

## **EXECUTIVE COUNCIL TOP LINES – TUESDAY 1 JUNE 2021**

### **Control of Tobacco and Related Products (Amendment) Bill, 2021**

- **Executive Council advised that the Control of Tobacco and Related Products Bill, 2021, should be printed, published and presented as Government business at a formal meeting of the Legislative Council, subject to minor amendments being made**
- **Executive Council advised also the Control of Tobacco and Related Products Regulations, 2021, be approved for publication subject to minor amendments being made.**

### **At the meeting**

- Council gave full support to the Bill whilst suggesting some minor amendments to section 8C. Section 8C provides for objections to be made known to the Licensing Officer to applications for registration as a registered dealer and was drafted as instructed to mirror the similar provision in the Liquor Ordinance, 1988 whereby persons living within a certain radius of a premises which is to sell tobacco or a Member of the Legislative Council or a public officer could make objections in respect of applications received by the Licensing Officer known. ExCo decided that reference to persons living within a certain radius of a premises and Member of legislative Council should be removed and the reference to a member of the public not be limited as provided and that the reference to the public officer remain. The Legislative Drafter, who was present at the meeting, was instructed to revise the Bill accordingly.
- Council gave full support to the Regulations whilst suggesting some minor amendments to Schedule I and Schedule II. These changes related to the removal of references to Prince Andrew School under the list of smoke free places in Schedule I and in Schedule II, the list of places where smoke free signs would be placed. These changes were made as reference to the school was deemed to be superfluous, as the emphasis was Francis Plain
- The Licensing Officer would set criteria for licensing requirements and this would be published in the Gazette
- Whilst section 8A of the Bill stated that the annual registration period would be from 1September to 31December in any given year, any *new* businesses that were set up outside of those dates could submit an application to be a Registered Dealer outside of that time period
- It was the intention for the Ordinance to come into force with effect from 1 January 2022 to allow time for Health Services Directorate officials to provide detailed information about the new requirements
- There was discussion about the level of the application fee to be paid by those wishing to be a Registered Dealer in tobacco or a related product, as it was considered by some Members to be too low. It was noted, however, that it could be reviewed annually as part of the MTEF process and that inspections would be carried out at the same time as those for annual liquor licences

- Work would be undertaken by the Health Services and Police Directorates in raising awareness in schools about the dangers of tobacco and related products smoking, as well as the requirements of the law.

## **Background**

- In June 2020 Legislative Council passed the Control of Tobacco and Related Products Ordinance, 2020. However, the Ordinance has not yet been brought into force. The proposed Bill will amend the Ordinance and the Regulations will provide further detail for specific components of the Ordinance and will enable the legislation to be implemented.
- The ultimate aim of the Ordinance and Regulations is to reduce the harm caused by smoking to the community of St Helena. Currently the prevalence of tobacco use is high: one third of men and women aged 20-65 years and half of young adults aged 20-29 are smokers.
- Smoking is the leading risk factor for the main non-communicable diseases that are responsible for the majority of chronic illness, disability and early death in the St Helena community. These include cardiovascular disease, type two diabetes, cancer, and respiratory disease
- Smoking is a highly preventable risk factor, and effective, evidence-based measures as included in the Ordinance and Regulations can help to reduce consumption of tobacco products.
- The Ordinance and Regulations make provision for proven, evidence-based measures that will address the current gaps in tobacco control on St Helena. For the community the outcomes will be:
  - Fewer young people starting smoking;
  - Increased quitting among adult established smokers;
  - Reduced exposure to second-hand smoke; and
  - Creating a community culture where smoking is not seen and accepted as a commonplace / non-harmful activity.
- The Amendment Bill will provide for:
  - The requirements for registration and licensing and the application of the registered dealer programme;
  - Restrictions on importation and sale of tobacco and related products, specifically related to tobacco pack size;
  - Restrictions on the supply of flavoured tobacco and related products;
  - Details regarding price lists for tobacco or related product and prohibition of same from public display; and
  - Repeal of 'manufacturer' and 'exporter' from the requirements for tamper-proof packaging and labelling which have no practical application in St Helena.
- The Regulations will provide for:
  - Places that are exempt from the smoke-free requirement are prescribed; and
  - The requirements for no-smoking signs to be posted at smoke-free premises or in smoke-free vehicles are prescribed.

- Full ExCo Memo available here: <https://www.sainthelena.gov.sh/wp-content/uploads/2021/05/29-2021-Control-of-Tobacco-and-Related-Products-Amendment-Bill-2021-and-Control-of-Tobacco-and-Related-Products-Regulations-2021.pdf>

### **Customs and Excise (Approved Investment) (Amendment) Regulations, 2021**

- **Executive Council advised that the Customs and Excise (Approved Investment) (Amendment) Regulations, 2021 should be enacted.**

#### **At the meeting**

- Members fully supported the Amendment Regulations having agreed to the policy changes which had resulted in the need for the amendments in March 2021
- The Senior Economist explained that this amendment dealt with the way in which customs duty on vehicles imported by those with Approved Investor Status is calculated following the policy change by ExCo in March 2021
- Members asked if it was possible to consider how to determine use of vehicles for personal or business use – this would be worked on by officials as it was an administrative issue.

#### **Background**

- ExCo approved the Investment Policy 2018 in June that year and in April 2019, the Investment Strategy was approved
- The policy provides for Approved Investment Status which allows for a reduction in Customs Duty of 20%, 5% or 0% on the importation of Capital items
- The Customs tariff on motor vehicles was amended in 2019 to move from a value-based calculation to a fixed rate of duty based on CO<sub>2</sub> emissions. As a result, it is not possible to apply the concessions for Approved Investor Status to vehicles in the way it was intended
- The Customs and Excise (Approved Investment) (Amendment) Regulations, 2021 amend the concessions for approved investments to reflect payment of a percentage of the regularly charged fixed rate of duty on any vehicle imported
- The Amendment Regulations deal also with an amendment to the definition of ‘concession period’ which was amended to “ **concession period**” means a period of five years commencing on the date from which the certificate takes effect”
- The amendment deals also with updating references to Enterprise St Helena by replacing them with references to the Sustainable Development team
- Full ExCo Memo available here: <https://www.sainthelena.gov.sh/wp-content/uploads/2021/05/30-2021-Customs-and-Excise-Approved-Investment-Amendment-Regulations-2021.pdf>

### **Public Access to Government Information Bill, 2021**

- **Executive Council advised that the Public Access to Government Information Bill, 2021, should be printed and published and presented as Government business at the formal meeting of the Legislative Council to be held on 18 June 2021 subject to minor amendments being made.**

### **At the meeting**

- Members fully supported the Bill noting that such legislation had been an aspiration of Members since 2013
- The Attorney General made references to some further changes which had been suggested at the caucus meeting earlier that day, which he would consider and report back to Members
- The Attorney General had also some other minor amendments to make to the Bill before it is printed and published. These changes related to the ability of the Chief Magistrate to recover costs of an appeal if it was unsuccessful; clarification of instances when the Information Officer could be called before the Court and powers to allow an individual to be appointed to deal with appeals when the Chief Magistrate is not available
- A Guidance booklet would need to be drafted before the Bill would come into force
- Regulations would also need to be drafted and approved before the Ordinance could be brought into force.

### **Background**

- The Bill provides for the disclosure of information held by the St Helena Government and is based on the provision of the existing Code of Practice for Public Access to SHG Information which has been in force since September 2014
- A draft Bill was initially considered by ExCo in July 2020 when various changes were suggested; this Bill incorporates the changes requested
- The changes include:
  - Possibility for persons aged 17 to be able to request information; was previously only possible of aged 18 years or over
  - Applications to be accepted from persons with St Helenian status who live abroad
  - SHG to publish not only the number and type of requests received but also the details of the information provided
- A new clause to provide for an appeals mechanism has been added. This allows applicants to have the right of Appeal to the Chief Magistrate if dissatisfied with the outcome of an internal review conducted by the Chief Secretary or other SHG officials
- Full ExCo Memo available here: <https://www.sainthelena.gov.sh/wp-content/uploads/2021/05/31-2021-Public-Access-to-Government-Information-Bill-2021.pdf>

## **Environmental Protection (Amendment) Bill, 2021**

- **Executive Council advised that the Environmental Protection Bill, 2021, should be printed and published and presented as Government business at the formal meeting of the Legislative Council to be held on 18 June, subject to minor amendments being made.**

### **At the meeting**

- Members fully supported the Bill
- Members suggested that under the list of exemptions listed in the Bill a new exemption relating to security lighting for public safety purposes should be included
- Members suggested also that in section 28B (h) the exemption for exterior lighting used for security at prisons should include also custody suites and immigration detention facilities
- It was not yet known whether the changes to the Environmental Protection Ordinance, once enacted, would be sufficient to gain Dark Skies Accreditation; in that regard it might be necessary to make a new application

### **Background**

- In 2015, the suggestion was put forward to introduce legislation to reduce light pollution to enable St Helena to apply for International Dark Sky Community Status with the International Dark Sky Association and this was supported
- An important part of achieving Dark Sky Community accreditation is having legislation in place to control the use of artificial light at night. At present St Helena's legal framework does not provide for regulation of artificial light at night.
- The purpose of the Bill is to provide a framework within St Helena's Environmental Protection law to make provision for the regulation of the use of artificial light at night for the protection of the natural environment and the night sky, and therefore pave the way for Dark Sky Community status to be achieved for the Island once the Bill is enacted.
- Full ExCo Memo available here: <https://www.sainthelena.gov.sh/wp-content/uploads/2021/05/32-2021-Environmental-Protection-Amendment-Bill-2021.pdf>
- The Environmental Protection (Amendment) Bill, 2021 is available here: LINK TO BE ADDED

## **AOB**

- A question was asked about opportunities for members of the public to have their names included in the Register of Electors for 2021. It was explained that once the new Register is compiled and effective from 1 July, applications could be accepted. It was however also emphasised that once the Governor issues a Writ for the General Election, it would not be possible to make any change to the Register. Members who knew of any individuals who wish to have their name included in the Register should encourage them to do so.

**ExCo**  
**1 June 2021**