

Minutes of the Meeting of Executive Council held on Tuesday, 21<sup>st</sup> January 2020 at 8.30am  
in the Council Chamber

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)  
Head of Governor's Office (Mr Greg Gibson)

**OPEN SESSION**

66.1 Welcome

The Governor thanked all for attending to deal with an urgent matter which required the approval of Executive Council before it could be tabled as an item of business at the formal meeting of the Legislative Council which was taking place at 10am that morning. The urgent item of business concerned the European Union Withdrawal Agreement which would come into force on 31<sup>st</sup> January 2020. The Executive Council meeting would reconvene at 11.30am.

66.2 European Union Withdrawal Agreement (Limited Application) Bill, 2020 (ExCo Memo 11/2020)

The Attorney General introduced the memorandum asking Council to advise whether the European Union Withdrawal Agreement (Limited Application) Bill, 2020, should be printed, published and presented as Government Business at the formal meeting of the Legislative Council scheduled for 10am that morning. He advised that a Certificate of Urgency had been signed by the Governor to enable this business to proceed.

The Attorney General explained the historical background and said that the Withdrawal Agreement provided for an implementation or transition period to begin upon the United Kingdom's withdrawal from the European Union. The implementation period would end on 31 December 2020 (although there was provision for it to be extended for a further period of 1 or 2 years). During this period, Part 4 of the Withdrawal Agreement provided that European Union law would continue to apply to the United Kingdom (including the Overseas

Territories). However, the provisions of the Withdrawal Agreement would only apply to St Helena where “the provisions relate to the special arrangements for the association of the overseas territories with the [European Union]”.

The Attorney General explained the urgency for the bill and said that before the United Kingdom ratified the Withdrawal Agreement (intended for 31<sup>st</sup> January 2020) it needed to inform the European Union that all requirements for ratification had been met. This includes that the Withdrawal Agreement as far as applicable has been applied to the Overseas Territories. In order for this to be done by the United Kingdom in time, the Minister for the Department for Exiting the European Union had asked the Overseas Territories to give assurances by the 21<sup>st</sup> January 2020 that the Withdrawal Agreement had been implemented and that no further legislation was needed. It had been pointed out that without such an assurance the United Kingdom might not be able to inform the European Union in time that all requirements for ratification had been met.

Whilst Members understood the need for the Bill they raised three questions, which were:-

- would St Helena still have access to EU funding
- would exports to the EU continue
- would British citizens still have freedom of movement in the EU.

The Attorney General stated that exports would continue during the twelve month transitional period, which could be extended if needed and freedom of movement for British citizens would not be affected. The Governor stated that HMG had already given a commitment to match the funding currently provided by the EU; the Chairman of the Economic Development Committee asked that the Governor write to the FCO Director setting out these three issues. The Governor agreed to do so and the Chairman of the Public Health Committee was of the view that it was the right thing to do in requesting that the three issues of concern be highlighted with HMG once again.

The Governor also pointed out to Members that they could raise these issues at the Joint Ministerial Council meeting in March 2020.

**(Action: HE Governor/Hon Members)**

Following discussion, Council advised and the Governor agreed, that the European Union Withdrawal Agreement (Limited Application) Bill, 2020, should be printed, published and presented as Government Business at the formal Legislative Council meeting to be held that morning.

**(Action: Hon Attorney General/Clerk of Councils)**

The Governor adjourned the meeting at 8.50am.

The meeting resumed at 11.30am.

66.3 St Helena National Trust (Amendment) Regulations, 2020 (ExCo Memo 8/2020)

The Chairman of the Social and Community Development Committee introduced the memorandum asking Council to advise whether the St Helena National Trust (Amendment) Regulations, 2020 should be approved and brought into force prior to 27 January 2020, which was the date on which the next Annual General Meeting of the Trust Council was due to be held.

The Chairman of the Social and Community Development Committee advised that an amendment to the Bill had been circulated that morning which had resulted from the Social and Community Development Committee meeting held the previous day and advised that with regard to the following:

“Financial regulation and review

9. Regulation 10 of the principal Regulations is amended by revoking sub-regulations (5) and (6) and substituting the following:

“(5) The accounts of the Trust must be audited annually by the Chief Auditor of the St Helena Government, unless the members of the Trust, by ordinary resolution at the annual general meeting, appoint an auditor approved by the Chief Auditor for the purpose of conducting the annual audit of the accounts of the Trust under section 15(4) of the Ordinance, in which case such auditor holds office until the close of the next annual meeting.”

Members supported the amendment. However, there was some concern that the amendment Bill proposed that responsibility for the Heritage Estate Register would no longer fall to the Trust. The St Helena National Trust Director, Ms Tara-Jane Sutcliffe was present in the public gallery and was invited to join Members at the table to explain the Trust’s responsibility in maintaining this Register.

The St Helena National Trust Director explained that the development of the Heritage Estate Register had been as a result of recommendations made in the Crallen Report but the Trust could no longer sustain this work due to lack of resources. The Trust was however, willing to work in partnership with the relevant SHG Directorate to continue the Heritage Estate Register.

The Chief Secretary said she would ask the Director of Infrastructure and Transport to liaise with the St Helena National Trust Director to take this forward.

**(Action: Hon Chief Secretary)**

Following discussion, Council advised and the Governor agreed, that the St Helena National Trust (Amendment) Regulations, 2020 should be approved with the amendment outlined by the Chairman of the Social and Community Development Committee and brought into force prior to 27 January 2020.

**(Action: Hon Attorney General/Clerk of Councils)**

At this point, the St Helena National Trust Director, Ms Tara-Jane Sutcliffe left the meeting.

66.4 Confirmation of Open Session Minutes of 10 December 2019

The minutes of the open session of 10<sup>th</sup> December 2019 were confirmed.

66.5 Matters Arising from the Open Session Minutes

66.5.1 (62.2) Control of Tobacco and Related Products Bill, 2019 (ExCo Memo 60/2019)

The Chairman of the Public Health Committee advised that because of the arrival of the Mauritius Public Health team the consultation would start later in January. Dr Kamar had shared some information with Elected Members the previous Friday and he confirmed that the key messages requested would form a part of the consultation.

66.6 Any Other Business

There was no any other business to discuss in the open session.



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Clerk of Councils



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Governor

25 February 2020

Date