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Copy No:

No:51/2018

Memorandum for Executive Council

SUBJECT

Public Finance (Amendment) Bill, 2018

Memorandum by the Financial Secretary

ADVICE SOUGHT

1. **Executive Council is asked to advise whether the Public Finance (Amendment) Bill, 2018 (Annex A) should be printed, published and presented as Government business at the Legislative Council meeting being held on 26 October 2018.**

BACKGROUND & CONSIDERATIONS

2. Council is asked to consider two proposed amendments to the Public Finance Ordinance, 2010. Both amendments relate to Advances made by the St Helena Government under section 112 Borrowing or lending by Government of St Helena of the Constitution.
3. The Public Finance Ordinance, 2010 currently provides that the Financial Secretary may make disbursements of monies forming part of the Consolidated Fund or of other public monies, for the purposes of making advances:
 - a. on behalf of and recoverable from, other Governments, Administrations and Statutory Bodies; or
 - b. to public officers, for such purposes and on such terms and conditions as may be prescribed in the Code of Management or in Financial Regulations; or
 - c. to, or on behalf of public bodies, institutions or individuals where such advances are, in the opinion of the Financial Secretary, in the public interest; or
 - d. for such other purposes and on such terms and conditions as the Governor, with the approval of Legislative Council, may determine.
4. It also provides that the total amounts issued and disbursed to make these advances may not exceed £1,000,000, or such sum as the Financial Secretary, with the approval of the Governor, determines.
5. Section 112 of the Constitution currently requires that the terms and conditions of any such advance (including guarantees and indemnities) must be laid before and be approved by the Legislative Council before it can come into operation. Section 112(8), however, provides that the Legislature may by law

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exempt any category of loan from these requirements which are contained in section 112 (2)(a), (3), (5) and (6).

6. Section 112(5) and (6) are already exempted by clause 7(3) of the Public Finance Ordinance. The proposed amendment is to further exempt sub paragraphs 112(2)(a) and (3) of the Constitution. This amendment permits all types of advances however constituted to be made without the necessity of being approved by Legislative Council. The way in which the Public Finance Ordinance is currently written without the additional exemptions means that every Advance including small advances to employee for example must be presented under an Ordinance and the terms and conditions be approved by Legislative Council every time. This is not an efficient or effective process.
7. The second proposed amendment relates to SHG's financial exposure in relation to Advances where the Public Finance Ordinance 2010 currently under clause 7(2) sets a limit of £1,000,000 on the aggregate value of Advances at any point in time. It is proposed that the limit of total Advances that can be made should be increased to £2,000,000 without the need for approval of the Governor and will give SHG the flexibility to be able to provide an Advance should the exigencies of the service require. With the current level of external bodies including subsidiaries that SHG supports it is prudent to increase the limit so that should it be required SHG can provide short term Advances to ensure that key public services are delivered.
8. The increase in the limit does not mean that SHG intends to make additional Advances of £1,000,000 but provides SHG with the ability to make Advances above the current aggregate limit.

FINANCIAL IMPLICATIONS

Financial Exposure

9. Total aggregate value of Advances as at the end of September 2018 was £943,630 broken down as follows:

Category of Advance	£
Advances to Staff	£133,705
Advances to Other Governments, Administrations or Subsidiaries	£534,915
Advances to Public Bodies, Institutions or Individuals	£275,010
Aggregate Value	£943,630

10. The Advances made to other governments and administrations are essential to the delivery of public services but are not long

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term Advances. They are short term loans where SHG has paid invoices on behalf of those organisations and are expecting reimbursement shortly.

11. SHG does not make Advances where another institution e.g. BOSH should and is able to provide that type of personal or business financing facility. In the case of Personal Advances, SHG does charge interest where an advance is made to an employee. The Financial Regulations provides that those Advances are charged interest at 1% above the interest rate charged by the BOSH for personal unsecured loans. These loans are made at maximum of £5,000 but can be limited further based on an assessment of their ability to repay.
12. The Financial Regulations will be amended to provide further safeguards and limits in respect of making Advances. The Regulations will be changed to provide that no Advance shall be granted for a value greater than £500,000 or the aggregate exposure for one entity shall not be greater than £500,000 at any point in time. It shall also provide that no individual Advance shall be granted for more than 24 months.
13. With these measures in place SHG's financial exposure is limited. However the increase in the aggregate limit will not necessarily or automatically increase SHG financial exposure but it will allow SHG to make additional short term Advances where there is a business need to do so in the future.

Credit Risk

14. All Advances made are made for 24 months or less except Housing Loans that were for a longer period and made before the setup of the Bank of Saint Helena. SHG does not provide for Housing Loans any longer and does not make Advances for greater than 24 months.
15. SHG through its debt management processes ensure that Advances made by SHG under the Public Finance Ordinance are collected or reimbursement promptly.
16. Before any Advance is made Corporate Finance will undertake a review of the borrowing entity including individual employees to make an assessment of the impact on Credit Risk particularly their ability to repay the Advance, their financial stability and credit history and timing of repayments.
17. With these mitigating measures in place it is assessed that in respect of Advances credit risk is low.

Cash Flow/ Liquidity Risk

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18. The increase will not necessarily or automatically result in an increase in Advances and therefore will not automatically result in cash out flow of £1,000,000 for SHG.
19. Should Advances be made in the future they will reduce the cash holdings of SHG. It should be noted that there is a cost to SHG through lost interest on investments or cash deposits if Advances are made, at an average rate of £10 per £1,000 advanced.
20. Although the wording of the Constitution and the Public Finance Ordinance states that Advances are made from the Consolidated Fund or other public funds, there will be no withdrawal from either the Consolidated Fund or any other public fund. It is the cash holdings that sits behind those funds that are used to make Advances. The balance of the Consolidated Fund will not be affected.
21. SHG cash holdings including investments at the end of September is £10.3 million and is closely managed by Corporate Finance to ensure that SHG is able to meet its financial obligations.
22. With these mitigating measures in place it is assessed that in respect of Advances cash flow/ liquidity risk is low.

ECONOMIC IMPLICATIONS

23. There are no direct economic implications of this decision. The decisions requested within memo not asking for additional advances to be made, only for the process by which to make advances to be streamlined, which shall improve operational efficiency.

CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES PUBLIC / SOCIAL IMPACT

24. N/A – this matter is related to legal provisions.
25. There will be no direct or immediate public or social impact. In the future should it become necessary for SHG to provide an Advance to a public body providing a public service the fact that SHG can make an Advance will be a benefit to the community in the provision of services.

ENVIRONMENTAL IMPACT

26. There are no environmental implications of printing and publishing the draft bill and adopting as government business at the next formal sitting of Legislative Council.

PREVIOUS CONSULTATION / COMMITTEE INPUT

27. There has been no previous consultation with a Council Committee. This change has come about following a review by Corporate Finance and the Attorney General's Chambers of the provisions of the Public Finance Ordinance.

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PUBLIC REACTION

28. The public may be concerned with the significant increase of the aggregate limit from £1,000,000 to £2,000,000. However, with the analysis of the mitigating measures on credit and liquidity risks this should provide some assurance that public finances are being managed effectively to deliver the best outcomes for the Island.

PUBLICITY

29. The draft bill will have to be printed and published ten clear days before the next Formal Legislative Council session which is planned to be 26th October 2018. This will include being put onto the SHG website and the usual channels by the 11th October 2018.

30. Mention should be made in the ExCo Report and Associated Broadcast.

SUPPORT TO STRATEGIC OBJECTIVES LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS

31. N/A

32. N/A

OPEN /CLOSED AGENDA ITEM

33. It is recommended that this is held in a open session.

Corporate Support
Corporate Services

DLR

9 October 2018