

Minutes of the Meeting of Executive Council held on Thursday, 21st November 2019 at
9:30am in the Governor's Office

Present: His Excellency the Governor (Dr Philip Rushbrook)
The Hon Chief Secretary (Mrs S O'Bey)
The Hon Financial Secretary (Mr D L Richards)
The Hon Attorney General (Mr A T Cansick)
The Hon C R Beard
The Hon A A Green
The Hon L A Henry
The Hon D F Thomas
The Hon R K Yon

In attendance: Clerk of Councils (Mrs C C Johnson)
Head of Corporate Support (Mrs C A George)
Head of News (Mrs K Yon)

OPEN SESSION

60.1 Welcome

The Governor welcomed all to the meeting, including one member of the public who was present.

60.2 The Rehabilitation of Offenders Act (Application) Order 2019 (ExCo Memo 48/2019)

The Chairman of the Social and Community Development Committee introduced the memorandum, explaining that the Rehabilitation of Offenders Act 1974 applied to St Helena through the English Law (Application) Ordinance 2005. This means it applies to St Helena as it did in England on 1 January 2006. He explained that this was a procedural change and no public consultation was required.

The Hon Attorney General added that this Order would bring rehabilitation periods in St Helena up to date with those in England and Wales. The Hon Attorney General pointed out that a minor amendments was required to clause 2 (b) in the Order to make sure "bind overs" and other orders of the court are expressly included as relevant orders. It was noted that a Gazette Notice would need to be published in advance of Ratification of the Order at the formal meeting of Legislative Council scheduled for 6th December 2019.

(Action: Hon Attorney General)

Following discussion, Council advised and the Governor agreed that:

- (a) The Policy on updating rehabilitation periods under the Rehabilitation of Offenders Act 1974 should be approved; and

(b) the Rehabilitation of Offenders Act (Application) Order 2019 (Annex B) (made under section 5(b) of the English Law Application Ordinance 2005), as amended, should be approved with the amendment, noting that Section 6 of the English Law Application Ordinance 2005 provided the procedure for the enactment of an Order made under section 5 of the Ordinance and pursuant thereto, the Order would be published in the Gazette before being laid before the Legislative Council at the next formal meeting of the Legislative Council to be held on 6th December 2019. It was further noted that the Order would come into force when it had been ratified by a resolution of the Legislative Council and would thereafter be updated to reflect such ratification.

(Action: Hon Attorney General/Clerk of Councils)

60.3 Police and Criminal Evidence (Amendment) Bill 2019 (ExCo Memo 49/2019)

The Chairman of the Social and Community Development Committee introduced the memorandum and briefed Council on the details. He advised that this Bill was a modernisation exercise which would bring about a distinction between recordable and non-recordable offences. It was noted that in the Bill the police are required to create a new criminal records database for which regulation would inform its future operation.

The Hon Attorney General pointed out that a minor amendment was needed to the introductory clause of the Bill, as follows;

Line 2 delete ‘Governor’ and insert ‘Governor-in-Council’

The Hon Lawson Henry asked whether there were any costs associated with the setting up of the database. The Hon Attorney General advised that there would likely be costs to the police. He stated it may be that the existing database could be used but would likely require upgrades. He was unaware of the costs.

The Hon Chief Secretary pointed out that over time the level administration was likely to reduce in due course.

Following discussion, Council advised and the Governor agreed that the Recordable Offences Policy was approved and that the Police and Criminal Evidence (Amendment) Bill, 2019, with the amendment, should be printed and published and presented as Government Business at the next formal meeting of the Legislative Council to be held on 6th December 2019.

(Action: Hon Attorney General/Clerk of Councils)

60.4 Criminal Justice (Fixed Penalties) Bill 2019 (ExCo Memo 50/2019)

The Chairman of the Social and Community Development Committee introduced the memorandum and briefed Council on the details. He advised that the Criminal Justice (Fixed Penalties) Bill 2019 would enable Regulations to be introduced to allocate offences for Fixed Penalties Notice. He explained that it was not intended that this Bill would be included on the Order Paper for the formal meeting of the Legislative Council to be held on 6th December

2019 so sought approval for public consultation on both the draft policy and Bill, with a view to the Bill being tabled at a formal meeting of the Legislative Council early in the year.

The Hon Attorney General added further details on the proposal including that this system would where appropriate provide an alternative to prosecution. He also proposed an amendment to clause 5 of the Bill which stipulated the actions that a person receiving a Fixed Penalty Notice may take within 14 days of receipt of such. The Hon Attorney General stated that this should state a time instead to be detailed in the regulations. This was for the reason that when Fixed Penalty Notices start being used it may be necessary to increase or decrease the time required.

Following discussion, Council advised and the Governor agreed that the amendment should be made and that the Social and Community Development Committee should commence public consultation on the Fixed Penalty Notice Policy and the Criminal Justice (Fixed Penalties) Bill 2019.

(Action: Hon Attorney General/Clerk of Councils)

60.5 Financial Services (Amendment) Bill 2019 (ExCo Memo 51/2019)

The Chairman of the Economic Development Committee introduced the memorandum and briefed Council on the details.

The Hon Attorney General explained the provisions of the Bill emphasising that in granting a licence and exemptions the FSRA must issue a directive and that they can only do so if the requirements specified in the Bill are met.

Following discussion, Council advised and the Governor agreed that the Financial Services (Amendment) Bill, 2019, be printed and published and presented as Government Business at the next formal meeting of the Legislative Council to be held on 6th December 2019.

(Action: Clerk of Councils)

60.6 Ownership Policy for Wholly Owned State Entities (ExCo Memo 52/2019)

Mr Brian Deadman, Finance Business Manager (FBM) and SHG Representative on the Boards of State Owned Entities, was in attendance.

The Hon Financial Secretary introduced the memorandum and briefed Council on the details. He explained that the policy should define the overall rationale for state ownership, the state's role in the governance of State Controlled Entities, how SHG will implement its ownership policy, and the respective roles and responsibilities of the entity involved in its implementation and pointed out that SHG should be providing strategic direction and not be involved in the day to day running of the entities. The long-term ambition was to stimulate economic development, so there was a possibility of making some of the holdings available for investment.

The FBM added that the Policy was intended to be pragmatic in its approach and the entities run at arms' length through effective ways of working and by closing any gaps. He added that

if the policy had been in place 5 years ago, SHG would not be facing some of the challenges currently being experienced.

The Hon Chairman, Education Committee asked whether the Policy should have been first of all been discussed by a Council Committee not just at the Chairpersons' Assembly Forum; the Hon Financial Secretary advised that the Policy was cross cutting so it had been deemed that the Chairpersons' Assembly discussion was adequate.

The Hon Financial Secretary thanked the FBM for all his hard work on development of the Policy. It was noted that going forward, the FBM would produce an annual report on the performance of the State Owned Entities which would be presented to Chairpersons' Assembly and Executive Council. It was further noted that dialogue between the SHG and its non-executive Director on the various Boards was essential to ensure the policy worked.

At this point, the FBM left the meeting.

Following discussion, Council advised and the Governor agreed that the Ownership Policy for Wholly Owned State Entities be approved.

(Action: Financial Secretary)

60.7 Any Other Business

The Clerk of Councils explained that Council had planned a Recess from the 15th December 2019 to the 05th January 2020 but there were two items of business, namely the Minimum Wage and the Labour Market Strategy, that needed to be considered by Executive Council before the end of the year, in order to meet legal requirements for notification of any changes to be made at least 3 months before they were to come into effect.

The Governor agreed that an Executive Council meeting should be held on the 18th December 2019 to enable consideration of these two items.

(Action: Clerk of Councils)



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Clerk of Councils

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Governor

18 December 2019

Date