

EXECUTIVE COUNCIL

CONFIDENTIAL

Title of Report: Appointment of a Regulator for the purpose of the Telecommunications Ordinance
Paper No: 15/11
Date: 27th January 2011
Report of: Attorney General/Head of Regulation

1.0 Purpose

To obtain Executive Council approval for the appointment of a Regulator for Telecommunications in the Falkland Islands.

2.0 Recommendations

- (a) It is recommended that Executive Council advise the Governor to appoint FIG's Head of Regulatory Services as the Regulator for the purposes of the Telecommunications Ordinance 1988 (as amended).
- (b) It is also recommended that Executive Council advise the Governor to appoint the Attorney General to be able to act on behalf of the Regulator.

3.0 Summary of Financial Implications

None

4.0 Background

4.1 The Review of Government identified the need for a wider regulatory capability within FIG to cover areas such telecommunications, fuel and banking. Telecommunications was identified as the area needing a regulatory function. FIG has taken considerable effort to put in place an amendment to the Ordinance and engage licensed utility in regulatory matters.

4.2 Before the Telecommunications (Amendment) Ordinance 2010 was passed at the end of last year, functions under the Telecommunications Ordinance were allocated to the Government generally or to the Governor. The Ordinance has now been amended to allow for the appointment of a Regulator to exercise most of these functions. This is dealt with in a new section 2A of the Telecommunications Ordinance.

4.3 It was always envisaged that this new role would be carried out by the Head of Regulatory Services (see section 4.5(a) of ExCo paper 256/10). The previous paper referred to certain key decisions being excluded from the Regulator's role. However, under new section 2A(5)(b), the powers of the Regulator do not extend to functions relating to subsidiary legislation, compulsory purchase, the revocation of licences and the consequences of revocation. Executive Council will still be involved in these key decisions but there is no need to exclude these specifically from the appointment of the Head of Regulatory Services as Regulator.

4.4 Section 2A allows for appointments to be made for others to act on behalf of the Regulator. At this stage, it is only proposed that the Attorney General should be able to act on behalf of the Regulator to cover periods of absence or in case a conflict of interest might ever arise. It would be possible for other members of the Regulatory Services team to be appointed (eg to carry out specific functions) but it is not proposed to do so at this stage.

5.0 Financial Implications

None

6.0 Legal Implications

The legal implications of this paper are covered in section 4.

7.0 Human Resources Implications

There will be a need for a minor amendment to the post holder's job description but it is not anticipated to affect the grade of the post.