
cussed the proposal

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12.a The Committee
recommends no fur-
ther action be-
cause:

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or

12.b The Committee
recommends that
the following be
done and the pro-
posal be referred
back to the Com-
mittee on [date]

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or

12.c This is a man-
date to the promot-
er to prepare draft-
ing instructions with
the following direc-
tions

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13. This proposal together with an ExCo Memo will be
added as an agenda item at the ExCo on [insert date]

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14. The ExCo Memo will be prepared by

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15. Signature of Chair

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16. Date

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