

Minutes of the Meeting of Executive Council held on Thursday, 22nd July 2021 at 9.42 am 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 Acting Attorney General (Miss A M Hurley)
The Hon C G Buckley
The Hon C R Beard
The Hon A A Green
The Hon L A Henry
The Hon D F Thomas

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

111.1 Welcome

The Governor welcomed all to the meeting.

111.2 Customs (Export and Import Control) (Amendment) Regulations, 2021 (ExCo Memo 42/2021)

The Deputy Chief Secretary (DCS), Mrs Gillian Francis and the Legislative Drafter, Ms Catherine Williams, were in attendance for this item of business.

The Chairman of the Finance Committee introduced the Memorandum asking Council to consider and advise whether the Customs (Export and Import Control) (Amendment) Regulations 2021, should be approved and brought into force.

He further explained that the proposed Regulations were required to support St Helena's endeavors to achieve Dark Sky Community status with the recommendation that these Regulations be enforced on the 1st November 2021. He also highlighted the areas that would be prohibited by Regulations and also what would be the exceptions; he concluded that guidelines would be drawn up to inform the public and customs of the changes.

Members were generally content to support the Customs (Export and Import Control) (Amendment) Regulations but sought clarity on whether variations for using sports lighting and flood lights were covered; both officers present were able to provide answers and clarity to all issues raised. Members felt that this proposed legislation complemented current legislation and would also supplement the application for Dark Skies status.

Following discussion, Council advised and the Governor agreed, that the Customs (Export and Import Control) (Amendment) Regulations, 2021, be approved and be brought in to force on the 1st November 2021.

(Action: Clerk of Councils)

The Governor thanked the DCS and the Legislative Drafter for their input and at this point, the DCS left the meeting.

111.3 Social Security (Amendment) Bill, 2021 (ExCo Memo 43/2021)

The Strategic and Social Policy Coordinator (S&SPC), Ms Ann Muir and the Legislative Drafter, Ms Catherine Williams, were in attendance for this item of business.

The Chairman of the Social and Community Development Committee (SCDC) introduced the Memorandum asking Council to consider and advise whether the Social Security (Amendment) Bill, 2021 should be printed, published and presented as Government business at the Legislative Council meeting to be held on 30th July 2021.

The Chairman of SCDC also pointed out an error in the Memorandum, advising that all references to Shared Household Deduction (SHD) should state Shared Household Reduction (SHR).

The Chairman of SCDC provided Members with some detailed background behind the Bill stating this had culminated from the working group which was set up in 2018 to scrutinise the current Ordinance. He highlighted the main change in the Bill whereby the use of 'household' in the Income Related Benefits (IRB) legislation would be replaced with 'family' and this would then include an adult and their spouse, cohabiting partner or life partner and their dependent children under the age of 16, or 18 if in full time education. He also clarified that a family can also consist of a single adult.

The Financial Secretary pointed out that Regulations would need to be enacted if the Bill was approved, before any changes could come into effect from the 1st October 2021 and these would need to be agreed prior to the dissolution of the Legislative Council on 2nd August 2021.

The Chairman of SCDC conveyed his thanks to the S&SPC, Claims Manager and the Working Group for all their hard work.

Members were content to support the amendment Bill voicing that it would be most welcomed by those who relied solely on IRB and ensuring that going forward, this provision now provided adequate support to those in need in this category. Members also paid tribute to the staff from the Attorney General's Chambers for their contribution to the process.

The Governor suggested that the required associated Regulations be brought to the next meeting of Executive Council; Members agreed.

(Action: Hon Anthony Green)

During debate the Chairman of SCDC proposed an amendment to the draft Bill, on page 5 9A(1) (d), which referenced "poverty line"; it was suggested this be replaced with "family

rate”; Members agreed. It was also noted that in the definitions in Section 2, “poverty line” be deleted and replaced with “family rate”.

(Action: Acting Hon Attorney General)

Following discussion, Council advised and the Governor agreed, that the Social Security (Amendment) Bill, 2021 should be printed, published and presented as Government business at the Legislative Council meeting to be held on 30th July 2021, subject to the changes to the (Amendment) Bill as proposed above.

(Action: Clerk of Councils)

The Governor thanked the S&SPC and the Legislative Drafter, for their input and at this point, the S&SPC left the meeting.

111.4 Protection of Animals (Amendment) Bill, 2021 (ExCo Memo 45/2021)

The Director of Environment, Natural Resources and Planning (DoNR&P), Mr Darren Duncan and the Legislative Drafter, Ms Catherine Williams, were in attendance for this item of business.

The Chairman of the Economic Development Committee (EDC) introduced the Memorandum asking Council to consider and advise whether the Protection of Animals (Amendment) Bill, 2021, should be printed, published and presented as Government business at the formal meeting of the Legislative Council to be held at the end of July 2021.

The Chairman of the EDC explained the background to Members highlighting that the Bill sought to amend the 1969 Protection of Animals Ordinance and outlined the principal amendments. He added that the EDC Members had endorsed the Bill at a Special EDC meeting held on the 12th July 2021 and that all Elected Members had a thorough discussion of the Bill at caucus.

Members were content to support the Bill noting that it was important for this Bill to be updated and modernised because there had only been minor amendments over the years and some practices were now considered to be inhumane.

Following discussion, Council advised and the Governor agreed, that the Protection of Animals (Amendment) Bill, 2021, should be printed, published and presented as Government business at the formal meeting of the Legislative Council to be held at the end of July 2021.

(Action: Clerk of Councils)

The Governor thanked the DoNR&P and the Legislative Drafter, for their input and at this point, the Legislative Drafter left the meeting.

111.5 Fisheries Bill, 2021 (ExCo Memo 44/2021)

The Director of Environment, Natural Resources and Planning (DoNR&P), Mr Darren Duncan, Crown Counsel (Marine), Mr Aldhelm Garner, Marine Conservation Officer (MCO), Mr Rhys Hobbs and Marine Enforcement Officer (MEO), Mr Jason Sparks were in attendance for this item of business.

The Chairman of the Economic Development Committee (EDC) introduced the Memorandum asking Council to consider and advise whether the Fisheries Bill, 2021, should be printed, published and presented as Government business at the formal meeting of the Legislative Council to be held at the end of July 2021.

The Chairman of the EDC explained the background to Members highlighting: -

- Why the St Helena's fisheries law was in need of reform;
- What the Sub-committee had achieved;
- How the Fisheries management and fishing licensing policy was used to inform the development of the Bill that was adopted by the EDC in January 2020;
- That the Bill sought to replace the St Helena Fishery Limits Ordinance, 1977 rather than simply making changes to it as originally envisaged in 2017;
- The purpose of the Bill was to provide a framework for modern regulation of fishing and related activities within St Helena's fisheries limits;
- The areas that the Bill legislates in which included Fisheries Limits and Fishing Zones, an Advisory Board, Fisheries Officers and Responsibilities, Fishing Licenses, Restrictions on Fishing and Related Operations, Restrictions Relating to Spear Fishing and Fishing with Scuba Equipment, Transshipment, Enforcement, Appeals, Offences and Miscellaneous;
- The Enactment of a new Fisheries Ordinance would:
 - i. Repeal the Fishery Limits Ordinance (1977); the Conservation and Management of Fishery Resources Ordinance (2003) and the Spear Guns Control Ordinance, 2014; and
 - ii. Result in amendment to the High Seas Fishing Ordinance (2001), and Environmental Protection Ordinance (2016).

He added that the EDC Members had endorsed the Bill at a meeting held on the 12th July 2021 with minor amendment and that all Elected Members had a thorough discussion of the Bill at caucus going through section by section.

Members were pleased to give their support to the Fisheries Bill which they felt was a bespoke one for the Island and they also acknowledged the work and advice of the officials involved. There were some concerns raised around recreational fishing, transshipment, multiple licences, bait fishing and the statutory appointment of the Chief Fisheries Officer which were clarified by the DoNR&P.

The Crown Counsel (Marine), advised that the issue raised in caucus around strengthening the fines in the Bill would be adopted if this was still the wish of Executive Council; Members agreed this should be addressed as previously agreed.

(Action: Hon Acting Attorney General)

Members also raised concern around forfeiture and Crown Counsel (Marine), counselled that the general powers of forfeitures be applied in the Bill; Members agreed.

(Action: Hon Acting Attorney General)

Following discussion, Council advised and the Governor agreed, that the Fisheries Bill, 2021, should be printed, published and presented as Government business at the formal meeting of the Legislative Council to be held at the end of July 2021, subject to the two amendments proposed above being addressed.

(Action: Clerk of Councils)

The Governor thanked the DoNR&P, Crown Counsel (Marine), MCO and MEO for all their input and at this point, they left the meeting.

111.6. Report of the Independent Body on a Review of Remuneration and Allowances for the Elected Members of Legislative Council (ExCo Memo 46/2021)

The Chairman of the Social and Community Development Committee (S&CDC) introduced the Memorandum asking Council to consider the report of the Independent Body in advance of the Bill being printed and published and presented as Government business at the formal meeting of the Legislative Council to be held at the end of July 2021.

The Chairman of S&CDC provided Members with additional background highlighting that the Bill sought to amend the Legislative Council (Remuneration and Allowances) Ordinance 2010 in line with the recommendations of an Independent Body and would replace a previous amendment to the 2010 Ordinance that came into effect in 2018. He also provided a brief summary of the principal amendments made by the Independent Body that included Remuneration of Members and Members' Allowances and Benefits.

The Acting Attorney General informed Members that the Report from the Independent Body could not be changed or added to but Executive Council were able to request clarification from the authors of the Report and the Report should be laid upon the Table at a formal meeting of the Legislative Council and published before the Bill was discussed.

Members expressed various concerns as they felt:-

- Rather strongly that the Remuneration payments within the Report were far too low for the volume of work Councillors are expected to perform on a daily basis and often outside of normal working hours;
- It was not appropriate to expect that the incoming Councillors should be asked to agree their own Remuneration and recalled that this had occurred in 2017; rather this existing Council should consider the Report and approve it;
- The process was also flawed because firstly, the Independent Body stated that they were given a budget ceiling within which to operate and only met once with Councillors which in their view was insufficient as it did not allow for negotiation;
- The payment of the Internet Allowance should not have been included in the Remuneration package because it would now be subject to Income Tax; and
- Clarity on how the Independent Body arrived at the £35k per annum remuneration for Ministers should be provided.

The Financial Secretary confirmed that the Administration did not stipulate a budget ceiling on this process so this exercise should have been carried out without any regard to budgetary implications or constraints.

The majority of Members were of the view that the Bill should proceed to Legislative Council with a caveat that further clarifications on the disputed issues be sought from the Independent Body and reported back to Members.

The Governor suggested that Members provided him with the points that they sought clarification on and he would follow this through with the Independent Body adding that should there be any additional comments from the Independent Body, then there might be an addendum to the Report.

(Action: HE the Governor)

Following discussion, Council advised and the Governor agreed, that the report of the Independent Body be accepted, in advance of the Bill being printed and published and presented as Government business at the formal meeting of the Legislative Council to be held at the end of July 2021, subject to answers being provided to the caveats noted above.

(Action: Clerk of Councils)

111.7 Any Other Business

111.7.1 Graduate Scheme

The Hon Clint Beard informed Members that eight students would embark on overseas scholarships and raised the importance of having a pathway for them to follow throughout their period of study and most importantly on their return to the Island with regard to succession planning. The Chief Secretary replied that a graduate scheme was being developed incorporating local succession and workforce planning.

111.7.2 Chevening Scholarships


The Governor advised that applications for postgraduate studying under the Foreign, Commonwealth & Development Office Chevening Scholarship programme would be open in August 2021.



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Acting Governor

8-9-2021
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Date


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Clerk of Councils
08.09.21