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Copy No:

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Memorandum for Executive Council

SUBJECT

Births and Deaths (Registration) (Amendment) Bill

Memorandum by Chairman of the Social and Community
Development Committee

ADVICE SOUGHT

1. Council are asked to consider and give approval for the Births and Deaths (Registration) (Amendment) Bill, as enclosed, to be printed, published and presented as Government Business at the next meeting of the Legislative Council.

BACKGROUND & CONSIDERATIONS

2. At present, 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 child's immigration status but does create practical problems.
3. The most common problems are that it is very difficult: (i) to get copy birth certificates; and (ii) for an unmarried father to get legal parental rights over the child.
4. The South African authorities require the application for a copy birth certificate to be made in person and it is necessary to travel to South Africa with the child to apply. It then takes several weeks for the certificate to arrive.
5. 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 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 over the child.
6. 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.
7. This Bill amends 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 Bill also amends the Ordinance to permit the registration of the

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death overseas of a person who was ordinarily resident on St Helena or has assets on St Helena as this is likely to become more common in the future and could cause difficulties for the family when administering the estate.

8. Guidance on what should be considered ordinarily resident is attached at Annex B.
9. A child born overseas will be registered upon production of a birth certificate from the country of birth and upon the Registrar being satisfied that one parent is ordinarily resident in 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. There will be transitional provisions to permit a birth overseas in the five years prior to the enactment of the Bill to be registered.
10. A death that occurred overseas can be registered 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 in St Helena or had assets in 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.
11. A birth or death can be registered outside the prescribed time period in exceptional circumstances.

FINANCIAL IMPLICATIONS

12. Enacting the Bill will bring about a small increase in the number of births and deaths registered. This is not expected to require any extra resources.

ECONOMIC IMPLICATIONS

13. At present, the parents of children born in South Africa face the expense of having to travel to South Africa with the child if they need a copy of the birth certificate. Unmarried fathers who were not present when the child's birth was registered incur the cost of an application to the court in order to acquire parental rights over the child.

14. Additional expense is also incurred where a person with assets on St Helena dies overseas in order to administer their estate.

15. This expenditure will no longer be necessary once the Bill is enacted.

CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES PUBLIC/SOCIAL IMPACT

16. Not Applicable.

17. This Bill will remove some administrative and financial burdens when a child is born or a person has died overseas.

ENVIRONMENTAL IMPACT

18. No Environmental impact.

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PREVIOUS CONSULTATION / COMMITTEE INPUT

19. Elected Members have discussed the proposed Bill at the recent constituency meetings.

20. The SCDC has approved the Bill for presentation to Executive Council.

PUBLIC REACTION

21. The Bill has been broadly welcomed by the public at the recent constituency meetings.

PUBLICITY

22. The passage of this Bill is expected to be of some interest to the public and to the media. The decision should be included in the ExCo report and associated broadcast.

23. There also needs to be additional publicity by way of a press release to ensure that the public are aware that births and deaths occurring overseas can now be registered and also that they are made aware of the five year transitional period to register births and deaths that occurred before the date on which the Ordinance is enacted.

SUPPORT TO STRATEGIC OBJECTIVES OPEN AGENDA ITEM

24. None.

25. Recommended for discussion in open session.

DATE OF MEMO

25th April 2018

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