

OPEN AGENDA

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Memorandum for Executive Council

SUBJECT

Merchant Shipping Bill 2021

Memorandum by the Chairman of the Economic Development
Committee

ADVICE SOUGHT

1. **Executive Council is asked to consider and advise whether the attached Merchant Shipping Bill 2021 (Annex A) should be printed, published and presented as Government business at the next formal meeting of the Legislative Council to be held on 29th January 2021.**

**BACKGROUND &
CONSIDERATIONS**

2. The UK Government is due to be audited, by the International Maritime Organisation, as to its compliance with International Instruments Implementation Code ('III Code', the triple-i-code). The audit is anticipated to be held in February 2021.
3. The III Code audit will assess compliance with international standards in core areas of merchant shipping regulation according to the international conventions the United Kingdom has entered into.
4. The audit of the UK Government will cover compliance in the UK Overseas Territories, to the extent that the Overseas Territories have international obligations extended to them. For St Helena that will include compliance with three of the six core III Code conventions, namely,
 - a. The International Convention on the Safety of Life at Sea 1974,
 - b. The Convention on the International Regulations for Preventing Collisions at Sea, 1972, and
 - c. The International Convention on Load Lines.
5. The relevant UK agency, the Maritime and Coastguard Agency (the 'MCA') leads the UK preparations for the audit and has given support to St Helena as they approach the audit. Some initial support included a 2019 consultant's review of St Helena's maritime laws.
6. The 2019 report observed that some basic provisions are provided in our law by the UK Parliament passing the Merchant Shipping Act 1894, which pre-dates the relevant international

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conventions. The Merchant Shipping Act 1894 has since been repealed and replaced in the United Kingdom by the Merchant Shipping Act 1995, which is the main act used to ensure UK compliance with international conventions. Further, that the English Law (Application) Ordinance can, at most, apply some of this 1995 Act in St Helena but would include none of the regulations by which UK compliance with the conventions is exercised. As such, St Helena's legal framework is not well equipped to exercise our convention obligations.

7. The purpose of this Bill is to put into our laws a framework for a modern regulation of merchant shipping, both of ships on our ship register and in exercise of our responsibilities as a coastal state and as a port state open to international shipping.

8. The attached Bill represents a 'first step' in providing this framework. Subsequently it will be possible to implement the necessary regulations to meet our existing obligations and to consider having other conventions extended to us; particularly in respect of pollution and wreck removal, which will offer some protection to the Island in the event of such disasters.

9. Beyond the effective exercise of our rights and duties in international law the Bill potentially paves the way for effective regulation of maritime safety in St Helena for our own local boats, for whom some of the same, or bespoke, safety and other regulations may be introduced.

10. The Bill legislates in the following areas:

- (i) St Helena Ships,
- (ii) Registration Requirements for St Helena Ships
- (iii) Provisions of Employment in St Helena Ships
- (iv) Safety of ships and navigation and distress measures.
- (v) Prevention of Pollution
- (vi) Aids to Navigation
- (vii) Provisions for Wreck
- (viii) Enforcement Officers and Powers
- (ix) Accident Investigations and Inquiries
- (x) Legal Proceedings.

FINANCIAL IMPLICATIONS

11. There are no financial implications in the Bill itself; all the same international law, rights, responsibilities and obligations apply with or without passing the Bill.

12. To the extent that meeting our existing obligations makes it

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easier to have further liability conventions (i.e. pollution and wreck removal) extended to us, the Bill opens up potential for increased financial protection.

ECONOMIC IMPLICATIONS

13. The Bill itself provides only a regulatory framework so carries no direct economic implications one way or another. As it stands our Ship Registry is not particularly active either in facilitating income or as an indicator of economic activity. However, the Bill puts the Island in a better place to ensure the effective administration of the Ship Registry in line with the British (or Red Ensign Group) standard and to that degree, gives improved prospects of keeping the Registry open and meaningfully having the kite-mark of the Red Ensign Group Standard.

CONSISTENCY WITH INVESTMENT POLICY PRINCIPLES

14. The Bill is a matter of law and regulations and has no direct connection with investment.

PUBLIC/SOCIAL IMPACT

15. The Bill is not expected to have any public or social impact, our Ships Registry will continue and vessels on the Registry should be unaffected by the Bill.

ENVIRONMENTAL IMPACT

16. As a matter of administration only, the Bill is not expected to have direct environmental impacts however the Bill does include a framework to introduce regulations, enabling the prevention of pollution from ships.

PREVIOUS CONSULTATION/ COMMITTEE INPUT

17. The Bill was presented to the Economic Development Committee on 26th November 2020 and further discussed on 10th December 2020 and 12th January 2021. EDC endorsed the Bill on 12th January 2021 subject to confirmation after sight of re-wording of three particular sections, minor typographical and formatting improvements to the draft and a synopsis of levels of fines within the Bill. The re-wording and typographical matters are reflected in the draft circulated with this memorandum with EDC's final view anticipated to be confirmed in correspondence and for Council to be updated accordingly.

18. Radio information sessions were held on 7th January and sector information was given by email to stakeholders on 23rd December 2020 and 4th January 2021, with the opportunity for a group session on Friday 8th January 2021 and by one-to-one meetings if requested, or by correspondence with the Maritime Compliance Officer. None were forthcoming except for correspondence and a video conference meeting with Argos, the owner-operator of offshore fishing vessels on our register.

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- PUBLIC REACTION** 19. To the extent the Bill is a codifying and modernising of existing maritime law, the Bill is not likely to be controversial.
- PUBLICITY** 20. ExCo's decision will be reported via the radio update following the ExCo meeting.
21. The Bill will be published on the SHG Website as part of the legislative process in advance of the formal meeting of Legislative Council on 29th January 2021.
- SUPPORT TO STRATEGIC OBJECTIVES** 22. The Bill does not directly contribute to Strategic Objectives.
- LINK TO SUSTAINABLE ECONOMIC DEVELOPMENT PLAN GOALS** 23. Ship Registry is one of the priority sectors in the SEDP therefore developing the appropriate legal framework is a supporting step. The SEDP highlights the need for related ordinances as a primary barrier to growth in that sector.
- IMPLEMENTATION OF POLICY/ LEGISLATION** 24. Implementation of the Bill and new regulations to be made under it, will be managed with the involvement of the Maritime Working Group and relevant committees.
- OPEN/CLOSED AGENDA ITEM** 25. This paper is recommended for Open Session.

LAH

Corporate Support
Corporate Services

13th January 2021

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