

**Memorandum for Economic Development Committee**

**SUBJECT**

Pension Entitlements for Divested Officers

Memorandum by The Deputy Financial Secretary

**ADVICE SOUGHT**

- 1. Economic Development Committee is asked to consider a change to the Pensions Ordinance 2012 to bring the pension entitlements in respect of medical boarding of divested employees on par with that of public officers; and**
- 2. To advise whether relevant legislative changes should be drafted and presented to Executive Council.**

**BACKGROUND & CONSIDERATIONS**

3. The award of pensionable entitlements for divested officers on medical boarding is currently inconsistent with the provisions for officers employed by SHG.
4. Under the Pensions Ordinance 2012, Officers employed by SHG may access pensionable entitlements immediately following termination of employment on the basis of medical boarding, section 6(1)(e) and regulation 3(1)(e) refers:

*“6. (1) No pension, gratuity or other allowance shall be granted under this Ordinance to any officer except on his retirement from the public service*

*(e) at age 55 or older on medical evidence to the satisfaction of the Governor that he is incapable by reason of any infirmity of mind or body of discharging the duties of his office and that such infirmity is likely to be permanent;”*

*“3.1. (e) in the case of an officer referred to in section 6(1)(e) or 7(3)(a), a pension under paragraph (a) as if on the date his employment is terminated, he had retired at his normal retirement age:”*

5. The Pensions Ordinance 2012 and accompanying regulations do not provide for the award of pension entitlements to divested officers on the basis of having been medically boarded. Pensionable entitlements for divested officers can only be accessed before normal retirement age if the officer opts to retire between the ages of sixty years and their normal retirement age.
6. The entitlements on medical boarding for officers who are employed by SHG are therefore considered to be better in comparison with those officers who have been transferred

on divestment of services and conversely divested officers are at a disadvantage to SHG officers in terms of pensionable entitlements.

7. The policy intention for differentiating between the award of pensionable entitlements for officers in employment with the Government and those who have transferred on divestment of services is unclear. However, this difference appears is inequitable, particularly where officers have transferred to entities owned by the government.
8. Two options are available in response to the inconsistency in pension provisions for divested officers and government employees. They are:

**Option 1** *Do nothing* – Accept the provisions of the Pensions Ordinance 2012 as they currently stand; or

**Option 2** *Seek an amendment to the Pensions legislation* - Legislation to provide for the award of pensionable entitlements to qualifying officers who have been transferred on divestment and are medically boarded before their normal retirement age.

#### **Option 1**

9. The entitlements of divested officers will not change. Divested officers will remain at a financial disadvantage to government employees.
10. Government employees will be eligible for pensionable entitlements on medical boarding whilst divested officers will not be eligible to receive entitlements until their normal or optional retirement age.
11. There are 31 divested officers who may be affected by the decision to do nothing. They are still employed by Connect Saint Helena and Enterprise Saint Helena. There is 1 person who is already affected by the current situation and therefore is already at a financial disadvantage.

#### **Option 2**

12. Amendment of the Pensions legislation to provide for the award of pensionable entitlements to qualifying divested officers, who are medically boarded before their normal retirement age, will place divested officers on par with government employees.
13. Payment will fall due immediately on implementation for the divested officer who has been medically boarded and currently cannot access his pensionable benefits.
14. Retirement on medical grounds is fairly rare and infrequent for divested officers and government employees before

normal retirement age. In view of historical data for retirement on the basis of medical boarding, the probability of retirement on medical boarding for divested officers is perceived to be low.

15. It is anticipated that the proposed change can be made by way of amendment to the Pensions Regulations.

### **Recommendation**

16. It is recommended that Option 2 is endorsed to make an amendment to the Pensions Ordinance on the basis that:

- a) Divested officers are considered to be at a disadvantage in comparison to SHG employees;
- b) The existing divested officers are employed by wholly owned entities of SHG;
- c) Pensions entitlements are intended to provide financial support during retirement; and
- d) Medical boarding is likely to result in limitation on the individual's ability to independently support themselves financially during retirement.

### **FINANCIAL IMPLICATIONS**

17. Option 1 will not cost SHG any more than what it already payable as this option is to do nothing.
18. Option 2 will increase costs to SHG immediately, due to the 1 divested officer who this currently effects, of £4,000 one off lump sum payment in the form of a gratuity and a pension of approximately £1,000 per annum. In this one instance it is estimated that this payment of the pension before normal retirement age will result in additional pensions payments totalling approximately £20,000 over a period of approximately twenty years, assuming payments continue annually until normal retirement age after which SHG already has an obligation.
19. Further costs associated with option 2 cannot be reliably forecasted on the basis of the uncertainty of the probability of the remaining 31 other divested officers being medically boarding.
20. Should one divested officer from each age group be medically boarded before normal retirement age, approximately £1,000 to £2,000 would be required per person per year to fund pension payments. The approximate gratuity payment per person ranges from £2,000 to £10,000.
21. In view of historical data for retirement on the basis of medical boarding, the probability of retirement on medical boarding for divested officers is perceived to be low and the

funding requirement per year could be in the region of £1,000 - £10,000.

22. The financial implications of a decision to grant pensionable entitlements to a divested officer on medical boarding will be limited to the existing number of persons i.e. 31 because the eligibility to join the defined benefits scheme closed on 31 March 2010 therefore the number of persons eligible for pensionable entitlements in accordance with the Pensions Ordinance 2012 will not increase.
- ECONOMIC IMPLICATIONS** 23. There are no significant economic implications resulting from this decision.
- PUBLIC / SOCIAL IMPACT** 24. There will be no major public impact resulting from this paper, however from a social perspective this will benefit those who have been medically boarded in being able to provide financially for their post-employment cost of living.
- ENVIRONMENTAL IMPACT** 25. There will be no direct environmental impacts resulting from this paper.
- PREVIOUS CONSULTATION / COMMITTEE INPUT** 26. There has been no previous consultation however as part of the process this can be discussed with all Elected Members before presentation to ExCo.
- PUBLIC REACTION** 27. Public reaction is expected to be minimal as there minimal financial implications and no major economic, social or environmental impacts resulting from this.
28. However, for those who have been divested this is expected to result in a positive reaction knowing that provision is made for them to be able to access their pension entitlement before normal retirement age if they are medically boarded.
- PUBLICITY** 29. This should be stated in the EDC Summary Report following the meeting.
- SUPPORT TO STRATEGIC OBJECTIVES** 30. These Amendment Regulations deal with pension rights and is an administrative amendment and is not linked directly to a specific national goal under the 10 Year Plan.
- OPEN/CLOSED SESSION** 31. Open session.

NAGY

Corporate Finance  
The Castle

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