



THE  
SOUTH GEORGIA and SOUTH SANDWICH  
ISLANDS GAZETTE 1985

Published by Authority

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No. 1

DECEMBER 1986

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The first South Georgia and South Sandwich Islands Gazette

This Gazette is the first South Georgia and South Sandwich Islands Gazette.

South Georgia and South Sandwich Islands ceased to be Dependencies of the Falkland Islands and became a separate territory on 3rd October 1985 when the Order in Council immediately following this notice came into force.

Prior to the 3rd October 1985 all notices and publications that required to be Gazetted in respect of South Georgia and the South Sandwich Islands were published in the Falkland Islands Gazette.

Now that the territory is separate it must have its own Gazette.

All entries in this issue relate to the period from 3rd October 1985 until 31st December 1985. All officers appointed prior to 3rd October 1985, who remain in office after that date, will only appear in the Falkland Islands Gazette.

M. C. Ll. GAIGER,  
Attorney General.

## NOTICES

*The following Orders in Council came into operation on 3rd October 1985 —*

The South Georgia and South Sandwich Islands Order 1985 (SI 1985/449).

The South Georgia and South Sandwich Islands (Appeals to Privy Council) Order 1985 (SI 1985/450).

Copies may be inspected at the Secretariat, Stanley, Falkland Islands, or obtained from Her Majesty's Stationery Office, price £1.30.

Ref. GSO/7/1.

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In accordance with Section 7 of the Constitution His Excellency the Commissioner has constituted the offices of Financial Secretary, Attorney General, Officer in Charge of Police, Collector of Customs and Harbour Master and Principal Auditor and confirmed —

HAROLD THEODORE ROWLANDS, O.B.E., Financial Secretary,  
 MICHAEL CHARLES LLOYD GAIGER, Attorney General,  
 KENNETH DAVID GREENLAND, Officer in Charge of Police,  
 LESLIE JOHN HALLIDAY, Collector of Customs and Harbour Master,  
 and appointed COLIN DENNIS WRIGHT, Principal Auditor.

Ref. LEG/10/54.

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### Customs Ordinance (Cap. 16)

In exercise of the powers conferred by Section 4 of the Customs Ordinance I hereby confirm the appointment of —

MAJOR R. W. WILBY

to be a Temporary Customs Officer with effect from 24th October 1985.

L. J. HALLIDAY,  
*Collector of Customs.*



THE  
SOUTH GEORGIA and SOUTH SANDWICH  
ISLANDS GAZETTE 1986  
PUBLISHED BY AUTHORITY

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*No. 2*

*February 1989*

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**Appointments**

- Richard Hingston Coleman**, Magistrate, 14th February 1986.  
**Jiwankumar Gurung**, Reserve Police Constable, 14th February 1986.  
**Gyanbahadur Gurung**, Reserve Police Constable, 14th February 1986.  
**John Anthony Bleakley**, Magistrate, 17th June 1986.  
**Roy Duty**, Reserve Police Constable, 17th June 1986.  
**Gary McClelland**, Reserve Police Constable, 17th June 1986.  
**John Timothy David**, Magistrate, 25th June 1986.  
**Andrew John Noble Graham**, Magistrate, 16th October 1986.  
**Francis Quinn**, Reserve Police Constable, 16th October 1986.  
**David John Cunnigton**, Reserve Police Constable, 16th October 1986.

## NOTICES

### Customs Ordinance (Cap. 16)

In exercise of the powers conferred by Section 4 of the Customs Ordinance, I hereby confirm the appointment of —

John Anthony Bleakley,

as Temporary Customs Officer, for the period 18th June, 1986,

John Timothy David,

as Temporary Customs Officer, with effect from 28th June 1986.

L. J. HALLIDAY,  
*Collector of Customs.*

### Medical Practitioners, Midwives and Dentists Ordinance (Cap. 45) Section 4

The following persons have been registered to practise in South Georgia —

| <i>Medical Practitioners</i>                            | <i>Qualifications</i>                         |
|---|---|
| Harker, Clive Gerald                                    | M.B., Ch.B.                                   |
| Maggs, Anthony Fergus                                   | M.B., Ch.B.                                   |
| McAdam, Noreena W.                                      | M.B., Ch.B., D.Ch., D.R.C.O.G.,<br>M.R.C.G.P. |
| McIlroy, Robert James                                   | M.B., Ch.B. (Glass)                           |
| Pearce, Thomas  | M.B., Ch.B.                                   |
| Tucker, Stephen Robert                                  | M.B., B.S.                                    |
| <br><i>Commanding Officer British Military Hospital</i> |   |
| Roberts, Gareth   | M.B., B.S.                                    |
| <br><i>Midwives</i>                                     |   |
| Douse, Bronwen Vaughan                                  | B.E.M., S.R.N., S.C.M.                        |
| Harrod, Mandy   | S.R.N., S.C.M.                                |
| Pearce, Andrea  | R.G.N., S.C.M.                                |
| Taylor, Jennifer  | S.R.N., S.C.M.                                |
| Fitzgerald, Wendy Joan                                  | S.R.N., S.C.M.                                |
| <br><i>Dentists</i>                                     |   |
| Watson, Robert Muir                                     | L.D.S., R.C.S.                                |
| Watt, Andrew  | L.D.S.  |

REF: MED/7/3.

It is with regret that the Commissioner, Gordon Wesley Jewkes, learned of the death of Signaller Gary Paul Green of the Royal Signals on 1st November 1986 at Grytviken, South Georgia.





THE  
SOUTH GEORGIA and SOUTH SANDWICH  
ISLANDS GAZETTE 1988  
PUBLISHED BY AUTHORITY

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*No. 3*

*November 1989*

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**Appointments**

- Graham Whitmore**, Magistrate, 18th February 1988.  
**Gordon Anthony Heeney**, Reserve Police Constable, 18th February 1988.  
**John William Snowdon**, Reserve Police Constable, 18th February 1988.  
**Philip Mark David Harris**, Magistrate, 16th June 1988.  
**Kenneth O Dalton**, Reserve Police Constable, 16th June 1988.  
**Thomas Frederick Dwyer**, Reserve Police Constable, 16th June 1988.  
**Peter Francis Andrew Jennings**, Magistrate, 22nd October 1988.  
**Richard Healey**, Reserve Police Constable, 22nd October 1988.  
**Vincent Lloyd Brown**, Reserve Police Constable, 22nd October 1988.

## NOTICES

## Customs Ordinance (Cap. 16)

In exercise of the powers conferred by Section 4 of the Customs Ordinance, I hereby confirm the appointments of —

Graham Whitmore

as Temporary Customs Officer, for the period 24th February 1988 to 15th June 1988,

Philip Mark David Harris,

as Temporary Customs Officer, for the period 16th June 1988 to 21st October 1988,

Peter Francis Andrew Jennings,

as Temporary Customs Officer, for the period 22nd October 1988 to 22nd February 1989.

L. J. HALLIDAY,  
*Collector of Customs.*

## Medical Practitioners, Midwives and Dentists Ordinance (Cap. 45) Section 4

The following persons have been registered to practise in South Georgia —

*Medical Practitioners*

|                   | <i>Qualifications</i>                   |
|-------------------|---|
| Marsden, Bruce    | ... .. M.B., C.L.B., M.R.C.S., L.R.C.P. |
| Kumarasana, H. D. | ... .. M.B., M.S., F.R.C.S.             |
| Carter, Martin    | ... .. M.B.B.S., F.F.A.R.C.S.           |
| Holt, Simon       | ... .. M.A., M.B., B.C.H.I.R., F.R.C.S. |
| Hamilton, Andrew  | ... .. B.S.C., M.B., C.H.B.             |
| Willis, Frances   | ... .. M.B., B.S.                       |
| Makkison, Ian     | ... .. M.B., B.S.                       |

*Midwives*

|                  |                               |
|------------------|-------------------------------|
| Buckler, Harriet | ... .. S.R.N., R.S.C.N., R.M. |
| Thomas, Carolyn  | ... .. S.R.N., R.M.           |
| Houston, Sandra  | ... .. S.R.N., R.M.           |
| Innes, Helen     | ... .. S.R.N., R.M.           |
| Kesbey, Susan    | ... .. S.R.N., R.M.           |
| Russell, Claire  | ... .. S.R.N., R.M.           |

*Dentist*

|                |                                     |
|----------------|-------------------------------------|
| Barnes, Trevor | ... .. B.D.S. HONS., L.D.S., R.C.S. |
|----------------|-------------------------------------|

REF: MED/7/3.



THE  
SOUTH GEORGIA and SOUTH SANDWICH  
ISLANDS GAZETTE 1990  
PUBLISHED BY AUTHORITY

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No. 4

JUNE 1990

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The Following is published in this Gazette —

**The Fisheries (Transshipment and Export) Regulations 1990 (S. R. & O. No. 1 of 1990).**

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 SUBSIDIARY LEGISLATION
 

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## FISHERIES

## The Fisheries (Transshipment and Export) Regulations 1990

(S. R. &amp; O. No. 1 of 1990)

Made ..... 13th June 1990

Published ..... 18th June 1990

Commencing ..... on publication

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance (a) in its application to the South Georgia and South Sandwich Islands under section 6(1) of and the Schedule to the Application of Colony Laws Ordinance(b) and section 12 of the South Georgia and South Sandwich Islands Order 1985(c) and in exercise of my powers under section 9 of that Order and of all other powers me enabling, I make the following Order -

1. This Order may be cited as the Fisheries (Transshipment and Export) Regulations 1990 and shall come into force on publication in the Gazette.

Citation and  
Commencement.

2. In these Regulations unless the context otherwise requires —

Interpretation.

“fish” means any marine animal and any part of any marine animal not being a mammal or bird or a part thereof, whether living or dead and whether fresh, frozen, cured rendered to fish meal or otherwise treated;

“fishing vessel” includes any ship, boat or other vessel used for fishing or transporting or processing fish;

“fisheries protection officer” means any person appointed by the Commissioner to be a fisheries protection officer;

“person” includes any body of persons;

“recognised harbour” means Cumberland Bay East and any other harbour declared under regulation 5 (2) below to be a recognised harbour;

“South Georgia and South Sandwich Islands waters” means the internal waters and territorial sea of South Georgia and the South Sandwich Islands.

3. (1) It is unlawful for any person —

Transshipment etc  
without a licence  
prohibited.

(a) to tranship any fish within South Georgia and South Sandwich Islands waters, and whether that fish was caught within those waters or not;

(b) to transport from those waters any fish which has been so transhipped;

unless that transshipment or, as the case may be, that transportation, is carried out under the authority of and in accordance with any conditions attached to or referred to in a licence granted under regulation 4(1) below.

(2) Without prejudice to the generality of paragraph (1) above, it is hereby expressly declared that “person” in that paragraph includes every person who is a member of the crew of or attached to or otherwise employed or engaged in relation to the operations of a fishing vessel and whether he is on board the vessel or not.

(3) A person who contravenes paragraph (1) above commits an offence.

4. (1) The Commissioner or any person authorised by him may grant to any person a licence to tranship fish within or transport fish from South Georgia and South Sandwich Islands waters or to do both those things.

Grant of  
licences.

(2) A licence granted under paragraph (1) above may —



- (a) authorise one transshipment to a named vessel from another named vessel, or to a named vessel from any other vessel;
- (b) authorise a number of transshipments specified therein to a named vessel from another named or other named vessels or from any number of named vessels;
- (c) authorise transshipments within the period specified therein, without limit on the number of transshipments permitted, to any vessel from any other vessel or vessels named in the licence, or from any other vessels whatsoever, or from other vessels in common ownership or control;
- (d) authorise, by reference to quantity permitted, transportation by the vessel to which fish has been transhipped in accordance with the licence of the fish so transhipped;
- (e) authorise, by reference to a period of time, the transportation by the vessel of all fish which has been transhipped to it in accordance with the licence.

(3) Where a licence is granted on terms to which subparagraphs (a) or (b) of paragraph (2) above relate, there shall be payable a fee calculated in accordance with the Schedule below.

(4) Where a licence is granted on terms to which subparagraph (c) of paragraph (2) above relates there shall be payable such fee as the Commissioner may notify to the licensee.

(5) No fee shall be payable for a licence to transport fish which has been transhipped.

(6) A licence granted under paragraph (1) above shall enure in accordance with its tenor for the benefit of all persons carrying out any operation which would otherwise be prohibited by regulation 3 above.

(7) A licence granted under paragraph (1) shall require transshipment to take place in a recognised harbour, and may be granted subject to such other conditions as the Commissioner thinks fit.

5. (1) Cumberland Bay East is a recognised harbour.

Recognised  
harbour.

(2) The Commissioner may by writing under his hand declare any other place within South Georgia and South Sandwich Islands waters to be a recognised harbour.

6. A person commits an offence who —

Other  
requirements.

- (a) being the master of or in command of a fishing vessel, without reasonable excuse, fails to bring to when required to do so by any fisheries protection officer or upon signal of a government vessel; or
- (b) being aboard a fishing vessel, refuses to answer any questions put to him by a fisheries protection officer concerning fish to be or that has been transhipped or transported from South Georgia or South Sandwich Islands waters.

7. (1) A person who is convicted of an offence under regulation 3 is liable —

Penalties.

- (a) if a natural person to a fine not exceeding £10,000;
- (b) if a body corporate to a fine not exceeding £100,000.

(2) A person who is convicted of an offence under regulation 6 is liable to a fine not exceeding £2,000.

8. Where it is proved that an offence under regulation 3 has been committed by a natural person who is an employee of a body corporate or by a person who is acting as the agent of or on the instructions of a body corporate it is also proved that the body corporate has committed that offence and the corporation may be convicted of that offence as well as, or instead of that natural person and may be fined accordingly.

Offences by  
body corporate.

9. A summons, charge or other process issued or made in respect of any offence under these Regulations is sufficiently served or brought if it or a copy of it is proved —

Service of  
summons etc.

- (a) in the case of a natural person, to have been handed to him personally or to have been sent or transmitted to him at an address or location at which, in the opinion of the court, he is likely to have received it or to have had its contents or effect brought to his attention;

- 4
- (b) in the case of a body corporate, to have been sent or transmitted to —
- (i) its registered office or principal place of business; or
  - (ii) any vessel of which the body corporate is the registered owner;
  - (iii) the master of any vessel of which the body corporate is the registered owner,

but no court may proceed on the basis of such service without the consent of the natural person or body corporate affected thereby until after the expiry of such period of time as the court considers fair and reasonable in all the circumstances.

10. The Magistrate's Court has jurisdiction to try any offence under jurisdiction of these Regulations and impose any fine authorised by them.

Magistrate's  
Court to have  
jurisdiction.

## SCHEDULE

(regulation 4(3) )

### FEE PAYABLE FOR CERTAIN TRANSHIPMENT LICENCES

For every transshipment - £1000.

Made this 13th day of June 1990.

W. H. FULLERTON,  
*Commissioner for  
South Georgia and  
the South Sandwich  
Islands.*

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### EXPLANATORY NOTE

(not forming part of above Regulations)

These Regulations prohibit the transshipment of fish or transportation of fish from internal waters and the territorial sea of South Georgia and the South Sandwich Islands without the authority of a licence. They also provide for the grant of licences to tranship or transport fish and for the payment of fees in respect of them.



THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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No. 5

MAY 1992

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SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

Appointment of Assistant Commissioner

IN EXERCISE of the powers vested in me by Section 7 of the South Georgia and South Sandwich Islands Order 1985, I, **William Hugh Fullerton**, Companion of the Most Distinguished Order of Saint Michael and Saint George, do hereby institute the office of Assistant Commissioner for South Georgia and the South Sandwich Islands and appoint **Roger Christopher Huxley** to be the first holder of that office

Given under my hand and the Public Seal this 4th day of July 1990.

W. H. Fullerton,  
*Commissioner.*

The following are published in this Gazette —

**The South Georgia Museum Trust Ordinance 1992;**

**S.I. 1985 No.1995 The South Georgia and South Sandwich Islands (Territorial Sea) Order 1989.**

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

WILLIAM HUGH FULLERTON, C. M. G.,  
*Commissioner.*

The South Georgia Museum Trust Ordinance 1992

(No: 1 of 1992)

An Ordinance

To establish the South Georgia Museum Trust; to provide for the transfer to it of certain lands and objects in South Georgia; to define the functions of that Trust; and to provide for purposes connected with the matters aforesaid.

*(assented to: 1st May 1992)*  
*(commencement: on publication)*  
*(published: 15th May 1992)*

BE IT ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows -

1. This Ordinance may be cited as the South Georgia Museum Trust Ordinance 1992.

*Short title.*

2. In this Ordinance, unless the context otherwise requires -

*Interpretation.*

"the Commissioner" means the Commissioner for South Georgia and the South Sandwich Islands;

"the Crown" means Her Majesty the Queen in right of Her government of South Georgia and the South Sandwich Islands and includes Her Majesty's lawful successors in right of such government;

"the Trust" means the trust established by section 3.

3.(1) There is hereby established a trust to be called the South Georgia Museum Trust.

*Establishment of the Trust.*

(2) The Trust shall consist of not less than five and not more than seven members including the Attorney General and the Financial Secretary of the Territory who shall both be members of the Trust. All other members shall be appointed by the Commissioner by instrument under his hand.

(3) The incidental provisions contained in the Schedule to this Ordinance shall have effect with respect to the Trust.

4.(1) The Commissioner may by instrument under his hand and public seal transfer to the Trust -

*Transfer to Trust of collections.*



(a) any personalty belonging to the Crown and described in the instrument which, in his opinion, is associated with the use of South Georgia or any part or parts of South Georgia as a whaling station or sealing station or as whaling or sealing stations or the flora and fauna of South Georgia and the surrounding waters;

(b) any vessel or wreck of a vessel belonging to the Crown and lying within the waters of South Georgia or the territorial sea thereof which, in his opinion, is so associated;

(c) any land or building in South Georgia which, in his opinion is so associated.

(2) Any thing transferred under paragraph (a) or (d) or subsection (1) shall form part of the collection of the Trust for the purposes of the subsequent provisions of this Ordinance.

(3) Any land or building transferred under paragraph (c) of subsection (1) shall constitute the premises of the Trust for the purposes of this Ordinance and subject only to the provisions of this Ordinance relating to the premises of the Trust shall be held by the Trust upon trust for the Crown and the Trust shall not dispose of any such land or building or create any estate or interest therein without the prior consent of the Commissioner which may be given subject to such conditions as the Commissioner considers appropriate.

5.(1) So far as is practicable and subject to the following provisions of this Ordinance, it shall be the duty of the Trust -

*General functions  
of the Trust.*

(a) to care for, preserve and add to the objects in its collection;

(b) to secure that those objects are exhibited to persons visiting South Georgia wishing to see them and are made available to persons seeking to inspect them in connection with study and research;

(c) generally to promote understanding and appreciation of the history of South Georgia, both by means of the Trust collection and by such other means as the Trust considers appropriate.

(2) The Trust may, subject to the provisions of this Ordinance, do all such things as the Trust considers necessary or expedient for those purposes and its functions under this Ordinance.

(3) Without prejudice to the generality of subsection (2), for the purposes mentioned in subsection (1) the Trust may -

(a) lend any object forming part of its collection to any museum or learned or scientific institution anywhere in the world;

(b) promote or co-operate with others in promoting research or investigations in connection with any matter appertaining to South Georgia or any activity in South Georgia or the flora or fauna of South Georgia or the waters surrounding South Georgia.

6.(1) Subject to this Ordinance, the Trust shall have power to acquire any objects which in its opinion it is desirable to add to its collection.

*Power of Trust to  
acquire and dispose  
of objects.*

(2) Subject to this Ordinance, the Trust may sell, exchange, give away or otherwise dispose of any object vested in it and comprised in its collection if the object is a duplicate of another such object or is for any other reason not, in its opinion, required for retention in that collection and the consent of the Commissioner to that disposal has been obtained by the Trust.

7. The Commissioner may direct that all or any fees charged in respect of the landing of any passenger of any vessel in South Georgia shall be paid to the Trust and form part of the Trust's income, and may at any time vary or revoke any direction made under this subsection. *Landing fees.*

8.(1) The Trust may expend money for any purpose authorised by this Ordinance. *Finances of the Trust.*

(2) The Trust shall not borrow any money without the consent of the Commissioner.

(3) The Trust may accept gifts of money and property of any kind but shall not be obliged to accept any gift of property which in its opinion cannot usefully be held by it for the purposes of its functions under this Ordinance.

(4) The Trust shall in the month of April in each year submit to the Commissioner details of its estimated revenue and expenditure for the year commencing on the ensuing 1st July with information as to the purposes of such expenditure. The Trust shall not expend any money for any such purpose until the estimated expenditure has been approved by the Commissioner.

(5) The Commissioner may, subject to the same having been appropriated in accordance with law, grant moneys out of the funds of the Crown in aid of the expenditure of the Trust, and may upon granting any such moneys impose such conditions or limitations as to its expenditure as he considers appropriate and the Trust shall comply with any such conditions.

(6) The Trust may invest any of its funds surplus to its current requirements in any manner approved by the Commissioner.

9. The income of the Trust is not liable to income tax in South Georgia and the South Sandwich Islands. *Income Tax.*

10.(1) The Trust shall maintain good and adequate books of account and shall prepare annual accounts made up to the 30th day of June in each year. *Accounts.*

(2) The accounts of the Trust shall be audited by a person appointed by the Commissioner for the purpose.

(3) A copy of the accounts of the Trust audited in accordance with subsection (2) shall be delivered to the Commissioner within six months of the end of the accounting period to which they relate.

#### SCHEDULE

(section 3(3))

#### INCIDENTAL PROVISIONS WITH RESPECT TO THE TRUST

1. The Trust shall be a body corporate with perpetual succession and a common seal.

2.(1) Members of the Trust other than the Attorney General and the Financial Secretary shall be appointed to hold office for a period of three years, but are eligible for re-appointment.

(2) Members of the Trust other than the Attorney General and the Financial Secretary may -

(a) be removed from office as such at any time by instrument under the hand of the Commissioner;

(b) resign at any time by instrument delivered or sent to the Commissioner and taking effect not earlier than its receipt by the Commissioner;

(c) on expiry of his term of office as such be re-appointed as a member of the Trust.

3. The Commissioner shall be entitled to attend all meetings of the Trust and may speak to, but shall not vote in respect of, any matter at any such meeting.

4.(1) The Commissioner may by instrument under his hand appoint one of the members of the Trust to be the Chairman of the Trust. In default of any such appointment, the Commissioner shall preside at all meetings of the Trust at which he is present.

(2) If no appointment of a Chairman has been made and the Commissioner is not present at the meeting in question the members present at that meeting shall appoint one of their number to preside at that meeting.

5. The quorum of the Trust shall be three members personally present.

6. The Trust may act notwithstanding a vacancy amongst the members, and no act of the Trust shall be deemed to be invalid by reason only of a defect in the appointment of any of the members of the Trust.

7. The application of the seal of the Trust shall be authenticated by the signatures of the Attorney General or the Financial Secretary and of one other member of the Trust authorised to authenticate the application of the Trust's seal.

8. Subject to the foregoing the Trust may determine its own procedure.

Assented to this 1st day of May 1992.

W. H. FULLERTON,

*Commissioner.*

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 STATUTORY INSTRUMENTS
 

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1989 No. 1995

**SOUTH ATLANTIC TERRITORIES**

**The South Georgia and South Sandwich Islands  
(Territorial Sea) Order 1989**

*Made* - - - - - *1st November 1989*

*Coming into force* *1st January 1990*

At the Court at Buckingham Palace, the 1st day of November 1989

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of the powers conferred upon Her by the Colonial Boundaries Act 1895(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the South Georgia and South Sandwich Islands (Territorial Sea) Order 1989 and shall come into force on 1st January 1990.

2. The boundaries of the Territories of South Georgia and South Sandwich Islands are hereby extended to include, as territorial sea, that part of the sea which is situated within 12 nautical miles measured from the baselines as established by article 3 of this Order, together with the seabed of the territorial sea and its subsoil.

3.—(1) Except as otherwise provided in paragraphs (2) to (4) of this article, the baseline from which the breadth of the territorial sea adjacent to South Georgia and South Sandwich Islands is measured shall be the low-water line along the coast of all islands and territories comprised in South Georgia and South Sandwich Islands by virtue of the South Georgia and South Sandwich Islands Order 1985(b).

(2) For the purposes of this article a low-tide elevation which lies wholly or partly within the breadth of sea which would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth thereof and if paragraphs (3) and (4) of this article were omitted shall be treated as an island.

(3) The baseline from which the breadth of the territorial sea is measured around the island of South Georgia and the islands in its immediate vicinity shall consist of the series of loxodromes drawn so as to join successively, in the order in which they are there set out, the points identified by the co-ordinates of latitude and longitude in the first column of the Schedule to this Order, each being a point situate on the low-water line on or adjacent to the feature named in the second column of that Schedule opposite to the co-ordinates of latitude and longitude of the point in the first column:

Provided that the baseline between points 19 and 20 in that Schedule shall be the low water line as laid down in paragraphs (1) and (2) of this article.



(4) The provisions of paragraph (3) of this article shall be without prejudice to the operation of paragraph (2) of this article in relation to any island or low-tide elevation which for the purposes of that paragraph is treated as if it were an island, being an island or low-tide elevation which lies to seaward of the baseline specified in paragraph (3) of this article.

4. In this Order –

- (a) "island" means a naturally formed area of land surrounded by water which is above water at mean high-water spring tides;
- (b) "low-tide elevation" means a naturally formed area of drying land surrounded by water which is below water at mean high-water spring tides; and
- (c) "nautical miles" means international nautical miles of 1,852 metres.

*G. I. de Deney*  
Clerk of the Privy Council

## SCHEDULE

Article 3

### POINTS ON OR IN THE VICINITY OF THE ISLAND OF SOUTH GEORGIA JOINED TO FORM BASELINES, EXCEPT BETWEEN POINTS 19 AND 20

| <i>Co-ordinates of latitude and longitude of point referred to chart datum</i> | <i>Name of feature</i>  |
|--|-------------------------|
| 1. 53° 59' 13"S 38° 18' 02"W   | Ramp Rock – N           |
| 2. 53° 59' 25"S 38° 10' 38"W   | Trinity Island          |
| 3. 53° 59' 33"S 38° 01' 28"W   | Bird Island             |
| 4. 53° 59' 12"S 37° 55' 21"W   | Sørn                    |
| 5. 53° 58' 14"S 37° 44' 31"W   | Cape North              |
| 6. 53° 57' 35"S 37° 29' 00"W   | High Rock               |
| 7. 54° 02' 55"S 36° 59' 39"W   | Cape Constance          |
| 8. 54° 04' 30"S 36° 51' 25"W   | The Guides              |
| 9. 54° 06' 35"S 36° 40' 07"W   | Hercules Point          |
| 10. 54° 06' 51"S 36° 38' 36"W  | Turpie Rock             |
| 11. 54° 07' 15"S 36° 37' 33"W  | Humpback Rocks          |
| 12. 54° 10' 41"S 36° 29' 24"W  | Jason Island            |
| 13. 54° 15' 13"S 36° 17' 53"W  | East Skerry             |
| 14. 54° 17' 07"S 36° 14' 41"W  | Cape George             |
| 15. 54° 22' 20"S 36° 09' 15"W  | Cape Vakop              |
| 16. 54° 32' 20"S 35° 53' 27"W  | Cape Charlotte          |
| 17. 54° 41' 38"S 35° 43' 35"W  | Filchner Rocks          |
| 18. 54° 47' 32"S 35° 45' 45"W  | Cooper Island – N       |
| 19. 54° 48' 00"S 35° 45' 52"W  | Cooper Island – E       |
| 20. 54° 49' 13"S 35° 46' 59"W  | Cooper Island – S       |
| 21. 54° 55' 14"S 36° 06' 45"W  | First Rock              |
| 22. 54° 45' 30"S 36° 19' 25"W  | Kupriyanov Islands      |
| 23. 54° 37' 47"S 36° 46' 08"W  | Pickersgill Islands     |
| 24. 54° 30' 40"S 37° 05' 25"W  | South West Point        |
| 25. 54° 29' 33"S 37° 08' 20"W  | Mislaid Rock            |
| 26. 54° 08' 10"S 37° 45' 55"W  | Saddle Island           |
| 27. 54° 04' 23"S 38° 00' 50"W  | Olsen Rock              |
| 28. 54° 04' 18"S 38° 01' 42"W  | Rock west of Olsen Rock |
| 29. 54° 01' 10"S 38° 15' 46"W  | Bryde Rocks – S         |
| 30. 54° 00' 52"S 38° 16' 15"W  | Bryde Rocks – N         |
| 31. 53° 59' 17"S 38° 18' 12"W  | Ramp Rock – W           |
| 1. 53° 59' 13"S 38° 18' 02"W   | Ramp Rock – N           |

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order extends the boundaries of South Georgia and South Sandwich Islands, so as to include, as territorial sea, the sea within twelve nautical miles of the baselines, together with its seabed and subsoil, and makes other provisions in this connection. In particular, it defines the baseline from which the breadth of the territorial sea is measured as generally the low-water line, except that around South Georgia and other islands in its immediate vicinity a series of straight baselines joining specified points is provided for. The effect of the Order is to establish around South Georgia (including Shag Rocks, Black Rock, Clerke Rocks and the Office Boys) and all islands in the South Sandwich Islands a territorial sea extending to 12 nautical miles from the appropriate baselines.



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 6*

*NOVEMBER 1992*

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**NOTICE**

The following is published in this Supplement —

**The Customs (Fees) Regulations 1992 (S.R. & O. No. 1 of 1992).**

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SUBSIDIARY LEGISLATION

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CUSTOMS

Customs (Fees) Regulations 1992

(S. R. & O. No: 1 of 1992)

Made: 17th November 1992

Published: 20th November 1992

Coming into operation: 6th December 1992

IN EXERCISE of my powers under section 230 of the Customs Ordinance(a) in its application to the Territories by virtue of the provisions of the Application of Colony Laws Ordinance(b) and of all other powers me enabling in that behalf I make the following Regulations -

1. These Regulations may be cited as the Customs Fees Regulations 1992 and come into force on 6th December 1992. *Citation and Commencement.*

2. In these Regulations - *Interpretation.*

"normal hours of duty" means between the hours of eight in the morning and noon and between the hours of a quarter past one in the afternoon and half past four in the afternoon on any day which is not a Saturday, Sunday or public holiday; and

"outside normal hours of duty" has a corresponding meaning.

3. Subject to regulation 4, any person requiring the services of a customs officer for any purpose under the customs laws shall pay fees as follows - *Customs Fees.*

(a) where the whole of those services are provided during normal hours of duty, the greater of -

(i) £40.00 and

(ii) such fee as is generated by multiplying the number of hours engaged in providing those services by £20.00 (and so that for the purposes of this subparagraph, any fraction of an hour above any whole number of hours shall be charged as a whole hour);

(b) where those services are provided partly within the normal hours of duty and partly outside those hours -

(i) at the rate provided for by (a) (ii) above in respect of the whole number of hours engaged during normal hours of duty;

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(a) Cap. 16 Laws of the Falkland Islands 1950 Edition.

(b) Cap. 1 (DS) Laws of the Falkland Islands 1950 Edition.

(c) No. 2 of 1975 as amended by No. 5 of 1978.

(ii) as to the remainder of the time engaged (including any fraction of an hour above a whole number of hours engaged during normal hours of duty) as provided for under (c) (ii) below (but so that the minimum fee payable by virtue of this subparagraph shall be £60);

(c) where the whole of those services are provided outside normal hours of duty, the greater of -

(i) £60; and

(ii) such fee as is generated by multiplying the number of hours by £30 (and so that for the purposes of this subparagraph, any fraction of an hour above any whole number of hours shall be charged as a whole hour).

4. For the single act of -

*Single act of entering  
or clearing.*

(a) entering; or

(b) clearing; or

(c) entering and clearing,

a fee of £20 shall be paid, unless the vessel is under 15 net register tons when the fee of £10 shall be paid.

5. The Customs (Fees) Regulations 1975(c) no longer apply to the Territory.

*Revocation.*

Made this 17th day of November 1992.

D. E. TATHAM,  
*Commissioner.*

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**EXPLANATORY NOTE**  
(not forming part of the above Order)

These Regulations replace the Customs (Fees) Regulations 1975 (as amended).





**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 7*

*NOVEMBER 1992*

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**NOTICE**

The following is published in this Gazette —

**The Visitors Ordinance 1992 (No. 2 of 1992).**



## ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

The Visitors Ordinance 1992

(No. 2 of 1992)

An Ordinance

to make further and better provision in relation to sums to be paid by persons arriving in South Georgia.

*(assented to: 24th November 1992)*

*(commencement: on publication)*

*(published: 26th November 1992)*

BE IT ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows -

1. This Ordinance may be cited as the Visitors Ordinance 1992.

*Short title.*

2. In this Ordinance -

*Interpretation.*

"passenger landing fee" means the fee prescribed by section 3 or by regulations under section 6;

"South Georgia Museum Trust" means the Trust established by section 3(1) of the South Georgia Museum Trust Ordinance 1992.

"visitor" means any person landing at any place in the island of South Georgia other than -

(a) a servant of Her Majesty in right of Her Government in South Georgia and the South Sandwich Islands or in right of Her Government in the United Kingdom and any person performing services in South Georgia to Her Majesty;

(b) a member of Her Majesty's armed forces or of the Royal Fleet Auxiliary service;

(c) a person who is the spouse or dependent child of any person referred to in (a) or (b);

(d) a person in the employment of the South Georgia Museum Trust or who lands in South Georgia for the purpose, or principally for the purpose of providing services of any kind to that Trust;

(e) a person who is a member of the crew of any ship and who lands in South Georgia for purposes only of the working, mooring, victualling, provisioning of or taking cargo aboard or discharging cargo from that ship and, for the purposes of this subparagraph, a person who is bona fide employed as a tour guide or to accompany and look after the needs of fare-paying passengers from aboard that ship shall, so long as he accompanies such passengers, be regarded as working that ship; and

(f) a person excluded by the Commissioner from the operation of section 3.

3.(1) There shall be paid in respect of every visitor to South Georgia a passenger landing fee of fifty dollars (or such other sum as may be prescribed by regulations under section 6) in the currency of the United States of America. *Passenger landing fees.*

(2) Payment of landing fees in the equivalent in another currency approved for the purpose shall be accepted.

(3) For the purposes of this section, the currencies of the United Kingdom and of the Falkland Islands shall always be approved currencies but any other currency may be revocably approved in writing signed by the Commissioner.

4.(1) Payment of passenger landing fees shall be made to a person approved by the Commissioner and shall be paid in cash or some other way approved by the Commissioner. *Payment of passenger landing fees.*

(2) All passenger landing fees paid shall be paid into and form part of the general revenues of the Territories.

(3) Unless otherwise approved by the Commissioner, passenger landing fees shall be paid at the time of disembarkation.

5. Nothing in this Ordinance shall be construed as permitting any person to land in South Georgia contrary to any provision of the immigration laws of the Territories from time to time in force. *Saving for immigration laws.*

6. (1) The Commissioner may by regulations under this subsection - *Regulations.*

(a) provide that the passenger landing fee shall be such sum other than that mentioned in section 3(1) as is prescribed in such regulations;

(b) make such provision as appears to be necessary or expedient for the purposes of this Ordinance.

(c) revoke, with or without replacement, or amend any regulations previously made under this section.

7. Section 7 of the South Georgia Museum Trust Ordinance is repealed. *Repeal.*

I assent,

D. E. TATHAM,  
Commissioner.

1974-1975

Annual Report of the Falkland Islands Government

|                          |    |
|--------------------------|----|
| 1. Introduction          | 1  |
| 2. Administration        | 2  |
| 3. Finance               | 3  |
| 4. Education             | 4  |
| 5. Health                | 5  |
| 6. Housing               | 6  |
| 7. Industry and Commerce | 7  |
| 8. Land and Planning     | 8  |
| 9. Law and Order         | 9  |
| 10. Leisure and Culture  | 10 |
| 11. Miscellaneous        | 11 |
| 12. Appendix             | 12 |
| 13. Index                | 13 |



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

PUBLISHED BY AUTHORITY

No. 8

DECEMBER 1992

NOTICE

**Public Holidays 1993**

The Commissioner has declared that the following will be Public Holidays for South Georgia and the South Sandwich Islands during 1993 :-

|                      |   |
|----------------------|---|
| 1st January          | New Year's Day  |
| 17th January         | Cook's "Possession" Day   |
| 9th April            | Good Friday   |
| 12th April           | Autumn Bank Holiday   |
| 13th April           | H.M. The Queen's Birthday   |
| 26th April           | Liberation Day  |
| 31st May             | Whit Bank Holiday   |
| 30th August          | Late Winter Bank Holiday  |
| 16th November        | Establishment of Grytviken as the First<br>Whaling Station (1904) |
| 25th - 27th December | Christmas Holiday.  |

D. E. TATHAM,  
*Commissioner.*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*MAY 1993*

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**NOTICE**

The following is published in this Gazette —

**Proclamation (Maritime Zone) No. 1 of 1993.**

# PROCLAMATION

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No. 1 of 1993

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## MARITIME ZONE

**IN THE NAME OF HER MAJESTY ELIZABETH II**, by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith,

**BY DAVID EVERARD TATHAM ESQUIRE, COMPANION OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE**, Commissioner for South Georgia and the South Sandwich Islands,

**WHEREAS** there is a need to establish and to regulate activity in a maritime zone around South Georgia and the South Sandwich Islands in accordance with the rules of international law,

**NOW THEREFORE I, DAVID EVERARD TATHAM**, acting in pursuance of instructions given by Her Majesty through a Secretary of State, do **HEREBY PROCLAIM** as follows :

1. There is established for South Georgia and the South Sandwich Islands a maritime zone having as its inner boundaries the outer limits of the territorial sea of South Georgia and the South Sandwich Islands and its seaward boundary a line drawn so that each point on the line is 200 nautical miles from the nearest point on the baselines defined, in the case of South Georgia, in Article 3(3) and (4) of and the Schedule to the South Georgia and South Sandwich Islands (Territorial Sea) Order 1989 and, in the case of the South Sandwich Islands, in Article 3(1) and (2) of that Order.
2. Any rights exercisable over the waters of the maritime zone and its seabed and subsoil, as well as the natural resources thereof (whether living or non-living), are hereby vested in Her Majesty.
3. In regard to the maritime zone, Her Majesty will exercise jurisdiction in accordance with the rules of international law over the exploration and exploitation and the conservation and management of the natural resources (whether living or non-living) and over the protection and preservation of the marine environment, subject to such provision as may hereafter be made by law for such matters.
4. This Proclamation becomes effective forthwith.

**GIVEN** under my hand and the Public Seal of South Georgia and the South Sandwich Islands, this seventh day of May in the year of Our Lord One Thousand Nine Hundred and Ninety Three.

**D. E. TATHAM,**  
*Commissioner.*

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**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 2*

*23rd JULY 1993*

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**NOTICE**

The following is published in this Gazette —

**The Fisheries (Conservation and Management) Ordinance 1993 (No. 3 of 1993).**



# SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

(No: 3 of 1993)

## The Fisheries (Conservation and Management) Ordinance 1993

*Enacted:* 23rd July 1993

*Published in the Official Gazette:* 23rd July 1993

*Coming into force:* in accordance with section 1

### An Ordinance

to make fresh provision for the regulation, conservation and management of the fishing waters of South Georgia and the South Sandwich Islands and matters incidental thereto.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows :

#### PART I

#### INTRODUCTORY

*Short title, commencement and interpretation*

1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance 1993 and shall come into force on such day as the Commissioner may by notice in the Gazette appoint and the Commissioner may appoint different days for the coming into force of different provisions. *Short title and commencement.*

2. In this Ordinance unless the context otherwise requires:- *Interpretation.*

"Convention" means the Convention on the Conservation of Antarctic Marine Living Resources made in Canberra on 20th May 1980, as amended from time to time, and includes any Protocol to that Convention and any Agreement or Measure adopted pursuant to that Convention between State Parties to that Convention which is for the time being in force;

"Director of Fisheries" means the Director of Fisheries provided for by section 4(1);

"Fisheries Protection Officer" means the Director of Fisheries and any of the Fisheries Protection Officers provided for in section 4(4);

"fish" means any sea fish and any marine animal other than a bird;

"fishing boat" means any vessel of whatever size, and in whatever way propelled, which is for the time being employed in fishing operations;

"fishing licence" means a licence provided for under section 5;

"fishing operations" means -

- (a) the taking of fish;
- (b) the processing, storage, carriage or trans-shipment of fish aboard any vessel; and
- (c) any other operations at sea ancillary to any of the foregoing;

"fishing waters" means the fishing waters of the South Georgia and the South Sandwich Islands provided for in section 3;

"internal waters" means those seawaters on the landward side of the baseline from which the territorial sea is measured;

"Maritime Zone" means the zone of that name established by and defined in the Proclamation by the Commissioner as amended by any subsequent proclamation defining the zone;

"this Ordinance" includes any regulations made under section 23 of this Ordinance which are for the time being in force;

"processing" (in relation to fish) includes preserving or preparing fish or processing any article or substance obtained from fish, by any method whatever and for whatever purpose;

"master" includes, in relation to a fishing boat, the person appearing to be the person who is for the time being in command or in charge of the boat or the person in charge of fishing operations on board the fishing boat;

"sea fish" includes

- (a) any fish found in the fishing waters or in any specified area, and include salmon and migratory trout and any shellfish; and
- (b) any part of any sea fish as defined in (a)

"shellfish" includes crustaceans and molluscs of any kind, and includes any (or any part of any) brood, ware, half-ware or spat of shellfish and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish;

"specified area" means any area of the fishing waters for the time being the subject of an Order under section 5(1);

"take", and its correlatives, in relation to fish, include the catching or capturing of fish;

"trans-shipment licence" means a licence so described provided for in section 6;

"trans-shipment of fish" includes the passing of fish from one fishing boat to another whether or not the fish has first been taken on board the boat from which the fish is passed.

*Administration*

3. The fishing waters of South Georgia and the South Sandwich Islands comprise-

*Fishing waters.*

- (a) the internal waters;
- (b) the territorial sea; and
- (c) the Maritime Zone.

4.(1) This Ordinance shall be administered by the Director of Fisheries appointed by the Commissioner and such Director shall be responsible for-

*Director of Fisheries and  
Fisheries Protection Officers*

- (a) the conservation of fish stocks;
- (b) the assessment of fish stocks and the collection of data, statistics and any other relevant information;
- (c) the development and management of fisheries;
- (d) the monitoring, control and surveillance of fishing operations;
- (e) the regulation of the conduct of fishing operations and operations ancillary thereto;
- (f) the issue, variation, suspension and revocation of licences for fishing, trans-shipment, export and ancillary operations;
- (g) the collection of fees in respect of licences;
- (h) the making of such reports to the Commissioner as the latter, acting in his discretion, may require;
- (i) other matters referred to in this Ordinance.

(2) In the performance of his duties under this Ordinance the Director of Fisheries shall be subject to the direction of the Commissioner except that in the performance of such of his duties as relate to the prosecution or non-prosecution of offences arising under this Ordinance he shall act in accordance with such directions as the Attorney General may give to him.

(3) This Ordinance and regulations made hereunder shall be enforced by Fisheries Protection Officers acting (except as provided in subsection (2)) subject to the direction of the Director of Fisheries, and for that purpose Fisheries Protection Officers shall have the powers set out in section 10.

(4) The following persons shall be Fisheries Protection Officers, that is to say every person appointed in that behalf by the Commissioner, every Police Officer, Customs Officer, Marine Officer or Harbour Master of any harbour in South Georgia and the South Sandwich Islands, commissioned officers of any of Her Majesty's ships and persons in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

(5) In the performance of their several duties under this Ordinance the Director of Fisheries and every Fisheries Protection Officer shall have regard to the provisions of the Convention but the question as to whether the Director of Fisheries or any Fisheries Protection Officer has done so in any particular instance shall not be inquired into in any court.

*Restriction of fishing and trans-shipping*

5.(1) The Commissioner may by Order provide that in any area of the fishing waters lying to the north of sixty degrees south of latitude specified in the Order (a "specified area") fishing is prohibited unless it is authorised by a licence granted by the Director of Fisheries or is permitted under subsection (14).

*Licensing of fishing boats.*

(2) Such an Order may apply to fishing generally in the specified area or to fishing-

- (a) for a specified description of fish;
- (b) by a specified method; or
- (c) during a specified season of the year or other period.

(3) Where any fishing boat is used in contravention of any prohibition imposed by an Order under this section, the master, the owner and the charterer (if any) each commit an offence under this subsection and are each liable on conviction thereof to a fine without limit.

(4) An Order under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(5) Where an Order under this section authorises the charging of a fee for a licence-

- (a) the Commissioner may waive or reduce that fee if he sees fit to do in the circumstances of any particular case;
- (b) any such fee may be expressed so as to be variable in relation to all or any of the following matters-
  - (i) the size of the fishing boat;
  - (ii) the equipment in relation to fishing affixed to or employed upon the fishing boat;

- (iii) the facilities aboard the fishing boat for the storage, freezing or processing of fish;
- (iv) the area within which fishing is authorised;
- (v) the periods, times or particular voyage during which fishing is authorised;
- (vi) the description and quantities of fish which may be taken; and
- (vii) the method or methods of fishing authorised to be used.

(6) A Order under this section may be amended, modified, revoked or replaced by a further Order under this section.

(7) A licence under this section may authorise fishing either unconditionally or subject to such conditions-

- (a) as the Director of Fisheries may have been directed by the Commissioner to impose;
- (b) as may in the opinion of the Director of Fisheries be necessary or expedient to regulate the conduct of fishing operations by the licensee under the authority of licence;
- (c) as to the use to which the fish taken may be put;
- (d) prohibiting or restricting the use of any equipment which might kill or harm any aquatic bird or mammal to be found or likely to be found in the area to which the licence relates;
- (e) as to the disposal of any waste, effluvia or deleterious matter by the fishing boat to which the licence relates; and
- (f) otherwise as in the opinion of the Director of Fisheries may be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention,

as are contained in or specified in the licence, and the conditions subject to a licence may be granted under this section may differ between different fishing boats or fishing boats of different descriptions.

(8) Subsection (7) has effect without prejudice to any power under section 23 to make regulations as to any matter as to which under subsection (7) conditions can be imposed.

(9) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or of any class of fishing boats, engaged in fishing in any area, or in fishing in any area for any description of fish in any manner which appears to the Director of Fisheries to be expedient or necessary for the regulation of fishing.

(10) The Director of Fisheries-

- (a) may from time to time vary a licence granted under this section;

(b) may revoke or suspend such a licence if he considers it to be necessary for the regulation of fishing or to be appropriate having regard to the conduct of the licensee, and whether that conduct was within a specified area or elsewhere.

(11) Where the Director of Fisheries varies, revokes or suspends a licence, he may, if he considers it appropriate in all the circumstances of the case, refund the whole or any part of any fee paid in respect of that licence.

(12) If a licence condition is broken, the master, the owner and the charterer (if any) of the fishing boat named in the licence each commit an offence under this subsection and are each liable on conviction of that offence to a fine not exceeding £100,000.

(13) Any person who-

(a) for the purpose of obtaining a licence under this section; or

(b) in purported compliance with any condition contained in a licence requiring the provision to the Director of Fisheries any person on his behalf of statistical information,

furnishes information which he knows to be false or recklessly furnishes information which is false in a material particular, commits an offence under this section and is liable on conviction of that offence to a fine not exceeding £100,000 and where a person other than the owner or charterer (if any) of the fishing boat in question furnished that information in question that owner and that charterer as well as the person who actually furnished the information shall be deemed to have furnished it and also to have committed the offence and shall be liable to be dealt with in relation to it unless he or they shall prove that the person who actually furnished the information was not authorised to act on his or their behalf.

(14) Nothing in the foregoing provisions of this section or of any Order under it shall apply to fishing which is undertaken for the purpose of genuine scientific research which has been notified in advance to the Secretariat provided for by the Convention.

6.(1) In the subsequent provisions of this section, "fish" includes fish products.

*Receiving and trans-shipping  
of fish.*

(2) The Commissioner may by Order provide that in any specified area (that is to say an area to which an Order under section 5(1) relates) or any part of any specified area described in the Order under this section the receiving by any vessel of fish trans-shipped from any other vessel is prohibited unless authorised by a licence granted by the Director of Fisheries.

(3) With effect from the commencement of this section, and until they are revoked by an Order made under this section, the Fisheries (Trans-shipment and Export) Regulations 1990, in so far as they make provision which could be made by an Order under this section, shall continue to have effect as if they had been made as an Order under this section and except as hereinbefore provided, in so far as they make provision which could be made as regulations under section 23 of this Ordinance, they shall continue to have effect as if they had been made as regulations made under that section.

(4) An Order made under this section may apply to the receiving of fish generally or to the receiving of-

- (a) a specified description of fish; or
- (b) fish taken by a specified method;
- (c) fish taken in an area described in the Order (and whether within the fishing waters, the area to which the Convention relates or otherwise); or
- (d) fish taken or trans-shipped during a specified season of the year or other period,

but it shall not prohibit the receiving of fish in circumstances to which subsection (12) applies and may provide for exemptions from the prohibitions contained in it.

(5) An Order made under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(6) Where an Order made under this section authorises the charging of a fee for a licence-

(a) the Commissioner may waive or reduce that fee if he sees fit to do in the circumstances of any particular case;

(b) any such fee may be expressed so as to be variable in relation to all or any of the factors-

(i) the size of the vessel;

(ii) the facilities aboard the vessel for the storage, freezing, processing or other treatment of fish;

(iii) the area in which (and whether within the fishing waters, the area to which the Convention relates or otherwise) the fish were taken or the place within a specified area (that is to say an area to which an order under section 5(1) relates) in which the fish is trans-shipped;

(iv) the periods, times or particular voyages during which the fish was caught or is trans-shipped;

(v) the descriptions and quantities of fish that may be received; or

(vi) the description of the fishing boat or method by which the trans-shipped fish was caught.

(7) An Order made under this section may be amended, modified, revoked or replaced by a further Order under this section.



(8) A licence granted under this section may authorise the receiving of fish either unconditionally or subject to such conditions-

- (a) as the Director of Fisheries may have been directed by the Commissioner to impose;
- (b) as in the opinion of the Director of Fisheries may be necessary or expedient to regulate the receiving of fish by, or the processing or treatment of fish aboard, the receiving vessel;
- (c) as to the use to which fish received may be put;
- (d) prohibiting or restricting the use of any equipment or apparatus which might kill or harm any aquatic bird or mammal to be found or likely to be found in or in the vicinity of any place where receiving of fish is authorised;
- (e) as to the disposal of any waste, effluvia or deleterious matter by the vessel to which the licence relates; and
- (f) otherwise as may in the opinion of the Director of Fisheries be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention.

(9) Subsection (7) has effect without prejudice to any power under section 23 to make regulations as to any matter as to which under subsection (7) conditions may be imposed.

(10) Subsection (10), (11), (12) and (13) of section 5 apply in relation to a licence granted under this section as they do in relation to a licence granted under section 5, substituting in those subsections wherever appropriate a reference to this section for any reference to that section.

(11) Where any vessel is used in contravention of any provision imposed by an Order under this section or of any condition of any licence granted under this section, the master, the owner and the charterer (if any) each commit an offence under this subsection and are each liable on conviction thereof to a fine without limit.

(12) Section 5(14) applies in respect of trans-shipping of fish (with which this section deals) as it does in relation to fishing (with which section 5 deals), and with the substitution for the purposes of this section of the words "trans-shipping of fish" for the word "fishing" in section 5(14).

7.(1) In relation to such parts of the fishing waters as are not for the time being the subject of an Order under section 5(1) (that is to say, are not for the time being part of a specified area, with the effect that no licence under this Ordinance is required in relation to the undertaking of any fishing operation in them), the Commissioner may take or concur or assist in the taking of such measures for the conservation, increase or improvement of marine living resources therein as may be required so as to give effect to the Convention or so as to meet any obligation under, or objective of, the Convention.

*Fishing waters outside specified areas.*

(2) Nothing in subsection (1) shall be construed so as to permit the Commissioner to do, concur or assist in doing anything which, if subsection (1) had not been enacted, would be invalid or unlawful under the laws of South Georgia and the South Sandwich Islands.

(3) The Commissioner may exercise in such manner as he considers necessary or expedient to give effect to any obligation under, or objective of, the Convention such of his powers under section 23 to make regulations as are not solely related to the licensing of fishing boats and other vessels.

PART II  
PROVISIONS APPLYING IN OR IN RELATION TO  
SPECIFIED AREAS OF THE FISHING WATERS

*Introductory*

8.(1) The provision of this Part (that is to say, this section and sections 9 to 16 of this Ordinance) apply only in respect of-

*Application and interpretation of this part.*

(a) every area which is a specified area that is to say, an area of the fishing waters in respect of which an Order under section 5(1) is for the time being in force (in the subsequent provisions of this Part called "a specified area")

(b) fishing operation within a specified area; and

(c) fishing boats licensed to fish within a specified area under section 5 and vessels licensed to receive fish within a specified area under section 6.

(2) In this Part, "fish", where the context so admits, includes fish products.

*Powers of Fishery Protection Officers*

9.(1) For the purposes of enforcing and administering the provisions of this Part or any regulations under section 23 so far as such regulations apply to any matter to which by virtue of section 8(1) the provisions of this Part apply, Fishery Protection Officers have the powers conferred upon them by section 10(1) and they also have those powers so far as they may be necessary or expedient for the enforcement or administration of any Order section 5 or under section 6.

*Powers of Fishery Protection Officers: introductory provisions.*

(2) So far as is in accord with international law and practice, the powers referred to in subsection (1) may be exercised outside, as well as within, South Georgia and the South Sandwich Islands and the fishery waters and irrespective of the whether the vessel is for the time being in question engaged in fishing operations.

(3) In exercising the powers conferred by section 10(1), a Fisheries Protection Officer may-

(a) use such force as may reasonably be necessary; and

(b) engage the assistance of any person who may have been assigned to assist him in the exercise of those powers, provided that in such a case the Fisheries Protection Officer shall, subject to subsection (4), be liable for any thing done by any such person if he would be liable had he himself done it.

(4) A Fisheries Protection Officer shall not be liable in any civil or criminal proceedings for any thing done in the purported exercise of any of the powers conferred upon him by this Part, if the court is satisfied that the thing was done in good faith and that there were reasonable grounds for doing it.

10.(1) The powers referred to in section 9(1) are-

*Powers referred to in section 9 and provisions related to those powers.*

(a) a power to stop any fishing boat or any other vessel which it reasonably appears to him has been or may have been engaged in any fishing operation in a specified area;

(b) a power to require any such fishing boat or other vessel to do anything else which may facilitate the boarding of that boat or vessel;

(c) a power to board any such fishing boat or other vessel accompanied by such person or persons as may have been assigned to assist him as may he may engage to accompany him ;

(d) a power to require the attendance of the master and other persons aboard any such fishing boat or other vessel;

(e) a power to make any examination and inquiry which appears to him to be necessary for any of the purposes mentioned in section 9(1) and, in particular-

(i) to examine any fish aboard the fishing boat or other vessel concerned and the equipment thereof, including the fishing gear and any other equipment related to, or possibly related to, any fishing operation and for that purpose to require any person aboard the fishing boat or other vessel concerned to do anything which appears to him to be necessary for facilitating the examination;

(ii) to require any persons on board the fishing boat or other vessel concerned to produce any document relating thereto, to its fishing operations or to the persons on board which is in that person's custody or possession and to take copies of any such document;

(iii) for the purpose of ascertaining whether the master, owner or charterer (if any) of the fishing boat or other vessel concerned, has or may have committed an offence under this Ordinance, a power to search the fishing boat or other vessel concerned for any such documents and to require any person on board to do anything which appears to him to be necessary for facilitating the search;

(iv) where the fishing boat or other vessel is one in relation to which he has reason to suspect that an offence under this Ordinance has been committed, a power to seize and detain any document for use as evidence in proceedings for that offence,

but nothing in subparagraph (iv) shall permit any document required, or appearing to be required, by the law of fishing boat's or other vessel's State of registry to be carried on board it to be seized and detained except where the boat is detained in a port;

(f) where it appears to a Fisheries Protection Officer that an offence of a kind mentioned in paragraph (e)(iv) has been committed, the following powers-

(i) to require the master and any person under the master's command to take the fishing boat or other vessel to any place nominated by the Fisheries Protection Officer in South Georgia and the South Sandwich Islands or the Falkland Islands;

(ii) to detain or require the master to detain the fishing boat or other vessel in that place;

(iii) to take steps, or require any person aboard the fishing boat or other vessel, and having regard always to the safety of the fishing boat or other vessel, to immobilise it so as to prevent it being taken or navigated other than as he or another Fisheries Protection Officer may permit and until such time as it may be released by him or another Fisheries Protection Officer or by a court;

(iv) to seize and detain any fishing gear, instruments or appliances which appear to him to have been, or may have been used in the commission of the offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court;

(v) to seize and detain any fish which appear to him to have been taken as a result of such offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court.

(2) It shall not be an excuse or reason for any person to refuse to answer, or fail to answer, any question, or to refuse to do, fail to do to or to prevent another person from doing anything required by a Fisheries Protection Officer in the exercise of his powers under subsection (1) that to answer that question or to do that thing might or would tend to incriminate that person or any other person.

(3) Any information document or other thing obtained by a Fisheries Protection Officer by the lawful exercise of his powers under subsection (1) shall not be excluded from admissibility in evidence in any proceedings in relation to an offence under this Ordinance on the ground that it was unfairly obtained.

(4) Any person who on any fishing boat or other vessel-

(a) fails without reasonable excuse to comply with any requirement imposed, or to answer any question asked, by a Fisheries Protection Officer in the exercise of his powers under subsection (1);

(b) prevents, obstructs or attempts to prevent or obstruct, any other person from complying with any such requirement or answering any such question;

(c) assaults any Fisheries Protection Officer, or any person engaged to assist him, while that Officer is exercising any of those powers,

commits an offence under this subsection and is liable on conviction of that offence to a fine not exceeding £50,000.

(5) For the purposes of paragraph (a) of subsection (4), an excuse is not reasonable if it is an excuse or reason of a kind referred to in subsection (2).

*Release of things seized or detained*

11.(1) Where a fishing boat, other vessel or thing has been seized or detained under any power conferred by section 10(1), a Fisheries Protection Officer may at any time release it if no proceedings have been commenced in relation to any offence in respect of which that fishing boat, other vessel or thing could lawfully have been seized or detained under any power conferred by section 10(1).

*Release of fishing boat, other vessel or thing if no proceedings are instituted.*

(2) In any case where-

(a) a fishing boat, other vessel or thing has been seized or detained under a power conferred by section 10(1); and

(b) no proceedings in respect of such an offence have been commenced within fourteen days of the arrival of that fishing boat or other vessel at a place in South Georgia and the South Sandwich Islands or in the Falkland Islands to which it has, in accordance with section 10(1) (f) (i) been required to proceed or, in the case of any other thing, within fourteen days of its arrival in South Georgia and the South Sandwich Islands or the Falkland Islands, or at any earlier time at which the Director of Fisheries is satisfied that no such offence has been committed,

the Director of Fisheries shall release the fishing boat, other vessel or thing.

(3) Where a fishing boat, other vessel or thing has been seized or detained by a Fisheries Protection Officer under a power conferred by section 10(1) and-

(a) has been brought to a place in South Georgia and the South Sandwich Islands or in the Falkland Islands; and

(b) no proceedings in relation to an offence in respect of which the power could have been exercised have been commenced within fourteen days of its arrival in South Georgia and the South Sandwich Islands or in the Falkland Islands,

a court may on the application of the master, owner, charterer (if any) or of any other person appearing to it to have a sufficient interest in the matter, order that it be released, whereupon it shall be released.

(4) In subsection (3), "a court" means a court having jurisdiction under section 18(1) to try and determine proceedings in respect of an offence under this Ordinance.

12.(1) Where proceedings in respect of an offence under this Ordinance have been commenced against any person, but have not been determined, the court in which such proceedings have been commenced may on the application of the master, owner or charterer (if any) of a fishing boat, other vessel or thing seized or detained under a power conferred by section 10(1) or of any other person appearing to the court to have a sufficient interest in the thing in question, exercise the powers conferred upon that court by this section.

*Security for and release of fishing boat, other vessel or thing by court.*

(2) The court may order the release of the thing in question-

(a) on being satisfied by the applicant that adequate security has been given to the Crown in respect of the aggregate of any fine that the court is likely to impose in the event that the defendant is convicted of the offence and of any costs and expenses that the Crown may recover under section 18(2), or

(b) on being satisfied that a person or persons approved by the court for the purpose has or have executed and delivered to the court a bond or bonds in a suitable form, conditioned in accordance with subsection (4) and in an amount or amounts equivalent to the aggregate of the maximum fine that the court is likely to impose in the event that the defendant is convicted and of any costs and expenses that the Crown may recover under section 18(2), or

(c) on being satisfied that there are special circumstances justifying it in proceeding under this paragraph, a bond or bonds, satisfying the requirements of paragraphs (b), but in a lesser amount or amounts than that thereby required, have been executed and delivered to the court.

(3) The Director of Fisheries shall be the respondent in relation to any application under this section and shall be entitled to be heard in relation thereto.

(4) The conditions of the bond or bonds referred to in subsection (2)(b) and (c) shall be that if-

(a) the defendant to the proceedings is not convicted or the charge or information is not proceeded with; or

(b) the defendant, on having been convicted and sentenced, pays in full within 14 days, or such greater period as the court may allow at the time of sentencing the defendant, the full amount of any fine imposed by the court together with the full amount of any costs and expenses he has under section 18(2) been ordered to pay to the Crown,

then the bond shall be of no further effect and is discharged, but otherwise shall remain in full force and effect, and may be enforced accordingly.

*Miscellaneous offences relation to specified areas*

13.(1) A fishing boat or other vessel shall not within a specified area-

*Unstowed fishing gear.*

(a) if it is not licensed under section 5 to fish within that specified area; or

(b) if it is licensed under section 5 to fish within that specified area and

(i) it is not licensed to fish within the part of the specified area in which it for the time being happens to be, or

(ii) it is not authorised by that licence, to use a net, line or other device directly employed in the taking of fish of any particular type, dimensions or specification mentioned in the licence,

carry unstowed aboard it any fishing net, line or other device directly employed in the taking of fish which it is not authorised by the licence under that section to use in that specified area or, as the case may be, the part of the specified area in question.

(2) Where subsection (1) is contravened, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) In subsection (1) "unstowed" means not stored or secured in such a manner as to be not readily capable of use within a reasonable period of time, and in any proceedings for an offence under subsection (2) it shall be for the defendant to prove that the thing in question was not unstowed.

14.(1) Before proceeding into any specified area in which it is authorised by a licence granted under section 5 to fish (or in the case of such a licence authorising fishing only in a part of a specified area, before proceeding into that part) the master, owner or charterer (if any) of a fishing boat shall notify the Director of Fisheries in accordance with subsection (3). *Report of entry.*

(2) If subsection (1) is contravened, the master, owner and charterer (if any) each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made at such time before such entry as the Director of Fisheries may approve of the following or such of the following as he may require-

(a) the name, port of registry, international radio call sign and licence number of that fishing boat;

(b) the quantity of fish aboard that fishing boat of every species, and in relation to each species a general description of the locations and dates at or which they were taken;

(c) the fishing boat's last port of call and the date on which it left that port; and

(d) the expected time and date of the fishing boat's such entry.

(4) Before proceeding to any place in a specified area at which it is authorised by a licence under section 6 to receive fish the master, owner or charterer (if any) of the vessel concerned shall notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened, the master, owner and charterer (if any) of the vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.



(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made at such time before entry into the specified area as the Director of Fisheries may approve of the following or such of the following as he may require-

- (a) the name, port of registry, international radio call sign and licence number of the vessel;
- (b) the quantity of fish aboard that vessel of every species, and in relation to each species particulars of the locations and dates at which they were received by the vessel;
- (c) the vessel's last port of call and the date on which it left that port; and
- (d) the expected time and date of the vessel's arrival at that place.

15.(1) Before departing from the specified area in which it was authorised by a licence under section 5 to fish (or in the case of such a licence authorising fishing only in part of a specified area before proceeding from that part) the master, owner or charterer (if any) of a fishing boat shall notify the Director of Fisheries in accordance with subsection (3). *Reports on departure.*

(2) If subsection (1) is contravened the master, owner and charterer (if any) of the fishing boat each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made as nearly as possible immediately before departure of the following or such of the following as he may require-

- (a) the name, port of registry, international radio call sign and licence number of that fishing boat;
- (b) the quantity of fish aboard that fishing boat in relation to every species, and if any fish of any species then aboard that fishing boat was taken outside a specified area or a part of a specified area in which the fishing boat was licensed by licence under section 5 to fish, a statement in relation to each species of the quantity of it which was taken under authority of the licence and of the quantity of it which was not;
- (c) if any fish of any species was, while the fishing boat was within a specified area trans-shipped to any other vessel or in any other manner disposed of particulars-
  - (i) of the name, port of registry, international radio call sign of any vessel to which any fish was trans-shipped;
  - (ii) of the date or dates of the trans-shipping and the place at which it occurred;
  - (iii) in relation to each species so trans-shipped, of the quantity trans-shipped on every occasion and, in relation to each occasion, the quantity of that species trans-shipped which was taken under authority of the licence and the quantity of that species of it which was not;

- (d) as to whether or not it is expected that the fishing boat will return to fish under the authority of the same licence;
  - (e) as to the expected next port of call of the fishing boat and its expected date of arrival thereat; and
  - (f) as to the place or places it is expected that the fishing boat will discharge or trans-ship the fish aboard the vessel;
  - (g) if the fishing boat has discharged any fish other than by trans-shipping, of the quantity of fish of each species discharged and particulars of the reasons for its discharge or circumstances in which it was discharged.
- (4) Before proceeding from any place in a specified area at which it is authorised by a licence under section 6 to receive fish, the master, owner or charterer (if any) of the vessel shall notify the Director of Fisheries in accordance with subsection (6).
- (5) If subsection (4) is contravened the master, owner and charterer (if any) of the vessel each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.
- (6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made as nearly as possible before departure of the following or such of the following as he may require-
- (a) the name, port of registry, international radio call sign and licence number of the vessel;
  - (b) the quantity of fish aboard the vessel in relation to every species and, if any fish of any species then aboard was received outside a specified area, a statement in relation to each species the quantity of it which was received under the authority of the licence and the quantity of it which was not;
  - (c) in relation to fish of any species received under the authority of the licence-
    - (i) the quantity of it received from any fishing boat from which it was received;
    - (ii) the date or dates on which it was received;
    - (iii) the name, international radio call sign and port of registry of the fishing boat from which it was received;
  - (d) whether or not it is expected that the vessel will return to receive fish under the authority of the same licence;
  - (e) the expected next port of call of the vessel and its expected date of arrival at that port;
  - (f) the place or places at which it is expected that the vessel will discharge the fish aboard the vessel.

(7) The preceding provisions of this section have effect without prejudice to any obligation under the conditions of any licence granted under section 5 or section 6 and to any obligation under any regulations made under section 23 requiring documents or other records to be kept as to any matter to which any provision of this section relates and to deliver those documents or records or copies of them to the Director of Fisheries or to such person as he directs, and where a person contravenes any provision of this section and has also contravened or thereafter contravenes any such obligation in such a manner as to constitute an offence he may be convicted and punished both in respect of an offence under this section and of an offence in relation to any such obligation.

16.(1) For the sake of avoidance of doubt it is hereby declared that where a fishing boat has departed from a specified area or part thereof or, in the case of a vessel licensed to receive fish, from the place it was authorised to receive fish, and thereafter returns to undertake further operations under the same licence, the provisions of section 14 and 15 apply to it on each occasion of entry or departure of that vessel.

*Supplementary to sections  
14 and 15.*

(2) If any person, in purported compliance with any obligation under section 14 and 15, provides any information which to his knowledge is false or misleading or is incomplete, or recklessly as to its truth, falsehood, misleading nature or incompleteness, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

### PART III GENERAL

#### *Provisions as to offences*

17.(1) Unless the contrary is proved any fish found on board a fishing boat shall for the purposes of this Ordinance be presumed to have been taken-

*Further provisions as to  
offences.*

(a) within a specified area; or

(b) where a licence has been granted under section 5 restricting fishing to a part of a specified area and the fishing boat is outside that part, within the vicinity in which the fishing boat is found.

(2) Unless the contrary is proved, any fish found on board a fishing boat of a species in respect of which that fishing boat is not authorised by a licence under section 5 to take shall be deemed to have been taken within a specified area, but it shall be a defence in relation to an offence to which this subsection relates for the defendant to prove that the fish taken, if taken within a specified area, were taken inadvertently at a time when the fishing boat was seeking to take fish of a species it was authorised by such a licence to take.

(3) In any proceedings for an offence under this Ordinance, a certificate purporting to be signed by the Director of Fisheries or any officer authorised by him for that purpose to the effect that on a date specified in the certificate-

(a) that the fishing boat or vessel was not licensed under section 5 or (as the case may be) section 6; or

(b) that the defendant or any other named person was not the holder of the licence; or

(c) that by such a licence, the fishing boat or other vessel was not licensed to take fish in a particular place or of a particular species or (as the case may be) to receive fish or fish produce in a particular place,

shall, unless the contrary be proved, be sufficient evidence of the matter stated in the certificate.

(4) Where the owner or charterer of a fishing vessel is prosecuted in relation to an offence under this Ordinance, it is not a defence for him to show that the offence-

(a) was committed without his knowledge; or

(b) contrary to any instructions he may have given to any person.

(5) An attempt to commit an offence under this Ordinance constitutes an offence under this section and is punishable in respect of all persons who could have been prosecuted in respect of the offence which was attempted in the same manner as if that offence had been completed.

(6) Notwithstanding any provision or rule of law to the contrary a prosecution in respect of an offence under this Ordinance may be commenced at any time within twelve years of the date on which that offence appears to have been committed.

(7) Where any offence under this Ordinance or under regulations made under section 23 committed by an owner or charterer of a fishing boat or other vessel is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate (or, in the case of a body corporate existing under the laws of an overseas jurisdiction, with the consent or approval of any person occupying in relation to it a position similar in function to that of director, manager or secretary) he, as well as the body corporate, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly.

18.(1) All penalties, offences and proceedings under this Ordinance or any regulation may be recovered, prosecuted and taken before any court of summary jurisdiction in South Georgia and the South Sandwich Islands or, pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989, the Magistrate's Court of the Falkland Islands, and those courts have jurisdiction to try and determine any offence under this Ordinance or any regulation made thereunder.

*Jurisdiction of Summary  
and Magistrate's Courts.*

(2) In respect of such offences and notwithstanding any provision of law to the contrary, any court before which, pursuant to subsection (1), any such offence is tried has jurisdiction to impose any fine provided for under this Ordinance and may award to the Crown such costs and expenses (including expenses incurred in exercise of any power under section 10(1) and costs and expenses incurred in relation to the prosecution of any such offence) as may appear to it to be proper.

19.(1) Subject to subsection (2), every person who is convicted of an offence under this Ordinance or any regulation made under this Ordinance and is again convicted of such an offence shall, in addition to any other penalty, forfeit any licence granted under this Ordinance and any fees paid for that licence and for a period of three years from the day of the later conviction shall be incapable of holding any such licence.

*Forfeiture of licence.*

(2) Notwithstanding subsection (1), the Commissioner may in the circumstances of any particular case, and upon application being made to him by the person concerned within 30 days from the date of the later conviction or such extended period as the Commissioner may allow, direct that in relation to that person the provisions of that subsection shall be varied or are not to apply.

20.(1) Where the Commissioner has reasonable cause to believe that-

*Administrative penalties for minor offences.*

- (a) an offence against this Ordinance has been committed by any person in respect of any fishing boat;
- (b) the offence is of a minor nature; and
- (c) having regard to the previous conduct of the boat and the person concerned it would be appropriate to impose a penalty under this section;

he may, unless the Attorney General has given a direction which has not been withdrawn to the Director of Fisheries that a prosecution in respect of the offence shall be brought, cause a notice in writing in accordance with subsection (2) in the prescribed form to be served on that person.

(2) A notice under subsection (1) shall specify-

- (a) the date and nature of the offence;
- (b) a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him); and
- (c) any other matters (not being previous convictions) that the Commissioner considers relevant to the imposition of a penalty;

and shall be endorsed with a statement setting out the provisions of this section.

(3) Any person on whom a notice under subsection (1) is served may, within 28 days after such service, by notice in writing in the prescribed form served on the Commissioner require that proceedings in respect of the alleged offence shall be dealt with by a court having jurisdiction to try and determine that offence, in which case the following shall apply-

- (a) no further proceedings shall be taken under this section by the Commissioner; and
- (b) nothing in this section shall be construed to prevent the subsequent laying of any information charge in respect of the alleged offence, or the conviction of the person of the offence by that court, or the imposition of any penalty or forfeiture under this Ordinance upon such conviction.

(4) Any person on whom a notice under subsection (1) is served who does not require that proceedings in respect of the alleged offence shall be dealt with by a court may by notice in writing served on the Commissioner-

(a) admit the offence; and

(b) make submission to the Commissioner as to the matters he wishes the Commissioner to take into account in imposing any penalty under this section.

(5) Where a person on whom a notice under subsection (1) is served does not within 28 days after the notice is served on him-

(a) require that proceedings in respect of the alleged offence shall be dealt with by a court; or

(b) admit the offence;

he shall on the expiration of that period be deemed to have admitted the offence.

(6) Where under this section a person admits or is deemed to have admitted an offence the Commissioner may, after taking into account any submissions made by that person under subsection (4), impose a monetary penalty on that person in respect of the offence not exceeding in amount one third of the maximum fine to which the person would be liable if he were convicted of the offence by a court.

(7) An admission or deemed admission of an offence and the imposition of a penalty under this section shall not count as a conviction of an offence for the purposes of section 19.

(8) Where the Commissioner imposes a penalty on a person under this section in respect of an offence the Commissioner shall cause a notice in writing in the prescribed form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on him in accordance with subsection (8).

(10) A penalty imposed under this section shall be recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction for an offence and without prejudice to the foregoing may be recovered in any manner in which a civil debt to the Crown from that person may be recovered.

(11) Notwithstanding any other provision of this Ordinance or of any other enactment, where an offence has been admitted or is deemed to have been admitted under this section no information or charge may be laid in respect of the offence against any person by whom it is admitted or is deemed to have been admitted.

(12) Nothing in this section shall apply-

(a) in respect of any offence or alleged offence under section 5(3) or 6(10); or

(b) in respect of any offence or alleged offence in respect of which any information or charge has already been laid.

21.(1) In relation to section 5(3) and 6(10), the power thereby conferred to sentence an offender against these provisions to pay a fine without limit is a power enabling the court, subject to subsection (2) of this section, to order the offender to pay a fine of any amount it sees fit without any limitation on the maximum amount it may order the offender to pay by way of fine.

*Provisions as to amounts of fine which may be imposed.*

(2) Before ordering a person to pay a fine after convicting him of an offence under this Ordinance the court shall inquire into and take into account the means of the offender to pay that fine within a reasonable time.

22.(1) Where a court has ordered the master, owner or charterer of any fishing boat in respect of an offence under this Ordinance or any regulation made under this Ordinance to pay a fine or costs and expenses, the court may, if no security has been given to the Crown for payment thereof or it considers that insufficient security has been given to the Crown, order that in default of payment forthwith the person so ordered shall give security for payment of the amount due, and if such security to the satisfaction of the court is not given, the court may order the detention of the fishing boat concerned in the offence in South Georgia and the South Sandwich Islands or the Falkland Islands (according as to where the court so ordering usually sits) until the amount due is paid or until sufficient security shall be given to the satisfaction of the court.

*Detention or forfeiture of fishing boats on failure to pay or secure fine.*

(2) Where a person is convicted of an offence under section 5(3) or (12) or section 6(10) and is ordered to pay a fine and that fine is not paid or security given within 30 days of the date of the order of the court, or such longer period as the court may determine, the court may order that the fishing boat concerned in that offence and its equipment concerned in the commission of it shall be forfeited to the Crown and if so forfeited shall be disposed of in such a manner as the Commissioner, acting in his discretion, may direct.

23.(1) The Commissioner may make regulations for the better carrying into effect of the purposes of this Ordinance.

*Regulations.*

(2) In particular, and without prejudice to the generality of subsection (1) of this section, such regulations may provide for-

- (a) anything which is to be, or may be, prescribed under this Ordinance;
- (b) the forms to be used for the purposes of this Ordinance;
- (c) the persons to whom and the manner in which applications may be made;
- (d) the procedures to be followed by applicants for licences;
- (e) terms and conditions that shall apply to licences issued under this Ordinance;
- (f) the protection of the marine environment within the fishing waters and of any living thing to be found therein;
- (g) the equipment to be carried on board fishing boats;
- (h) the reports to be made and statistics to be kept and submitted for the purposes of this Ordinance;

(i) any matters in relation to which under section 5 or section 6 a condition may be imposed on the grant of a licence thereunder;

(j) the designation by applicants for licences and licensees of authorised agents in South Georgia and the South Sandwich Islands or in the Falkland Islands in respect of fishing boat operations and otherwise for the purposes of this Ordinance;

(k) the provision by applicants for licences or licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences or their compliance with the provisions of this Ordinance;

(l) the placing of Fisheries Protection Officers and official observers on fishing boats and the terms for their presence thereon;

(m) a fine of such amount as may be prescribed therein in respect of any offence under any such regulations (but so that no such fine shall exceed £100,000 and, subject to that limitation, so that different fines may be prescribed in relation to different offences);

(n) any other purpose related to any obligation under, or objective of, the Convention.

(3) Regulations made under this section may make different provisions for different parts of the fishing waters, different specified areas, different parts of the year, different types and sizes of fishing boats or any one or more of the foregoing.

24.(1) Where an agent for the licensee under a licence is named in that licence-

*Service of proceedings  
and notices.*

(a) any summons or to the owner, charterer or master of the boat to which such licence relates to attend before any court to answer to that summons shall be deemed to be duly served if it is shown that the summons was delivered to or received by that agent;

(b) any administrative penalty notice under section 20(1) shall be deemed to have been duly served on the owner, charterer or master of the boat (as the case may be) if it is shown that it was delivered to or received by that agent;

(c) the agent may, on behalf of the owner, charterer or master of the boat, give to the Commissioner any notice or notification which the owner, charterer or master of the boat could give under any provision of this Ordinance; and

(d) any notice which the Director of Fisheries is empowered under this Ordinance or any regulations made under section 23 to give or serve upon the owner, charterer or master of the boat shall be deemed to have been duly given to or served upon that person if it is shown that it was delivered to or received by the agent.

(2) Subsection (1) has effect whether the summons or notice is delivered, served or given to the agent in South Georgia and the South Sandwich Islands, the Falkland Islands or elsewhere.



25.(1) Subject to this section, the Fisheries Ordinance of the Falkland Islands in its application to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance shall cease to apply to the fishing waters of South Georgia and the South Sandwich Islands on the commencement of this section.

*Partial disapplication of Cap. 27, Laws of the Falkland Islands, under Cap. 1 (DS) and savings as to regulations.*

(2) Notwithstanding subsection (1), the Fisheries (Trans-shipment and Export) Regulations 1990 shall continue to have effect to the extent provided by section 6(3).

26. The Application of Colony Laws Ordinance is amended by deleting from the Schedule thereto the numerals and words "62. Seal Fishery Ordinance" and "76. Whale Fishery Ordinance" appearing therein and so that-

*Amendment of Schedule to Application of Colony Laws Ordinance (Cap. 1 (DS)).*

(a) the said Seal Fishery Ordinance and the said Whale Fishery Ordinance (which were applied to South Georgia and the South Sandwich Islands by the Application of Colony Laws Ordinance) shall cease on the commencement of this section to apply to South Georgia and the South Sandwich Islands; but

(b) the provisions of this Ordinance shall have effect in relation to any fishing operations to which either of the said Ordinances related prior to the commencement of this section.

Enacted the 23rd day of July 1993

RONALD SAMPSON  
*Commissioner.*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 3*

*26th JULY 1993*

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**NOTICES**

**Fisheries (Conservation and Management) Ordinance 1993  
(Section 4(1))**

**Appointment of Director of Fisheries**

It is hereby notified that ROGER CHRISTOPHER HUXLEY has been appointed by the Commissioner to be the Director of Fisheries with effect from 2nd August 1993 and until further notice.

Dated 26th July 1993.

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**Fisheries (Conservation and Management) Ordinance 1993  
(Section 1)**

**Notice of Coming into Force of the Ordinance**

Pursuant to section 1 of the Fisheries (Conservation and Management) Ordinance 1993, I APPOINT 2nd August 1993 as the day on which all the provisions of that Ordinance shall come into force.

RONALD SAMPSON,  
*Commissioner.*

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The following is published in this Gazette —

**The Fishing (Maritime Zone) Order 1993 (S.R. & O. No. 1 of 1993).**

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SUBSIDIARY LEGISLATION

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SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

THE MARITIME ZONE AND FISHERIES

The Fishing (Maritime Zone) Order 1993

(S.R. & O. No.1 of 1993)

Made: 26th July 1993

Published: 26th July 1993

Commencing: 2nd August 1993

IN EXERCISE of my powers under section 5(1) and 6(2) of the Fisheries (Conservation and Management) Ordinance 1993(a) and of all other powers enabling me in that behalf, I make the following Order-

*Introductory*

1. This Order may be cited as the Fishing (Maritime Zone) Order 1993 and shall come into operation on 2nd August 1993.

*Citation and commencement.*

2.(1) Words and expressions used in this Order and which are defined in section 2 of the Fisheries (Conservation and Management) Ordinance 1993(a) shall have for the purposes of this Order the same meaning as they have for the purposes of that Ordinance.

*Interpretation.*

(2) In this Order-

"Conservation Measure" has the same meaning as it has for the purpose of the Convention; and

a reference to a Sub-Area is a reference to a United Nations Food and Agriculture Organisation statistical sub-area.

3.(1) This Order applies to all parts of the fishing waters lying to the north of sixty degrees South of Latitude but nothing in this Order shall be construed as applying to fishing which is undertaken for the purposes of genuine scientific research which has been notified in advance to the Secretariat provided for by the Convention.

*Application of this Order.*

(2) The parts of the fishing waters to which, by virtue of paragraph (1) of this Article, this Order applies are hereinafter in this Order called "the specified area".

4.(1) Subject as expressed in Article 3(1) and to paragraph (2) of this Article, all fishing operations in the specified area are prohibited unless they are authorised by a licence granted under this Order.

*Prohibition of fishing operations.*

(2) Paragraph (1) of this Article shall not have effect so as to prohibit fishing operations so far as they are trans-shipment of fish authorised by a licence granted under the Fisheries (Trans-shipment and Export) Regulations 1990(b), but that paragraph shall have effect to prohibit trans-shipment of fish within the specified area otherwise than as is permitted by a licence so granted.

*Restrictions on exercise of licensing powers*

5. Nothing in the subsequent provisions of this Order shall have effect so as to authorise the Director of Fisheries to grant any licence which, if granted -

*Total prohibitions in respect of certain Sub-Areas.*

(a) would have effect so as to permit the taking of any fish of any particular description in any part or parts of the specified area where in respect of fish of that particular description, it would be contrary to or inconsistent with any Conservation Measure for fish of that particular description to be taken; or

(b) would permit any method of fishing to be used or any fishing net or gear of any kind to be used in any part or parts of the specified area where (in any such case) it would be contrary to or inconsistent with any Conservation Measure for it to be used.

6.(1) Without prejudice to Article 5, the Director of Fisheries shall not grant a licence under the subsequent provisions of this Order in any terms or in relation to any particular description of fish where, in his reasonable opinion, the fishing operations of the licensee thereunder, if that licence were granted, or were granted on those terms, would or might result in a quantity of fish or a quantity of fish of any particular description being permitted to be taken which, if actually taken under the licence (and, if appropriate when aggregated with the quantity of fish as a whole or with the quantity of fish of that particular description permitted under any Conservation Measure to be taken in a relevant area) would or might cause to be taken a quantity of fish or, as may be, a quantity of fish of a particular description, exceeding a quantity permitted under that Conservation Measure to be taken within the relevant area.

*General restriction on the grant of licences.*

(2) In paragraph (1), "relevant area" means all or any of the following areas-

- (a) the specified area;
- (b) any part or parts of the specified area;
- (c) any Sub-Area, and whether it lies wholly within the specified area or not; and
- (d) the whole of the waters to which the Convention applies.

*Grant of  
Licences.*

7.(1) Subject to this Order, the Director of Fisheries may grant in relation to any fishing boat a licence to undertake within any part or parts of the specified area any fishing operation mentioned in that licence, but

- (a) this Article does not enable the licensing of trans-shipping of fish (to which the Fisheries (Trans-shipment and Export) Regulations 1990(b) continue to apply); and
- (b) the Director in the exercise of his powers under this Article shall comply with any direction he may have received from the Commissioner under section 5(7)(a) of the Fisheries (Conservation and Management) Ordinance 1993 requiring him, on grant of a licence, to impose a condition or conditions specified by the Commissioner.

(2) Subject as expressed in paragraph (1), the Director may grant a licence -

- (a) unconditionally; or
- (b) subject to such conditions, being conditions of a kind referred to in section 5(7) of the Fisheries (Conservation and Management) Ordinance 1993(a), as are specified in the licence.

8. There shall be charged and paid in respect of any licence under Article 7 such fees as the Commissioner may notify to the Director of Fisheries as the fees chargeable and such fees may be expressed so as to be variable in accordance with all or any of the factors mentioned in section 5(5)(b) of the Fishing (Conservation and Management) Ordinance 1993.

*Fees.*

Made 26th July 1993

**RONALD SAMPSON**  
*Commissioner.*



THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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No. 1

17th January 1994

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Appointments

The following persons have been appointed Fisheries Protection Officers for South Georgia and the South Sandwich Islands with effect from 31.12.93.

Mark Wharton;  
Inigo Everson;  
Michael Keith Wainman;  
Alexander Guyan Ralph Hay;

George Edward McLean;  
Robert Rawcliffe;  
Graeme Beresford Parkes;  
John Caradoc Jones;  
Patrick Lurcock;  
Catherine Goss.

Craig Stuart Michael Shelton, Assistant Commissioner,  
5.1.94.

Craig Stuart Michael Shelton, Director of Fisheries,  
5.1.94.

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NOTICE

The following are published in this Gazette —

**The Appropriation (1992 - 1993) Ordinance 1993, (No. 1 of 1993);**  
**The Appropriation (Past Years) Ordinance 1993, (No. 2 of 1993).**

The Appropriation (1992-1993) Ordinance 1993  
(No: 1 of 1993)

ARRANGEMENT OF PROVISIONS

Section

1. Short title.
2. Appropriation of £350,390.



The Territories of South Georgia and the  
South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

The Appropriation (1992-1993) Ordinance 1993

(No: 1 of 1993)

An Ordinance

To appropriate sums for the purposes of the year beginning on 1st July 1992 and ending on 30th June 1993.

*(assented to: 25th May 1993)*  
*(commencement: on publication)*  
*(published: 17th January 1994)*

BE IT ENACTED by the Commissioner of South Georgia and South Sandwich Islands as follows-

1. The Ordinance may be cited as the Appropriation (1992-1993) Ordinance 1993.

*Short title.*

2.(1) The Financial Secretary may cause to be issued out of South Georgia and South Sandwich Islands funds to be applied to the service of the year beginning 1st July 1992 and ending on 30th June 1993 the aggregate sum of Three Hundred and Fifty Thousand Three Hundred and Ninety Pounds.

*Appropriation of £350,390.*

(2) The said sum is granted and shall be appropriated for the purposes and to defray the charges of the several services expressed and particularly mentioned in the Schedule hereto which become payable during the said year.

SCHEDULE

| HEAD OF SERVICE       | AMOUNT  |
|-----------------------|---------|
|                       | £       |
| A Personal Emoluments | 1,800   |
| B Other Charges       | 222,540 |
| C Special Expenditure | 126,050 |
| TOTAL EXPENDITURE     | 350,390 |

Made this 25th day of May 1993.

D. E. TATHAM,  
*Commissioner.*



# The Appropriation (Past Years) Ordinance 1993 (No: 2 of 1993)

## ARRANGEMENT OF PROVISIONS

Section

1. Short title.
2. Appropriation of £3,750,802.



The Territories of South Georgia and the  
South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

The Appropriation (Past Years) Ordinance 1993

(No. 2 of 1993)

An Ordinance

To appropriate sums for the service of the period 1st July 1979 to 30th June 1992.

*(assented to: 25th May 1993)*  
*(commencement: on publication)*  
*(published: 17th January 1994)*

BE IT ENACTED by the Commissioner of South Georgia and South Sandwich Islands as follows-

1. The Ordinance may be cited as the Appropriation (Past Years) Ordinance 1993.

*Short title.*

2. There is declared to be lawful the issue by the Financial Secretary out of South Georgia and South Sandwich Islands funds and application to the service of the period 1st July 1979 to 30th June 1992 of the aggregate sum of Three Million Seven Hundred and Fifty Thousand Eight Hundred and Two Pounds for the purposes and to defray the charges of the several services expressed and particularly mentioned in the Schedule to this Ordinance as being sums which came into course of payment during the said period.

*Appropriation of £3,750,802  
for the services of the period  
1st July 1979 to 30th June  
1992.*

SCHEDULE

| HEAD OF SERVICE       | AMOUNT           |
|-----------------------|------------------|
|                       | £                |
| A Personal Emoluments | 66,558           |
| B Other Charges       | 1,778,377        |
| C Special Expenditure | 1,905,867        |
| TOTAL EXPENDITURE     | <u>3,750,802</u> |

Made this 25th day of May 1993.

D. E. TATHAM,  
*Commissioner.*



The Department of Defense

Department of Defense

Office of the Secretary of Defense

Washington, D.C. 20301

Attention: [illegible]

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THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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No. 2

31st August 1994

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**SOUTH GEORGIA & SOUTH SANDWICH ISLANDS  
APPOINTMENT OF FISHERIES PROTECTION OFFICERS**

IN EXERCISE of my powers under section 4(4) of the Fisheries (Conservation & Management) Ordinance 1993, I APPOINT the following persons to be Fisheries Protection Officers -

John Harvey Adams  
John Addinall  
Jonathon Andrew Clark  
Simon Roy Miller  
Roy Summers

Dated this 29th day of August 1994

D E Tatham  
Commissioner

**Appointment**

Patrick Murray Lurcock, Marine Officer, South Georgia, Fisheries Department, 31.7.94.

The following are published in this Gazette —

**The Pensions (Amendment) Ordinance 1994, (No. 1 of 1994);  
The Appropriation Ordinance 1994, (No. 2 of 1994);  
The Harbour Fees Regulations 1994, (S.R. & O. No. 1 of 1994).**

**Pensions (Amendment) Ordinance 1994**

**(No: 1 of 1994)**

**ARRANGEMENT OF PROVISIONS**

**Section**

- 1. Short title.**
- 2. Adoption of Pensions (Amendment) Ordinance 1987 of the Falkland Islands.**

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

The Pensions (Amendment) Ordinance 1994

(No. 1 of 1994)

An Ordinance

To adopt as law of South Georgia and the South Sandwich Islands the Pensions  
(Amendment) Ordinance 1987 of the Falkland Islands

*(assented to: 29th August 1994)*

*(commencement: on publication)*

*(published: 31st August 1994)*

ENACTED by the Commissioner as follows-

1. This Ordinance may be cited as the Pensions (Amendment) Ordinance 1994.

*Short title.*

2. The Pensions (Amendment) Ordinance 1987 (which amended the Pensions Ordinance 1965 by repealing section 18F thereof and replacing that section with a new section 18F) shall be deemed to have applied as part of the law of South Georgia and the South Sandwich Islands-

*Adoption of Pensions  
(Amendment) Ordinance  
1987 of the Falkland  
Islands.*

(a) with effect from the date on which it came into effect in the Falkland Islands (that is to say 23rd March 1988); but

(b) with the substitution of the words "Government of South Georgia and the South Sandwich Islands" for the words "Government of the Falkland Islands" appearing in the said new section 18F.

Made this 29th day of August 1994.

D. E. TATHAM,  
*Commissioner.*



# The Appropriation Ordinance 1994

(No: 2 of 1994)

## ARRANGEMENT OF PROVISIONS

### Section

1. Short title.
2. Appropriation of £724,720.

## ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

The Appropriation Ordinance 1994

(No: 2 of 1994)

An Ordinance

To appropriate sums for the purposes of the year beginning on 1st July 1993 and ending on 30th June 1994.

*(assented to: 29th August 1994)*  
*(commencement: on publication)*  
*(published: 31st August 1994)*

ENACTED by the Commissioner of South Georgia and South Sandwich Islands as follows -

1. The Ordinance may be cited as the Appropriation Ordinance 1994.

*Short title.*

2.(1) The Financial Secretary may cause to be issued out of South Georgia and South Sandwich Islands funds to be applied to the service of the year beginning 1st July 1993 and ending on 30th June 1994 the aggregate sum of Seven Hundred and Twenty Four thousand, Seven Hundred and Twenty Pounds.

*Appropriation of £724,720.*

(2) The said sum is granted and shall be appropriated for the purposes and to defray the charges of the several services expressed and particularly mentioned in the Schedule hereto which become payable during the said year.

## SCHEDULE

| HEAD OF SERVICE       | AMOUNT         |
|-----------------------|----------------|
|                       | £              |
| A Personal Emoluments | 1,800          |
| B Other Charges       | 287,410        |
| C Special Expenditure | 435,510        |
| Total Expenditure     | <u>724,720</u> |

Made this 29th day of August 1994.

D. E. TATHAM,  
*Commissioner.*

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## SUBSIDIARY LEGISLATION

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### HARBOURS

#### The Harbours Fees Regulations 1994

(S. R. & O. No: 1 of 1994)

*(Made: 12th August 1994)*

*(Published: 31st August 1994)*

*Coming into force: 1st September 1994)*

IN EXERCISE of my powers under section 3 of the Harbours Ordinance (a), I make the following Regulations -

1. These regulations may be cited as the Harbour Fees Regulations 1994 and shall come into force on 1st September 1994.

*Citation and commencement.*

2. A fee of £25 shall be payable in respect of every vessel, other than yachts, entering or leaving harbour.

*Entry and exit fees.*

3.(1) There shall be payable in respect of every vessel in relation to the first day of its stay in a harbour the fee ("the initial fee") appropriate in respect of its tonnage by reference to the Schedule to these Regulations, except that double that fee shall be paid if the vessel carries more than twelve passengers at the time of its entry into harbour.

*Daily fees.*

(2) There shall be payable in respect of every vessel, except yachts, in respect of every day or part thereof that the vessel remains in harbour after the first day a fee equal to one half of the initial fee.

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(a) Cap. 30 Laws of the Falkland Islands 1950 Edition in its application under Cap. 1 (D.S.) to South Georgia and the South Sandwich Islands.

**SCHEDULE**

(regulation 3(1))

Yachts (irrespective of tonnage): £44.00

The following fees are payable in relation to the net tonnage of the vessel concerned -

Vessels (other than yachts) -

|                                     |          |
|-------------------------------------|----------|
| Under 15 tonnes                     | £48.00   |
| 15 tonnes and under 30 tonnes       | £83.00   |
| 30 tonnes and under 50 tonnes       | £165.00  |
| 50 tonnes and under 800 tonnes      | £231.00  |
| 800 tonnes and under 1000 tonnes    | £290.00  |
| 1000 tonnes and under 1500 tonnes   | £339.00  |
| 1500 tonnes and under 2000 tonnes   | £411.00  |
| 2000 tonnes and under 5000 tonnes   | £497.00  |
| 5000 tonnes and under 7000 tonnes   | £618.00  |
| 7000 tonnes and under 10000 tonnes  | £920.00  |
| 10000 tonnes and under 15000 tonnes | £1126.00 |
| 15000 tonnes and under 20000 tonnes | £1320.00 |
| Vessels over 20000 tonnes           | £1525.00 |

Made this 12th day of August 1994.

R. SAMPSON,  
*Commissioner.*

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**EXPLANATORY NOTE**  
(not forming part of above regulations)

These Regulations set harbour dues for South Georgia and the South Sandwich Islands.

Government Secretary



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
PUBLISHED BY AUTHORITY

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*No. 3*

*13th December 1994*

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The following is published in this Gazette —

**The Appropriation Ordinance (No. 2) 1994, (No. 3 of 1994).**

The Appropriation Ordinance (No. 2) 1994

(No: 3 of 1994)

ARRANGEMENT OF PROVISIONS

Section

1. Short title.
2. Appropriation of £313,340

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

The Appropriation Ordinance (No. 2) 1994

(No: 3 of 1994)

An Ordinance

To appropriate sums for the purposes of the year beginning on 1st July 1994 and ending on 30th June 1995.

*assented to: 12th December 1994*  
*commencement: on publication*  
*published: 13th December 1994*

ENACTED by the Commissioner of South Georgia and South Sandwich Islands as follows -

1. The Ordinance may be cited as the Appropriation Ordinance (No. 2) 1994.

*Short title.*

2.(1) The Financial Secretary may cause to be issued out of South Georgia and South Sandwich Islands funds to be applied to the service of the year beginning 1st July 1994 and ending on 30th June 1995 the aggregate sum of Three Hundred and Thirteen Thousand, Three Hundred and Forty Pounds.

*Appropriation of £313,340.*

(2) The said sum is granted and shall be appropriated for the purposes and to defray the charges of the several services expressed and particularly mentioned in the Schedule hereto which become payable during the said year.

## SCHEDULE

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| HEAD OF SERVICE | AMOUNT              |
|-----------------|---------------------|
|                 | £                   |
| A               | Personal Emoluments |
|                 | 1,800               |
| B               | Other Charges       |
|                 | 193,430             |
| C               | Special Expenditure |
|                 | 118,110             |
|                 | Total Expenditure   |
|                 | <u>313,340</u>      |







**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
PUBLISHED BY AUTHORITY

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*No. 1*

*25th July 1995*

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The following is published in this Gazette —

**The Harbours Fees (Amendment) Regulations 1995 (S.R.O. No: 1 of 1995).**

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SUBSIDIARY LEGISLATION

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**SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS**  
**HARBOURS**

The Harbours Fees (Amendment) Regulations 1995

(S. R. O. No: 1 of 1995)

*Made: 18th July 1995*

*Published: 25th July 1995*

*Coming into force: 1st July 1995*

IN EXERCISE of my powers under section 3 of the Harbours Ordinance (a), I make the following Regulations -

1. These regulations may be cited as the Harbour Fees (Amendment) Regulations 1995 and shall be deemed to have come into force on 1st July 1995.

*Citation and commencement.*

2. The Schedule to the Harbour (Fees) Regulations 1994 (b) is amended by replacing the words "Yachts (irrespective of tonnage): £44.00" with the words "Yachts under commercial charter, with passengers carried for reward: £44.00".

*Amendment to the Harbour (Fees) Regulations 1994.*

Made this 18th day of July 1995.

D. E. TATHAM,  
*Commissioner.*

- 
- (a) Cap. 30 Laws of the Falkland Islands 1950 Edition in its application under Cap. 1 (D.S.) to South Georgia and the South Sandwich Islands.  
(b) S. R. & O. No. 1 of 1994.



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE  
PUBLISHED BY AUTHORITY**

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*No. 2*

*11th August 1995*

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The following is published in this Gazette —

**The South Georgia and South Sandwich Islands (Amendment) Order 1995.**

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 STATUTORY INSTRUMENTS
 

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1995 No. 1621

**SOUTH ATLANTIC TERRITORIES**

The South Georgia and South Sandwich Islands  
(Amendment) Order 1995

|                               |                       |
|-------------------------------|-----------------------|
| <i>Made - - - -</i>           | <i>28th June 1995</i> |
| <i>Laid before Parliament</i> | <i>10th July 1995</i> |
| <i>Coming into force</i>      | <i>17th July 1995</i> |

At the Court at Buckingham Palace, the 28th day of June 1995

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts 1887 and 1945(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Citation and commencement**

1. This Order may be cited as the South Georgia and South Sandwich Islands (Amendment) Order 1995 and shall come into force on 17th July 1995.

**Amendment**

2. Section 4 of the South Georgia and South Sandwich Islands Order 1985(b) is hereby revoked and replaced by the following:

**Office of Commissioner**

4.—(1) There shall be a Commissioner for the Territories who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) During any period when the office of Commissioner is vacant or the holder thereof is for any reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by such person as may be designated by a Secretary of State.

*N. H. Nicholls*  
Clerk of the Privy Council

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(a) 1887 c.54, 1945 c.7 (9 & 10 Geo. 6).

(b) S.I. 1985/449.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes fresh provision for the office of Commissioner for South Georgia and the South Sandwich Islands.



THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE  
PUBLISHED BY AUTHORITY

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No. 3

30th November 1995

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NOTICE

Public Holidays 1996

The Commissioner has declared that the following will be Public Holidays for South Georgia and the South Sandwich Islands during 1996 -

|                     |  |
|---------------------|--|
| 1st January         | New Year's Day   |
| 17th January        | Possession Day   |
| 5th April           | Good Friday  |
| 21st April          | H M Queen's Birthday                                       |
| 25th April          | Recovery of South Georgia                                  |
| 26th August         | Late Winter Bank Holiday                                   |
| 16th November       | Establishment of the first<br>whaling station at Grytviken |
| 25th -26th December | Christmas Holiday  |

D.E. TATHAM,  
*(Commissioner).*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE  
PUBLISHED BY AUTHORITY**

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*No. 4*

*21st December 1995*

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The following is published in this Gazette —

**The Supplementary Appropriation (1994-95) Ordinance 1995.**

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

**The Supplementary Appropriation (1994-1995) Ordinance 1995**

(No. 2 of 1995)

ARRANGEMENT OF PROVISIONS

Section

1. Short title.
2. Authorisation

Schedule



ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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DAVID EVERARD TATHAM, C.M.G.,  
*Commissioner.*

The Supplementary Appropriation (1994-1995) Ordinance 1995  
(No. 2 of 1995)

An Ordinance

*(assented to: 12 December 1995)*  
*(commencement: on publication)*  
*(published: 21 December 1995)*

To authorise the withdrawal of further sums from the funds of the Territories during the financial year ended 30th June 1995

ENACTED by the Commissioner as follows -

**Short title**

1. This Ordinance may be cited as the Supplementary Appropriation (1994-1995) Ordinance 1995.

**Authorisation**

2.(1) There is hereby retrospectively authorised the issue by the Financial Secretary out of South Georgia and South Sandwich Islands funds for the service of the year ended on 30th June 1995, in addition to the sum authorised by the Appropriation No. 2 Ordinance 1994, the aggregate further sum of Thirty-three thousand four hundred and six pounds and two pence.

(2) The said sum is made up as expressed in the Schedule to this Ordinance.

**SCHEDULE**

|  | £         |
|--|-----------|
| Previously unauthorised expenditure in respect of Other Charges:       | 2,801.43  |
| Previously unauthorised expenditure in respect of Special Expenditure: | 30,757.09 |
|  | <hr/>     |
|  | 33,558.52 |

*Less*

|   |                       |
|---|-----------------------|
|   | £                     |
| Excess of authorised expenditure over actual expenditure in respect of Personal Emoluments: | 152.50                |
|   | <hr/> <hr/> 33,406.02 |

Made this twelfth day of December 1995.

D.E. TATHAM  
*Commissioner*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE  
PUBLISHED BY AUTHORITY**

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*No. 1*

*7th May 1997*

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The following is published in this Gazette —

**Notices No. 1 - 4;**

**The Proclamation of Arms Proclamation 1997, No. 1 of 1997;**

**Appropriation Ordinance 1996.**

No. 1

26th March 1997

**THE TERRITORIES OF SOUTH GEORGIA AND  
THE SOUTH SANDWICH ISLANDS**

**Appointment of Director of Fisheries**

In exercise of the powers under section 4 of the Fisheries (Conservation and Management) Ordinance 1993 I, **RICHARD PETER RALPH**, Commissioner for South Georgia and the South Sandwich Islands hereby appoint **RUSSELL THOMAS JARVIS** to be Director of Fisheries for South Georgia and the South Sandwich Islands with effect from the twentieth day of February 1997

Given under my hand and the Public Seal of the Territory at Stanley this twentieth day of February 1997

R P Ralph  
*Commissioner*

No. 2

9th January 1997

**THE TERRITORIES OF SOUTH GEORGIA AND  
THE SOUTH SANDWICH ISLANDS**

**Appointment of Member to the South Georgia Museum Trust**

In exercise of the powers under section 3(2) of the South Georgia Museum Trust Ordinance 1992, I **CRAIG STUART MICHAEL SHELTON**, Acting Commissioner, hereby appoint **MRS SALLY ELIZABETH PONCET** to be a member of the South Georgia Museum Trust.

Given under my hand at Stanley this 16th day of April 1996.

CSM Shelton  
*Acting Commissioner*

No. 3

9th January 1997

**THE TERRITORIES OF SOUTH GEORGIA AND  
THE SOUTH SANDWICH ISLANDS**

**Appointment of Member to the South Georgia Museum Trust**

In exercise of the powers under section 3(2) of the South Georgia Museum Trust Ordinance 1992, I **RICHARD PETER RALPH CVO**, Commissioner, hereby appoint **MR JOHN SMITH MBE** to be a member of the South Georgia Museum Trust.

Given under my hand at Stanley this 23rd day of September 1996.

**R P Ralph CVO**  
*Commissioner*

No. 4

9th January 1997

**THE TERRITORIES OF SOUTH GEORGIA AND  
THE SOUTH SANDWICH ISLANDS**

**Appointment of Member to the South Georgia Museum Trust**

In exercise of the powers under section 3(2) of the South Georgia Museum Trust Ordinance 1992, I **CRAIG STUART MICHAEL SHELTON**, Acting Commissioner, hereby appoint **MRS JANET LINDA CHEEK** to be a member of the South Georgia Museum Trust.

Given under my hand at Stanley this 22nd day of December 1995.

**CSM Shelton**  
*Acting Commissioner*

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# PROCLAMATION

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## CUSTOMS

### The Export of Arms Proclamation 1997

(Proclamation No. 1 of 1997)

By **RICHARD PETER RALPH**, Commander of the Royal Victorian Order, Commissioner for South Georgia and the South Sandwich Islands, A  
**PROCLAMATION**—

**WHEREAS** section 35 of the Customs Ordinance(a) in its application to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance(b) has the effect that it shall be lawful for the Commissioner from time to time by proclamation to prohibit the importation, carriage coastwise or exportation of any goods whatsoever and that any such proclamation may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such time as may be specified therein, and may either absolutely prohibit importation, carriage coastwise or exportation except on compliance with any conditions which may be specified in the proclamation, or importation from or exportation to any particular place named in the proclamation;

**AND WHEREAS** it is necessary to prohibit the exportation of arms from South Georgia and the South Sandwich Islands save as is by this Proclamation provided;

**IN EXERCISE** of my powers under section 35 of the Customs Ordinance(a) and of all other powers enabling me, **I PROCLAIM** as follows—

1. Except as provided by Article 2 of this Proclamation and save as may be authorised by, and in accordance with the conditions, if any, of, a licence in writing granted by the Commissioner, the export from South Georgia and the South Sandwich Islands of any arms is prohibited until such time as this Proclamation is revoked.
2. Nothing in Article 1 applies to the export of any arms by or on behalf of Her Majesty's armed forces undertaken by or under the authority of the Commander British Forces Falkland Islands.
3. For the purposes of this Proclamation, "arms" means any item entered in Part III of Schedule 1 to the Export of Goods (Control) Order 1994(c), as amended from time to time.

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(a) Cap. 16 Laws of the Falkland Islands 1950 Edition

(b) Cap. 1 (D.S.) Laws of the Falkland Islands 1950 Edition

(c) SI 1994/1191

4. This Proclamation has effect without prejudice to the provisions of any Order in Council (such as the United Nations Arms Embargoes (Dependent Territories) Order 1995(d)) which in the circumstances of the particular case has effect to prohibit or restrict the export of the arms concerned.

5. This Proclamation shall become effective on its first publication in the *Gazette*.

GIVEN under my hand and the Public Seal of South Georgia and the South Sandwich Islands at Government House, Stanley, Falkland Islands, this 28th day of April in the year of Our Lord One thousand Nine Hundred and Ninety-Seven

R.P. Ralph  
*Commissioner*

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EXPLANATORY NOTE  
*(not forming part of the above Proclamation)*

This Proclamation has been issued in order to enable effect to be given in South Georgia and the South Sandwich Islands to various international arms embargoes which the United Kingdom Government has agreed shall be applied in relation to South Georgia and the South Sandwich Islands and all other dependent territories and which are not given effect to by an Order in Council applying in relation to South Georgia and the South Sandwich Islands.

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(d) SI 1995/1032

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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RICHARD PETER RALPH, C.V.O.,

*Commissioner.*

**Appropriation Ordinance 1996**

(No: 2 of 1996)

**ARRANGEMENTS OF PROVISIONS**

**Section**

1. Short title.
2. Appropriation of £982,400.

**Schedule**



ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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RICHARD PETER RALPH, C.V.O.,

*Commissioner.*

**Appropriation Ordinance 1996**

(No. 2 of 1996)

AN ORDINANCE

*(assented to: 4 November 1996)*

*(commencement: on publication)*

*(published: 9 May 1997)*

To appropriate sums for the purposes of the year beginning on 1st July 1996 and ending on 30th June 1997.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands pursuant to section 9 of the South Georgia and South Sandwich Islands Order 1985 as follows -

**Short title**

1. This Ordinance may be cited as the Appropriation Ordinance 1996.

**Appropriation of £982,400**

2. (1) The Financial Secretary may cause a sum or sums not exceeding in aggregate the sum of Nine Hundred and Eighty-Two Thousand Four Hundred Pounds (£982,400) to be issued out of South Georgia and the South Sandwich Islands funds and to be applied in accordance with the Estimates to the service of the year beginning on 1st July 1996 and ending on 30th June 1997.

(2) The said sum is granted and shall be appropriated for the purposes and to defray the charges which come payable during the said year of the several services expressed and particularly mentioned in the Schedule to this Ordinance.

## SCHEDULE

| Head of service        | Amount<br>£     |
|------------------------|-----------------|
| A. Personal emoluments | 1,800           |
| B. Other charges       | 644,600         |
| C. Special Expenditure | 336,000         |
|                        | <u>£982,400</u> |

Made this 4th day of November 1996.

R.P. RALPH C.V.O.  
*(Commissioner for South Georgia  
and the South Sandwich Islands)*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
PUBLISHED BY AUTHORITY

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*No. 2*

*6th June 1997*

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The following is published in this Gazette —

**The Export of Anti-Personnel Landmines Proclamation 1997 (Proclamation No. 2 of 1997).**

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**PROCLAMATION**

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**CUSTOMS**

The Export of Anti-Personnel Landmines Proclamation 1997

(Proclamation No. 2 of 1997)

By **RICHARD PETER RALPH**, Commander of the Royal Victorian Order, Commissioner for South Georgia and the South Sandwich Islands, **A PROCLAMATION—**

**WHEREAS** section 35 of the Customs Ordinance(a) in its application to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance(b) has the effect that it shall be lawful for the Commissioner from time to time by proclamation to prohibit the importation, carriage coastwise or exportation of any goods whatsoever and that any such proclamation may prohibit importation, carriage coastwise or exportation until the revocation thereof, or during such time as may be specified therein, and may either absolutely prohibit importation, carriage coastwise or exportation except on compliance with any conditions which may be specified in the proclamation, or importation from or exportation to any particular place named in the proclamation;

**AND WHEREAS** it is desired to prohibit the exportation of anti-personnel landmines from South Georgia and the South Sandwich Islands;

**IN EXERCISE** of my powers under section 35 of the Customs Ordinance(a) and of all other powers enabling me, **I PROCLAIM** as follows—

1. The export from South Georgia and the South Sandwich Islands of any arms is prohibited until such time as this Proclamation is revoked.
2. This Proclamation shall become effective on its first publication in the *Gazette*.

**GIVEN** under my hand and the Public Seal of South Georgia and the South Sandwich Islands at Government House, Stanley, Falkland Islands, this ninth day of May in the year of Our Lord One thousand Nine Hundred and Ninety-Seven

R. P. Ralph  
*Commissioner*

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(a) Cap. 16 Laws of the Falkland Islands 1950 Edition

(b) Cap 1 (D.S.) Laws of the Falkland Islands 1950 Edition

EXPLANATORY NOTE  
*(not forming part of the above Proclamation)*

This Proclamation has been issued in order to enable effect to be given in South Georgia and the South Sandwich Islands, as a Dependent Territory of the United Kingdom, to the United Kingdom's policy of prohibiting the export of anti-personnel landmines to all countries as part of its commitment to work actively towards a total global ban on the use of such mines.

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THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE  
PUBLISHED BY AUTHORITY

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No. 3

25th June 1997

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The following is published in this Gazette —

The Antarctic Act 1994 (Commencement) Order 1997, (S.R. & O. No. 1 of 1997).

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**SUBSIDIARY LEGISLATION**

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**ANTARCTICA****The Antarctic Act 1994 (Commencement) Order 1997**

S. R. &amp; O. No. 1 of 1997

*Made:* 14 July 1997*Published:* 25 July 1997*Coming into force:* on publication

IN EXERCISE of my powers under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1994(a), I make the following Order—

**Citation**

1. This Order may be cited as the Antarctic Act 1994 (Commencement) Order 1997.

**Partial commencement of the Antarctic Act 1994 in South Georgia and the South Sandwich Islands**

2.—(1) The Antarctic Act 1994(b), except sections 3, 4 and 6, shall come into force in South Georgia and the South Sandwich Islands on 1st August 1997.

(2) In paragraph (1), “the Antarctic Act 1994” means that Act in the form it appears in the Schedule to the Antarctic Act 1994 (Overseas Territories) Order 1995.

Made this 14th day of July 1997

R P Ralph  
*Commissioner*

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**EXPLANATORY NOTE**  
*(not forming part of the above Order)*

This Order, made under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1995, brings most of the provisions of the Act into force in South Georgia and the South Sandwich Islands on 1st August 1997.

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(a) SI 1995/1030

(b) 1994 c.15





**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 4*

*12th September 1997*

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The following is published in this Gazette —

**The Antarctic Regulations 1997 (S.R. & O. No. 2 of 1997).**

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## SUBSIDIARY LEGISLATION

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### ANTARCTICA

#### The Antarctic Regulations 1997

(S.R.&O. No. 2 of 1997)

#### ARRANGEMENT OF REGULATIONS

##### PART 1

###### *General*

1. Citation and commencement
2. Interpretation
3. Service of documents

##### PART 2

###### *Permits*

4. Applications for permits under sections 3, 4, 5 and 6 of the Act
5. Initial Environmental Evaluation
6. Comprehensive Environmental Evaluation
7. Refusal of permits under sections 3, 4, 5 and 6 of the Act
8. Applications for and refusals of permits under sections 11 and 12 of the Act
9. Production of permits
10. Revocation and suspension of permits

##### PART 3

###### *Appeals*

11. Appeals against revocation of permits granted under section 3, 4, 5 or 6 of the Act

##### PART 4

###### *Special Areas*

12. Restricted Areas
13. Antarctic Historic Sites and Monuments
14. Protected Places

##### PART 5

###### *Offences under the Act*

15. Application of Part 5
16. Arrest and conveyance in custody
17. Physical evidence
18. Attendance of witnesses

SCHEDULE 1  
*Restricted Areas*

SCHEDULE 2  
*Antarctic Historic Sites and Monuments*

SCHEDULE 3  
*Protected Places*

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## SUBSIDIARY LEGISLATION

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### ANTARCTICA

#### The Antarctic Regulations 1997

(S.R.&O. No. 2 of 1997)

*Made: 3 September 1997*

*Published: 12 September 1997*

*Coming into force: on publication*

IN EXERCISE of my powers under sections 9(1), 10(1), 11(1), 14(1), 25(1) and (3), 29 and 32 of the Antarctic Act 1994(a), and of all other powers enabling me in that behalf, I hereby make the following Regulations—

### PART 1

#### GENERAL

##### Citation and commencement

1. These Regulations may be cited as the Antarctic Regulations 1997, and shall come into force upon publication in the *Gazette*.

##### Interpretation

2.—(1) In these Regulations “the Act” means the Antarctic Act 1994(a), and expressions used in these Regulations have, unless the contrary intention appears, the meaning which they bear in the Act.

(2) Any reference in these Regulations to a communication “in writing” shall include a reference to a communication by telex, facsimile or other similar instantaneous means which produces a document containing a text of the communication.

(3) Any reference in these Regulations to the Commissioner with respect to the application, grant, production, revocation or suspension of a permit for the purposes of section 11 or 12 of the Act shall include a reference to any person exercising the powers of the Commissioner for those purposes in accordance with a delegation given under section 16 of the Act.

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(a) 1994 c 15 in the form in which it applies in South Georgia and the South Sandwich Islands by virtue of the Antarctic Act 1994 (Overseas Territories) Order 1995 (SI 1995/1030)

(4) Any reference in these Regulations to a numbered regulation shall be construed as a reference to the regulation bearing that number in these Regulations.

(5) Any period of time specified in these Regulations by reference to days, working days or months-

(a) where such period is expressed to begin after a particular date, shall begin on the first day after that date, and shall be inclusive of the last day unless that day falls on a Saturday, Sunday, Christmas Day, Good Friday or any other day appointed by law to be a public holiday in South Georgia and the South Sandwich Islands, in which case the period shall run to the immediately following working day; and

(b) where such period is expressed to run or to expire before a particular date or event, the period shall be calculated to expire on the last working day before the particular date or the date of that event.

(6) In computing any period of time specified in these Regulations by reference to working days there shall be disregarded the whole of any Saturday, Sunday, Christmas Day, Good Friday or any other day appointed by law to be a public holiday in any part of South Georgia and the South Sandwich Islands.

#### **Service of documents**

3.—(1) Anything required to be served on any person under these Regulations or the Act shall be set out in a notice in writing which may be served either—

(a) by delivering it to that person;

(b) by leaving it at his proper address;

(c) by sending it by post to that address; or

(d) by sending it to him at that address by telex, facsimile or other similar instantaneous means which produces a document containing a text of the communication, in which event the document shall be regarded as served when it is transmitted,

and where the person is a body corporate the document may be served, by any of these means, upon the Secretary of that body.

(2) When a document is sent by post it shall be deemed to have been received 7 working days after despatch if posted to an address within South Georgia and the South Sandwich Islands and 15 working days if posted to an address elsewhere.

(3) For the purposes of this regulation the proper address of any person shall in the case of a body corporate be the registered or principal office of that body and in any other case shall be the last known address of the person.

**PART 2****PERMITS****Applications for permits under sections 3, 4, 5 and 6 of the Act**

4.—(1) An application for a permit under section 3, 4, 5 or 6 of the Act shall be made to the Commissioner in such form, and accompanied by such number of copies, as he may require.

(2) No later than 10 days after making the application, the applicant shall cause notice of the application to be published in the *London Gazette* in such form and containing such information as the Commissioner may require.

(3) The applicant shall during the period the application is pending—

(a) make available a copy of the application for inspection during normal office hours by any person who may so request; and

(b) provide copies of the application to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

**Initial Environmental Evaluation**

5.—(1) If the Commissioner considers that the activity for which an application has been made under regulation 4 is likely to have more than a negligible impact on the environment of Antarctica, he shall, unless he has required the applicant to submit a draft Comprehensive Environmental Evaluation in accordance with regulation 6(1), require the applicant to submit to him an Initial Environmental Evaluation.

(2) An Initial Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Commissioner may require and shall contain sufficient information for the Commissioner to be able to assess—

(a) the scale of the impact which the proposed activity may have on the environment of Antarctica;

(b) whether, in the light of existing and known planned activities, it may have a cumulative impact; and

(c) whether there may be alternative ways of carrying out the proposed activity which might lessen the environmental impact or possible cumulative impact.

(3) The applicant shall during the period the application is pending—

(a) make available a copy of the Initial Environmental Evaluation for inspection during normal office hours by any person who may so request; and

(b) provide copies of the Initial Environmental Evaluation to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

(4) The Commissioner shall annually send to the Secretary of State a list of the Initial Environmental Evaluations submitted to the Commissioner in accordance with this regulation during the preceding 12 months.

### **Comprehensive Environmental Evaluation**

6.—(1) If the Commissioner at any time after the making of an application considers that the activity which is the subject of the application is likely to have more than a minor or transitory impact on the environment of Antarctica, he shall require the applicant to submit to him a draft Comprehensive Environmental Evaluation.

(2) Such draft Comprehensive Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Commissioner may require and shall contain sufficient information for the Commissioner to be able to consider or determine-

(a) possible alternatives to the proposed activity, including the alternative of not proceeding with it;

(b) the initial environmental reference state with which predicted changes are to be compared, and the likely future environmental state in the absence of the proposed activity;

(c) whether the methods and data used to forecast the impacts of the proposed activity are satisfactory for that purpose;

(d) the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;

(e) possible indirect or second order impacts of the proposed activity;

(f) any cumulative impacts of the proposed activity in the light of existing activities and other known planned activities;

(g) the measures which could be taken to minimise or mitigate impacts of the proposed activity, and whether a monitoring programme to verify foreseen impacts or detect unforeseen impacts, and provide early warning of any adverse effects of the activity, should be provided for;

(h) the measures which could be taken to deal promptly and effectively with accidents;

(i) whether there may be any unavoidable impacts of the proposed activity;

- (j) the effects of the proposed activity on the conduct of scientific research and on other existing uses and values; and
  - (k) whether there are gaps in knowledge or uncertainties with regard to the possible impact of the proposed activity.
- (3) (a) When so required by the Commissioner, the applicant shall submit to him a final Comprehensive Environmental Evaluation in such form, and accompanied by such number of copies, as the Commissioner may require.
- (b) When making such a requirement the Commissioner shall provide the applicant with—
- (i) any comments in writing on the draft Comprehensive Environmental Evaluation which have been received by the Commissioner from any person in accordance with paragraph (5);
  - (ii) any comments on such Evaluation from another Contracting Party;
  - (iii) any advice in respect of such Evaluation from the Committee for Environmental Protection established under the Protocol; and
  - (iv) an account of the consideration by the Antarctic Treaty Consultative Meeting of such Evaluation in the light of such advice,
- and the applicant shall, in preparing the final Comprehensive Environmental Evaluation, take into account such comments, advice and account and include or summarise them in the final Comprehensive Environmental Evaluation.
- (4) The Commissioner shall as soon as conveniently may be after receipt transmit the draft and the final Comprehensive Environmental Evaluation to the Secretary of State and shall provide any person with copies on request in writing subject to payment of reasonable charges for supplying the copies, including postage.
- (5) The Commissioner shall, by a notice published in the *London Gazette*, notify receipt by him of each draft Comprehensive Environmental Evaluation and each final Comprehensive Environmental Evaluation state where the same may be inspected, and where and how copies may be obtained and invite comments in writing, in the case of a draft Comprehensive Environmental Evaluation, within 90 days of publication of the notice and, in the case of a final Comprehensive Environmental Evaluation, within 30 days of the publication of the notice.
- (6) The Commissioner in taking his decision whether to grant a permit shall take into account any comments in writing submitted to him by any person in accordance with paragraph (5), if the comments are received within the relevant period specified in that paragraph.



### **Refusal of Permits under sections 3, 4, 5 and 6 of the Act**

7. If the Commissioner decides not to grant a permit under section 3, 4, 5 or 6 of the Act he shall so inform the applicant in writing giving his reasons.

### **Applications for and refusals of permits under sections 11 and 12 of the Act**

8.—(1) An application for a permit under section 11 or 12 of the Act shall be made to the Commissioner in such form, and accompanied by such number of copies, as he may require.

(2) If the Commissioner decides not to grant such a permit he shall so inform the applicant in writing giving his reasons.

### **Production of permits**

9.—(1) Subject to the provisions of this regulation, when there is reason to believe that a person has carried out (or is carrying out or may be about to carry out) an activity for which a permit is required by section 3(1), 4(1), 5(1), 6(1), 7(1), 8(1), 9(1) or 11(1) of the Act, an authorised person may require that person to produce, or cause to be produced, within 5 days after the request has been made, a permit granted under the Act authorising that activity.

(2) Where a permit has been granted to a person in respect of another specified person or of persons of a specified description, the requirement in paragraph (1) to produce the permit shall apply also to such person or persons.

(3) The requirements of the preceding paragraphs may be satisfied by the production of a true photocopy of the permit.

(4) An authorised person shall have the power to inspect and copy any permit which he has the power pursuant to this regulation to require to be produced to him.

(5) For the purpose of this regulation—

“authorised person” means the Commissioner and the Secretary of State and—

(a) in South Georgia and the South Sandwich Islands—

(i) a justice of the peace;

(ii) a police officer;

(iii) a customs or immigration officer; or

(iv) any other person authorised by the Commissioner in writing for the purpose of this regulation either generally or in a particular case,

(b) anywhere in Antarctica—

(i) a station manager (that is to say any person who is for the time being running a station in Antarctica on behalf of the Director of the British Antarctic Survey);

(ii) any person authorised by the Commissioner in writing for the purpose of this regulation either generally or in a particular case; or

(iii) in respect of permits granted under section 12 of the Act, any person designated as an observer by a party to the Antarctic Treaty in accordance with Article VII thereof;

(c) only in the British Antarctic Territory

(i) a magistrate of the British Antarctic Territory; or

(ii) a public officer of the British Antarctic Territory;

(d) south of the Antarctic Convergence: in respect of permits granted under section 11 of the Act, any person designated as an inspector by a Member of the Commission for the Conservation of Antarctic Marine Living Resources under Article XXIV of the Convention;

(e) in respect of a British vessel in the seas south of 60 degrees South latitude

(i) a British naval officer; or

(ii) the master of a vessel operated by or on behalf of the British Antarctic Survey.

### **Revocation and suspension of permits**

10.—(1) Subject to the provisions of this regulation, the Commissioner may revoke or suspend wholly or in part any permit granted under the Act; and where a permit has been granted in respect of more than one specified person (or vessel or aircraft), or in respect of persons (or vessels or aircraft) of a description specified in the permit, the revocation or suspension may be limited to such persons (or such vessels or aircraft), or to persons (or vessels or aircraft) of such description, as may be specified by the Commissioner in the notice of revocation or suspension.

(2) Save as provided in paragraph (3), the Commissioner may exercise his powers under paragraph (1) only after giving 28 days notice to the permit-holder of his intention to do so and after due consideration of any representations made in writing by or on behalf of the permit-holder (or any person specified or of a description specified in the permit).

(3) If, by reason of the urgency of the matter, it appears to the Commissioner to be necessary for him to do so he may provisionally suspend a permit without complying with the requirements of paragraph (2), but he shall in any such case comply with those requirements as soon thereafter as is reasonably practicable, and shall then either—

(a) revoke the provisional suspension of the permit; or

(b) substitute therefor a definitive revocation or suspension which, if a definitive suspension, may be for the same or a different period as the provisional suspension (if any).

(4) The powers vested in the Commissioner by paragraph (1) and paragraph (3) may be exercised by him if it appears to him that—

(a) the permit was procured by fraud or misrepresentation;

(b) the application for the permit contained a material error or omission;

(c) the holder of the permit, or a person or persons specified in it, or of a description specified in it, are not fit and proper persons to carry out an activity authorised by the permit;

(d) there has been a material change in the circumstances under which an activity authorised by the permit would be or is being carried out (including receipt by the Commissioner of information as to the environmental impact of the activity which was not previously available) such that the continuation of the activity would have an unacceptable impact on the Antarctic environment;

(e) the carrying out or continuation of an activity authorised by the permit would be undesirable because of an emergency which has arisen subsequent to the grant of the permit;

(f) the person to whom the permit was granted (or any person or persons specified in it or of a description specified in it) will not be able to comply with a material condition of the permit;

(g) there has been a breach of a condition of the permit;

(h) the holder of the permit has purported to transfer, or has given possession of, the permit (or a copy of it) to a person who is not entitled to hold it; or

(i) the permit (or a copy of it) has been altered or defaced.

(5) The permit-holder or any person having possession or custody of any permit which has been revoked or suspended under this regulation shall surrender it and any copies of it to the Commissioner within a reasonable time of being required by him to do so.

(6) References in this regulation to the "permit-holder" are references to the person to whom any permit to which this Part applies has been granted.

**PART 3**  
**APPEALS**

**Appeals against revocation of permits granted under section 3, 4, 5 or 6 of the Act**

11.—(1) Subject to the modifications specified in paragraph (2) of this regulation, Part 3 of the United Kingdom Regulations shall have effect in South Georgia and the South Sandwich Islands so as—

(a) to confer a right of appeal to the Antarctic Act Tribunal (“the Tribunal”) established by regulation 11 (1) of the United Kingdom Regulations from and against the revocation or suspension by the Commissioner under regulation 10 of a permit granted under section 3, 4, 5 or 6 of the Act in its application to South Georgia and the South Sandwich Islands under the Order in Council (“South Georgia and the South Sandwich Islands Appeals”), in the same way as it confers a right of appeal from and against the revocation or suspension by the Secretary of State under regulation 10 of the United Kingdom Regulations of a permit granted by the Secretary of State under sections 3, 4, 5 or 6 of the Act in the form it has effect in the United Kingdom (“United Kingdom Appeals”).

(b) to confer upon the Tribunal the like jurisdiction and powers in relation to South Georgia and the South Sandwich Islands Appeals as it has under the United Kingdom Regulations in relation to United Kingdom Appeals; and

(c) to make the like provision in relation to procedural and other matters in relation to South Georgia and the South Sandwich Islands Appeals as is made in relation to United Kingdom Appeals by regulation 13 of the United Kingdom Regulations.

(2) For the purpose of the application of Part 3 of the United Kingdom Regulations in accordance with paragraph (1) above, the words “Secretary of State” in regulations 11(3), 11(4), 13(1) and 13(7)(b) of the United Kingdom Regulations shall be replaced by the word “Commissioner”;

(3) In this regulation—

(a) “the Order in Council” means the Antarctic Act 1994 (Overseas Territories) Order 1995(b); and

(b) “the United Kingdom Regulations” means the Antarctic Regulations 1995(c).

## PART 4

### SPECIAL AREAS

#### Restricted Areas

12. For the purposes of section 9(1) of the Act, the areas listed and described in Schedule 1 to these Regulations are hereby designated as areas restricted under the Protocol.

#### Antarctic Historic Sites and Monuments

13. For the purposes of section 10(1) of the Act, the sites and monuments listed in Schedule 2 to these Regulations are hereby designated as Antarctic Historic Sites and Monuments.

#### Protected Places

14. For the purposes of section 11(1) of the Act, the places listed in Schedule 3 to these Regulations are hereby designated as places protected under the Convention.

## PART 5

### OFFENCES UNDER THE ACT

#### Application of Part 5

15. This Part applies when the Commissioner has reasonable grounds for believing that a United Kingdom national (hereinafter referred to as "the suspect") has committed an offence under the Act (hereinafter referred to as "the offence") and is in any part of Antarctica or, in respect of those offences referred to in section 29(1)(a) of the Act, is in any part of the area south of the Antarctic Convergence.

#### Arrest and conveyance in custody

16.—(1) A court in South Georgia and the South Sandwich Islands or a court in the Falkland Islands which has jurisdiction to hear and determine any criminal proceedings in South Georgia and the South Sandwich Islands pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989(d) may, on the application of a person entitled under section 28 of the Act to institute proceedings in that court in respect of the offence, issue a warrant for the arrest of the suspect and his conveyance in custody to South Georgia and the South Sandwich Islands.

(2) Once arrested the person the subject of the warrant (hereinafter referred to as "the accused") shall be deemed to be in legal custody at any time when, being in the British Antarctic Territory (or any other part of Antarctica), or other British territory, or on board a British ship or British aircraft, he is being taken under the warrant to or from any place or being kept in custody under the warrant.

(3) A person authorised by the warrant to take the accused to or from any place or to keep him in custody (hereafter referred to as "the authorised person") shall have all the powers, authority, protection and privileges of a police officer.

(4) If the accused escapes he may be arrested without warrant by a constable and taken to any place to which he may be taken under the warrant.

(5) In paragraph (2)—

"British aircraft" means a British-controlled aircraft within the meaning of section 92 of the Civil Aviation Act 1982<sup>(e)</sup> (application of criminal law to aircraft) or one of Her Majesty's aircraft;

"British hovercraft" means a British-controlled hovercraft within the meaning of that section as applied in relation to hovercraft by virtue of provisions made under the Hovercraft Act 1968<sup>(f)</sup> or one of Her Majesty's hovercraft; and

"British ship" means a British ship for the purpose of the Merchant Shipping Acts 1894 to 1988 or one of Her Majesty's ships;

and in this paragraph references to Her Majesty's aircraft, hovercraft or ships are references to aircraft, hovercraft or, as the case may be, ships belonging to or exclusively employed in the service of Her Majesty in right of the Government of the United Kingdom.

(6) In paragraph (4) "police officer" means

(a) in relation to South Georgia and the South Sandwich Islands, any person who is a police officer in South Georgia and the South Sandwich Islands and any person who at the place in question has under any enactment, including paragraph (3), the powers of a police officer in South Georgia and the South Sandwich Islands; or

(b) in relation to a British territory outside South Georgia and the South Sandwich Islands, any person who is a police officer in that territory or any person who in that territory has the powers of a police officer.

### **Physical evidence**

17.—(1) The authorised person may seize and detain any article which may be evidence connected with the offence and convey it to South Georgia and the South Sandwich Islands or the Falkland Islands.

(2) Where it is necessary for any article to be accompanied by any certificate, affidavit or other verifying document the authorised person shall also furnish for transmission such document of that nature as may be specified in any direction given by the Commissioner.

(3) Where the article consists of a document, the original or a copy may be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it may be transmitted.

### **Attendance of witnesses**

18.—(1) This regulation applies where the Commissioner is notified by the court in South Georgia and the South Sandwich Islands or the Falkland Islands where the accused is being tried or is to be tried that a United Kingdom national who has been called to give evidence (hereinafter referred to as "the witness") has failed to comply with the order of the court, or is believed by the court to be unlikely to comply, and is in Antarctica or in the area south of the Antarctic Convergence, as the case may be.

(2) If the Commissioner receives a notification in accordance with paragraph (1) he may issue a warrant for the arrest of the witness.

(3) The provisions of paragraphs (2) to (6) of regulation 16 shall apply to the arrest and conveyance in custody of the witness as they apply to the accused.

(4) Once in South Georgia and the South Sandwich Islands or the Falkland Islands the witness shall be delivered by the authorised person to the court which made the notification under paragraph (1).

Made this 3rd day of September 1997

**R. P. Ralph**  
*Commissioner*

## SCHEDULE 1

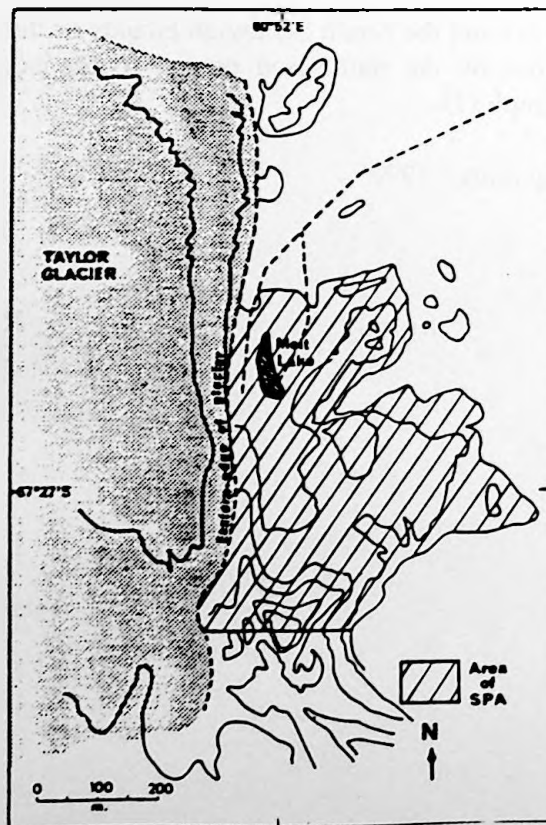
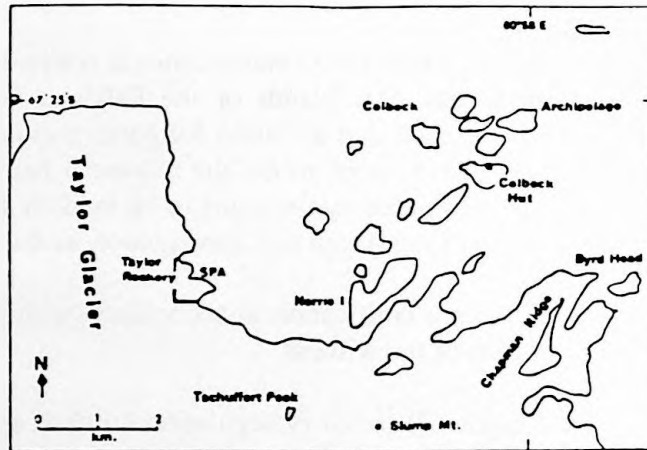
Regulation 12

## RESTRICTED AREAS

**Specially Protected Area No. 1**  
**Taylor Rookery, MacRobertson Land**  
**Latitude 67 degrees 26' S; Longitude 60 degrees 50' E**

The Area consists of the whole of the northernmost rock exposure on the east side of Taylor Glacier, MacRobertson Land (Lat. 67 degrees 26' S; Longitude 60 degrees 50' E). The rookery is located on a low lying rock outcrop in the south-west corner of a bay formed by Taylor Glacier to the west, the polar ice cap to the south and the islands of Colbeck Archipelago to the east. The Area is surrounded by sea ice to the north and east. The Area is some 90 km west of Mawson station. There is ice-free terrain adjacent to the glacier on the western boundary and to the south the rock rises steeply to meet the ice of the plateau.

There are no boundary markers since the Area is easily defined by its natural features.

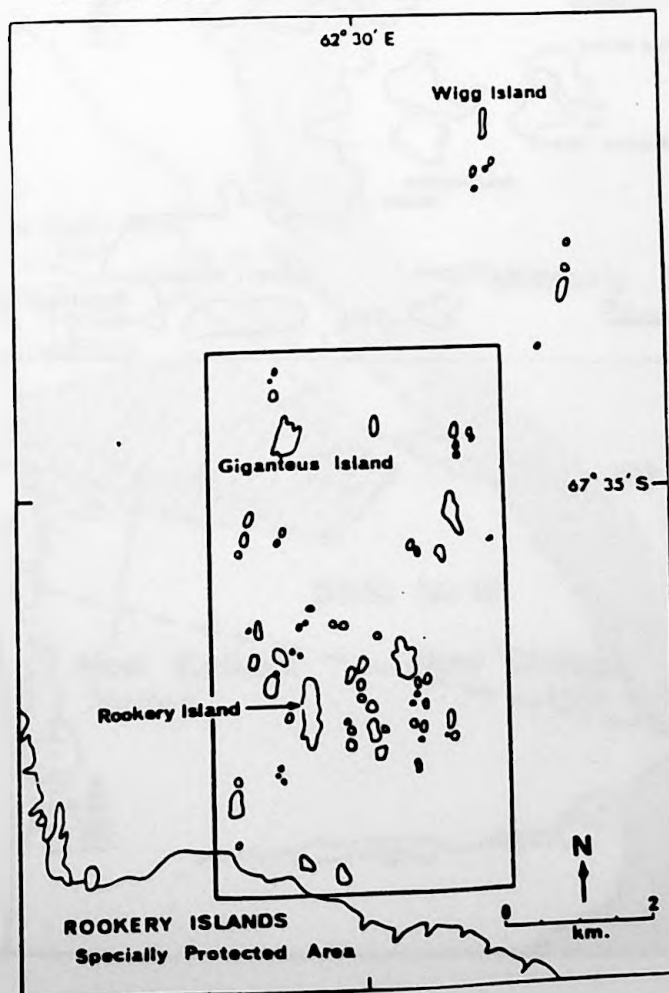
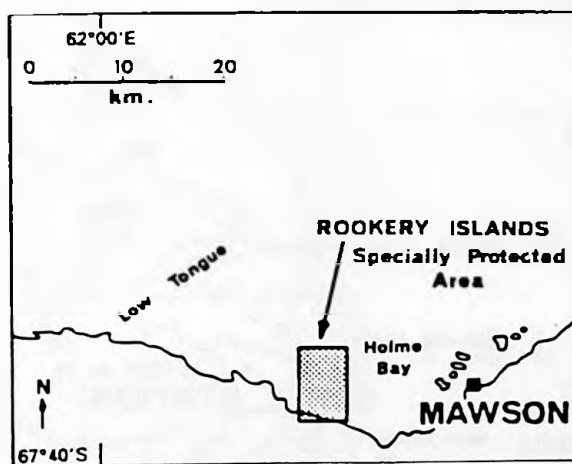




**Specially Protected Area No. 2**  
**Rookery Islands, Holme Bay, MacRobertson Land**  
**Latitude 67 degrees 37' S; Longitude 62 degrees 33' E**

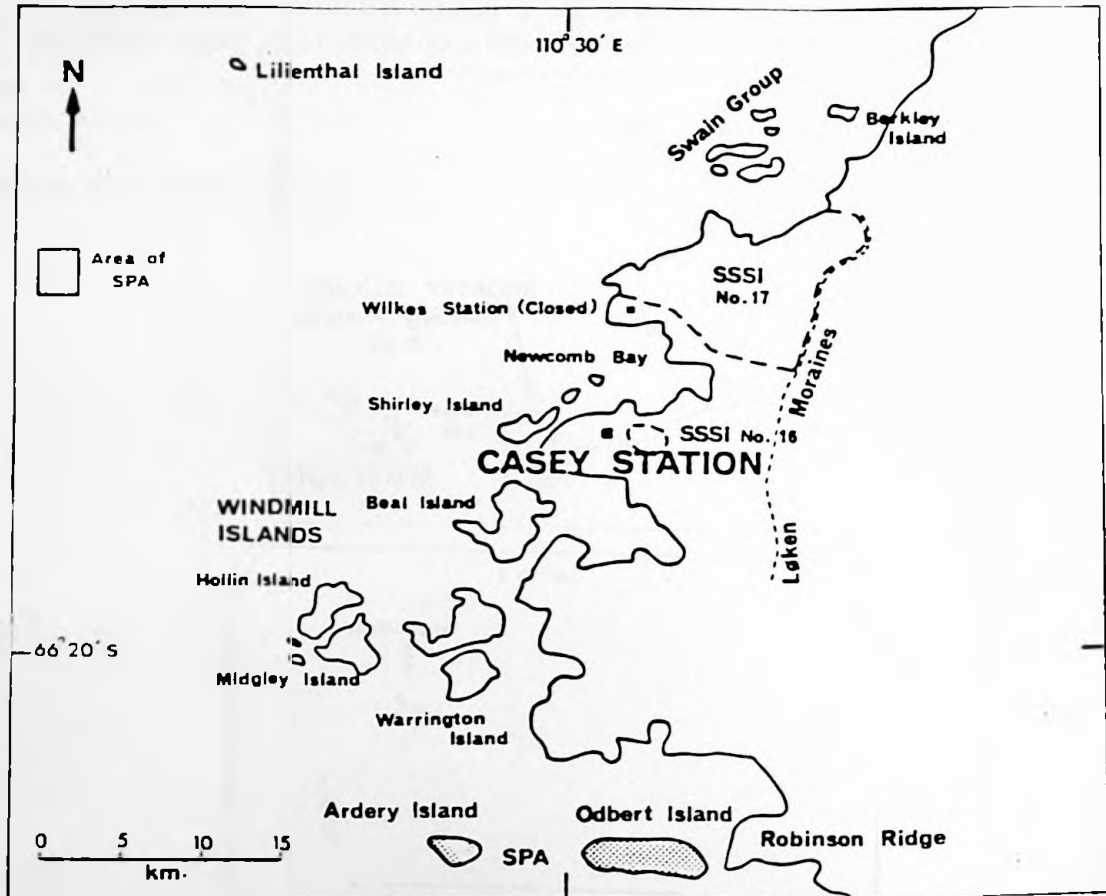
The Rookery Islands are a group of small islands and rocks in the south-western part of Holme Bay, MacRobertson Land, approximately 10 km to the west of Mawson station. The Area comprises the islands and rocks lying within the rectangular area shown on the maps below, the general location of which is latitude 67 degrees 37' S, longitude 62 degrees 33' E. There are no boundary markers delimiting the site.

There are approximately 75 small islands. They range in size from small rocks which barely remain above water at high tide to the largest islands of the group which are Giganteus Island (approximately 400 m Longitude, 400 m wide and 30 m high) and Rookery Island which is of similar size but slightly more elongated. Rookery Island is the highest of the group reaching an altitude of 62 m.



**Specially Protected Area No. 3**  
**Ardery Island and Odbert Island, Budd Coast**  
**Lat. 66 degrees 22' S; Longitude. 110 degrees 33' E**

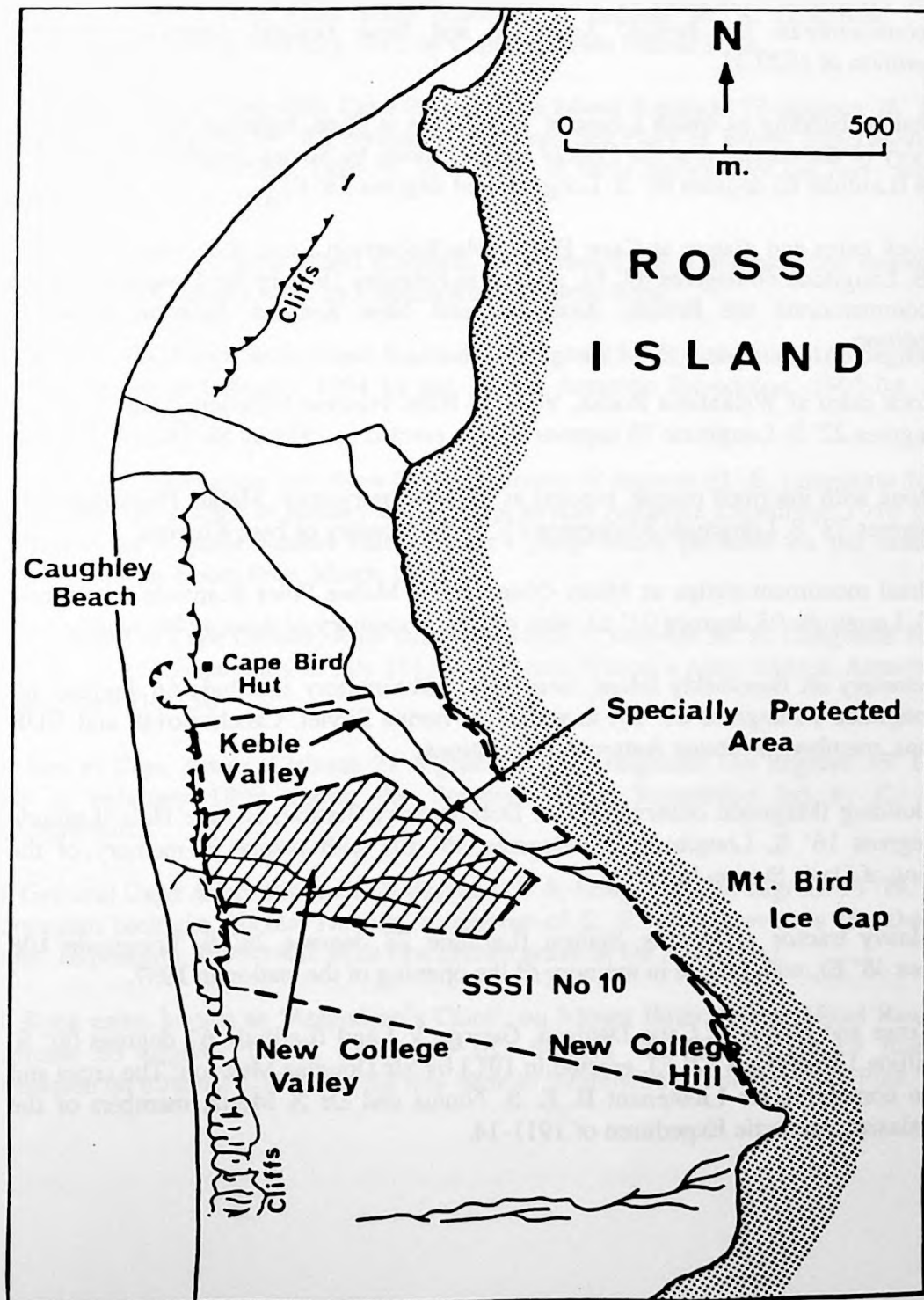
Ardery Island (Lat. 66 degrees 22' S, Longitude. 110 degrees 28' E) and Odbert Island (Lat. 66 degrees 22' S, Longitude. 110 degrees 33' E) form part of the Windmill Islands group lying in the eastern end of Vincennes Bay off the Budd Coast. They are located 5 km and 0.6 km respectively to the west of Robinson Ridge, south of Casey Station. Odbert Island is approximately 2.5 km Longitude and 0.5 km wide. In some years the island remains joined to Robinson Ridge on the mainland by sea ice. Ardery Island is a steep ice-free island approximately 1 km Longitude and 0.5 km wide, with an east-west orientation.



**Specially Protected Area No. 20**  
**"College Valley", Caughley Beach, Cape Bird, Ross Island**  
**Latitude 77 degrees 14' S; Longitude 166 degrees 23' E**

The Area is in latitude 77 degrees 14' S, longitude 166 degrees 23' E, in the northern part of the Cape Bird ice-free area. It lies between Northern Rookery and Middle Rookery and is about 250 m south of the summer research station, Cape Bird Hut.

The Area consists of the generally west-facing ice-free slopes lying between the cliff top above Caughley Beach and a line parallel to and about 100 m west of the edge of the Mount Bird Ice Cap, and between a line south of the main stream bed of "Keble Valley" and the south ridge of "New College Valley". Its total area is about 10 hectares.



## SCHEDULE 2

Regulation 13

## ANTARCTIC HISTORIC SITES AND MONUMENTS

1. Flag mast erected in December 1965 at the South Geographical Pole by the First Argentine Overland Polar Expedition.
2. Rock cairn erected in January 1961 and plaques at Syowa Station (Latitude 69 degrees 00' S, Longitude 39 degrees 35' E) in memory of Shin Fukushima.
3. Rock cairn and plaque on Proclamation Island, Enderby Land (Latitude 65 degrees 51' S, Longitude 53 degrees 41' E), erected in January 1930 by Sir Douglas Mawson to commemorate the British, Australian and New Zealand Antarctic Research Expedition of 1929-31.
4. Station building to which a bust of V. I. Lenin is fixed, together with a plaque in memory of the conquest of the Pole of Inaccessibility by Soviet Antarctic explorers in 1958 (Latitude 83 degrees 06' S, Longitude 54 degrees 58' E).
5. Rock cairn and plaque at Cape Bruce, MacRobertson Land (Latitude 67 degrees 25' S, Longitude 60 degrees 47' E), erected in February 1931 by Sir Douglas Mawson to commemorate the British, Australian and New Zealand Antarctic Research Expedition.
6. Rock cairn at Walkabout Rocks, Vestfold Hills, Princess Elizabeth Land (Latitude 68 degrees 22' S, Longitude 78 degrees 33' E), erected in 1939 by Sir Hubert Wilkins.
7. Stone with inscribed plaque, erected at Mirny Observatory, Mabus Point (Latitude 66 degrees 33' S, Longitude 93 degrees 01' E), in memory of Ivan Kharna.
8. Metal monument-sledge at Mirny Observatory, Mabus Point (Latitude 66 degrees 33' S, Longitude 93 degrees 01' E), with plaque in memory of Anatoly Shcheglov.
9. Cemetery on Buromskiy Island, near Mirny Observatory (Latitude 66 degrees 32' S, Longitude 93 degrees 01' E), in which are buried Soviet, Czechoslovak and GDR citizens, members of Soviet Antarctic Expeditions.
10. Building (Magnetic observatory) at Dobrowolsky Station, Bunger Hills (Latitude 66 degrees 16' S, Longitude 100 degrees 45' E), with plaque in memory of the opening of Oasis Station in 1956.
11. Heavy tractor at Vostok Station (Latitude 78 degrees 28' S, Longitude 106 degrees 48' E), with plaque in memory of the opening of the station in 1957.
12. Cross and plaque at Cape Denison, George V Land (Latitude 67 degrees 00' S, Longitude 142 degrees 42' E), erected in 1913 by Sir Douglas Mawson. The cross and plaque commemorate Lieutenant B. E. S. Ninnis and Dr X Mertz, members of the Australasian Antarctic Expedition of 1911-14.

13. Hut at Cape Denison, George V Land (Latitude 67 degrees 00' S, Longitude 142 degrees 42' E), built in January 1912 by Sir Douglas Mawson for the Australasian Antarctic Expedition of 1911-14.
14. Remains of rock shelter at Inexpressible Island, Terra Nova Bay (Latitude 74 degrees 54' S, Longitude 163 degrees 43' E), constructed in March 1912 by Victor Campbell's Northern Party, British Antarctic Expedition, 1910-13.
15. Hut at Cape Royds, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 07' E), built in February 1908 by Ernest Shackleton.
16. Hut at Cape Evans, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 24' E), built in February 1911 by Captain Robert Falcon Scott.
17. Cross on Wind Vane Hill, Cape Evans, Ross Island (Latitude 77 degrees 38' S, Longitude 166 degrees 24' E), erected by the Ross Sea Party of Ernest Shackleton's Trans-Antarctic Expedition, 1914-16, in memory of three members of the party who died in the vicinity in 1916.
18. Hut at Hut Point, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 37' E), built in February 1902 by Captain Robert Falcon Scott.
19. Cross at Hut Point, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 37' E) erected in February 1904 by the British Antarctic Expedition, 1901-04, in memory of T. Vince.
20. Cross on Observation Hill, Ross Island (Latitude 77 degrees 51' S, Longitude 166 degrees 40' E), erected in January 1913 by the British Antarctic Expedition 1910-13, in memory of Captain Robert Falcon Scott's party which perished on the return journey from the South Pole, March 1912.
21. Stone hut at Cape Crozier, Ross Island (Latitude 77 degrees 32' S, Longitude 169 degrees 18' E), constructed in July 1911 by Edward Wilson's party (British Antarctic Expedition 1910-13).
22. Hut at Cape Adare (Latitude 71 degrees 17' S, Longitude 170 degrees 15' E), built in February 1899 during the Southern Cross Expedition led by C. E. Borchgrevink.
23. Grave at Cape Adare (Latitude 71 degrees 17' S, Longitude 170 degrees 15' E), of Norwegian biologist, Nicolai Hanson, a member of C. E. Borchgrevink's 'Southern Cross' Expedition, 1899-1900. (The first known grave in the Antarctic.)
24. Rock cairn, known as 'Amundsen's Cairn', on Mount Betty, Queen Maud Range (Latitude 85 degrees 11' S, Longitude 163 degrees 45' W) erected by Roald Amundsen on 6 January, 1912, on his way back to 'Framheim' from the South Pole.

25. Hut and plaque on Peter I Oy (Latitude 68 degrees 47' S, Longitude 90 degrees 42' W), built by the Norwegian Captain Nils Larsen in February 1929 at Framnaesodden.
26. Abandoned installations of Argentine Station 'General San Martin' on Barry Island, Debenham Islands, Marguerite Bay (Latitude 68 degrees 08' S, Longitude 67 degrees 08' W), with cross, flag mast, and monolith built in 1951.
27. Cairn with plaque on Megalestris Hill, Petermann Island (Latitude 65 degrees 10' S, Longitude 64 degrees 10' W), erected in 1908 by the second French expedition led by J-B. Charcot.
28. Rock cairn at Port Charcot, Booth Island (Latitude 65 degrees 03' S, Longitude 64 degrees 01' W), with wooden pillar and plaque inscribed with the names of the first French expedition led by J-B. Charcot which wintered here in 1904 aboard Le Francais.
29. Lighthouse named 'Primero de Mayo' erected on Lambda Island, Melchior Islands (Latitude 64 degrees 18' S, Longitude 62 degrees 59' W).
30. Shelter at Paradise Harbour (Latitude 64 degrees 49' S, Longitude 62 degrees 51' W), erected in 1950 near the Chilean Base 'Gabriel Gonzales Videla' to honour Gabriel Gonzales Videla.
31. Memorial plaque marking the position of a former cemetery on Deception Island (Latitude 62 degrees 59' S, Longitude 60 degrees 34' W) where some 40 Norwegian whalers were buried in the first half of the twentieth century.
32. Concrete monolith, near Arturo Prat Base on Greenwich Island (Latitude 62 degrees 29' S, Longitude 59 degrees 40' W), erected in 1947.
33. Shelter and cross with plaque near Arturo Prat Base, Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W), erected in memory of Lieutenant-Commander Gonzalez Pacheco.
34. Bust of the Chilean naval hero Arturo Prat erected in 1947 at the base of the same name on Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W).
35. Wooden cross and statue of the Virgin of Carmen erected in 1947 near Arturo Prat Base on Greenwich Island (Latitude 62 degrees 30' S, Longitude 59 degrees 41' W).
36. Metal plaque at Potter Cove, King George Island (Latitude 62 degrees 13' S, Longitude 58 degrees 42' W), erected by Eduard Dallmann to commemorate the visit of his German expedition on 1 March, 1874.
37. Statue of Bernard O'Higgins, erected in 1948, in front of the station of the same name (Latitude 63 degrees 19' S, Longitude 57 degrees 54' W.)

38. Hut on Snow Hill Island (Latitude 64 degrees 24' S, Longitude 57 degrees 00' W) built in February 1902 by the main party of the Swedish South Polar Expedition, led by Otto Nordenskjold.

39. Stone hut at Hope Bay (Latitude 63 degrees 24' S, Longitude 56 degrees 59' W), built in January 1903 by a party of the Swedish South Polar Expedition.

40. Bust of General San Martin, grotto with a statue of the Virgin of Lujan, and a flag mast at Base 'Esperanza', Hope Bay (Latitude 63 degrees 24' S, Longitude 56 degrees 59' W), erected in 1955 together with a graveyard with stele in memory of members of Argentine expeditions who died in the area.

41. Stone hut on Paulet Island (Latitude 63 degrees 35' S, Longitude 55 degrees 47' W), built in February 1903 by the Norwegian C. A. Larsen, of the Swedish South Polar Expedition led by Otto Nordenskjold, together with the grave of a member of that expedition.

42. Area at Scotia Bay, Laurie Island, South Orkney Island (Latitude 60 degrees 46' S, Longitude 44 degrees 40' W), in which are found: stone hut built in 1903 by the Scottish Expedition led by W. S. Bruce; the Argentine Meteorological and Magnetic Observatory, built in 1903; and a graveyard with seven tombs dating from 1903.

43. Cross erected in 1955, at a distance of 1,300 metres north-east of the Argentine Base 'General Belgrano' at Piedrabuena Bay, Filchner Ice Shelf (Latitude 77 degrees 49' S, Longitude 38 degrees 02' W).

44. Plaque erected at the temporary Indian station 'Dakshin Gangotri', Princess Astrid Kyst, Dronning Maud Land (Latitude 70 degrees 45' S, Longitude 11 degrees 38' E), listing the names of the members of the First Indian Antarctic Expedition which landed nearby on 9 January 1982.

45. Plaque on Brabant Island, on Metchnikoff Point, (Latitude 64 degrees 02' S, Longitude 62 degrees 34' W), erected by de Gerlache to commemorate the first landing on Brabant Island by the Belgian Antarctic expedition 1897-99.

46. The buildings and installations of Port Martin base, Terre Adelie (Latitude 66 degrees 49' S, Longitude 141 degrees 24' E) constructed in 1950 by the 3<sup>rd</sup> French expedition and partly destroyed by fire during the night of 23 to 24 January 1952.

47. Wooden building called 'Base Marret' on the Ile des Petrels, Terre Adelie (Latitude 66 degrees 40' S, Longitude 140 degrees 01' E).

48. Cross erected on the North-East headland of the Ile des Petrels, Terre Adelie (Latitude 66 degrees 40' S, Longitude 140 degrees 01' E) in memory of Andre Prudhomme.

49. The concrete pillar erected in January 1959 by the First Polish Antarctic Expedition at Dobrolowski Station on the Bunger Hill (Latitude 66 degrees 16.3' S, Longitude 100 degrees 45' E, h = 35.4m) to measure acceleration due to gravity.

50. A commemorative plaque mounted on a sea cliff on the Fildes Peninsula, King George Island, Maxwell Bay (Latitude 62 degrees 12' S, Longitude 58 degrees 54' W), south-west of the Chilean and Soviet stations in memory of Professor Siedlecki Tazar.

51. The grave of Włodzimierz Puchalski, surmounted by an iron cross, on a hill to the south of Arctowski Station on King George Island (Latitude 62 degrees 09' S, Longitude 58 degrees 28' W).

52. Monument erected to commemorate the establishment in February 1985 of the 'Great Wall Station' on Fildes Peninsula, King George Island (Latitude 62 degrees 13' S, Longitude 58 degrees 58' W), in the South Shetland Islands.

53. Monoliths and commemorative plaques and bronze busts of Luis Pardo Villalon on Elephant Island (Latitude 61 degrees 03' S., Longitude 54 degrees 50' W.) and their replicas on the Chilean bases 'Arturo Prat' (Latitude 62 degrees 30' S., Longitude 59 degrees 49' W.) and 'Rodolfo Marsh' (Latitude 62 degrees 12' S., Longitude 62 degrees 12' W.), celebrating the rescue of survivors of the British ship "Endurance" by the Chilean Navy cutter "Yelcho".

54. Richard E. Byrd Historic Monument, McMurdo Station, Antarctica (Latitude 77 degrees 51' S, Longitude 166 degrees 40' E) with inscriptions describing the polar achievements of Richard Evelyn Byrd.

55. East Base, Antarctica, Stonington Island (Latitude 68 degrees 11' S, Longitude 67 degrees 00' W). Buildings and artefacts used during the Antarctic Service Expedition (1940-41) and the Ronne Antarctic Research Expedition (1947-48).

56. Waterboat Point, Danco Coast, Antarctic Peninsula (Latitude 64 degrees 49' S, Longitude 62 degrees 52' W). The remains and immediate environs of the Waterboat Point hut, situated close to the unoccupied Chilean station, 'President Gabriel Gonzalez Videla'.

57. Commemorative plaque at Yankee Bay, MacFarland Strait, Greenwich Island, South Shetland Islands, near the Chilean refuge located at Latitude 62 degrees 32' S, Longitude 59 degrees 45' W, to the memory of Captain Robert MacFarlane.

58. Cairn with memorial plaque erected at Whalers' Bay, Deception Island, South Shetland Islands, in the vicinity of the whalers' cemetery (Latitude 62 degrees 59' S, Longitude 60 degrees 34' W) to honour Captain Adolfus Amadus Andresen.

59. A cairn on Half Moon beach, Cape Shirreff, Livingston Island, South Shetland Islands (Latitude 62 degrees 29' S, Longitude 60 degrees 47' W), commemorating the officers, soldiers and seamen on board the San Telmo, which sank in September 1819.

60. Wooden plaque and rock cairn located at Penguins bay, southern coast of Seymour Island (Marambio), James Ross Archipelago (Latitude 64 degrees 16'00" S, Longitude 56 degrees 39'10" W) in memory of the 1903 Swedish Expedition led by Dr Otto Nordenskjöld.



SCHEDULE 3

Regulation 14

PROTECTED PLACES

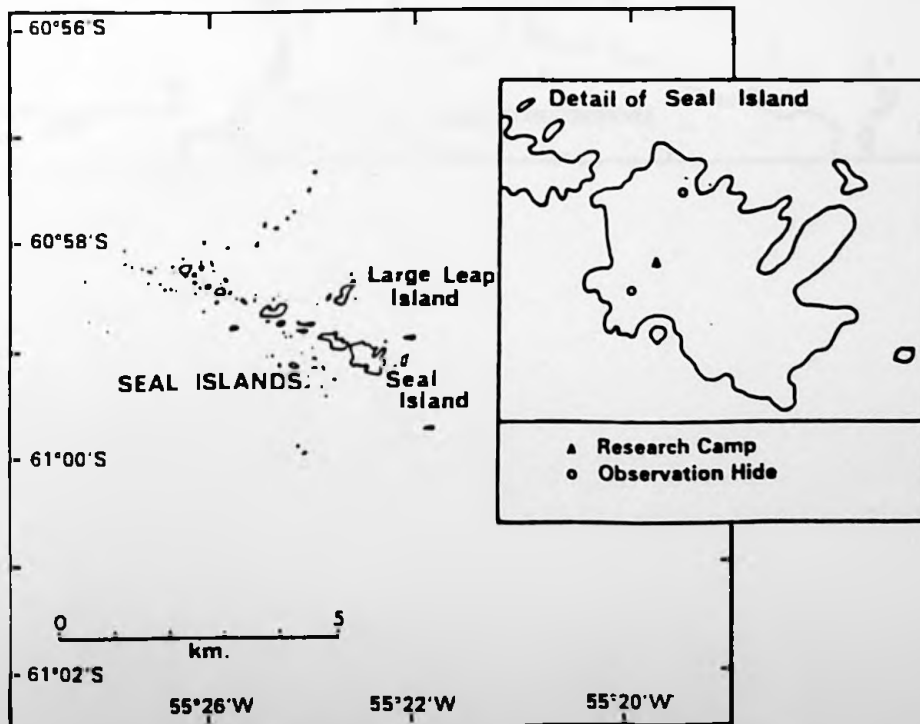
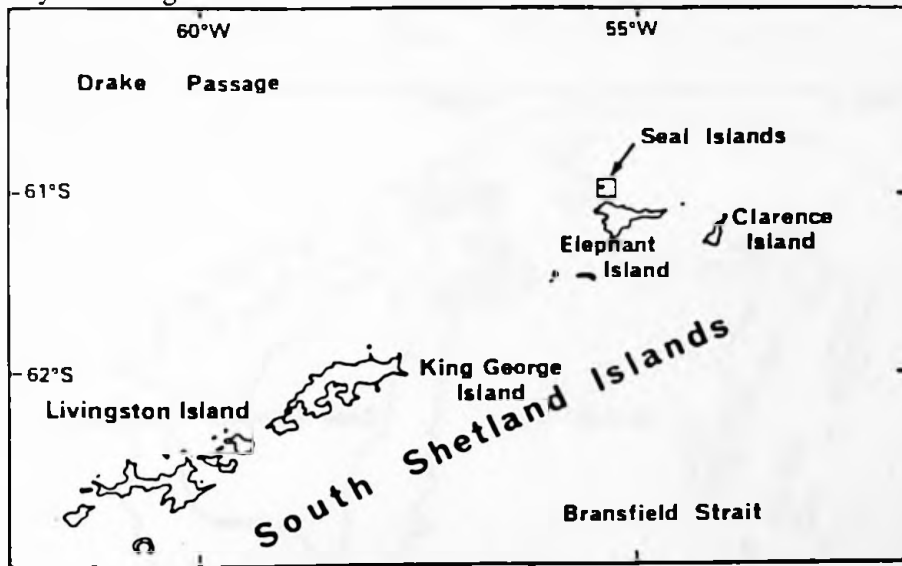
No. 1

Seal Islands, South Shetland Islands

Latitude 60 degrees 59' S; Longitude 55 degrees 23' W

The Seal Islands are composed of small islands and skerries located approximately 7 km north of the Northwest corner of Elephant Island, South Shetland Islands. The Seal Islands Protected Place includes the entire Seal Islands group, which is defined as Seal Island plus any land or rocks exposed at mean low tide within a distance of 5.5 km of the point of highest elevation on Seal Island. Seal Island is the largest island of the group, and is situated at Lat. 60 degrees 59' S, Longitude. 55 degrees 23' W.

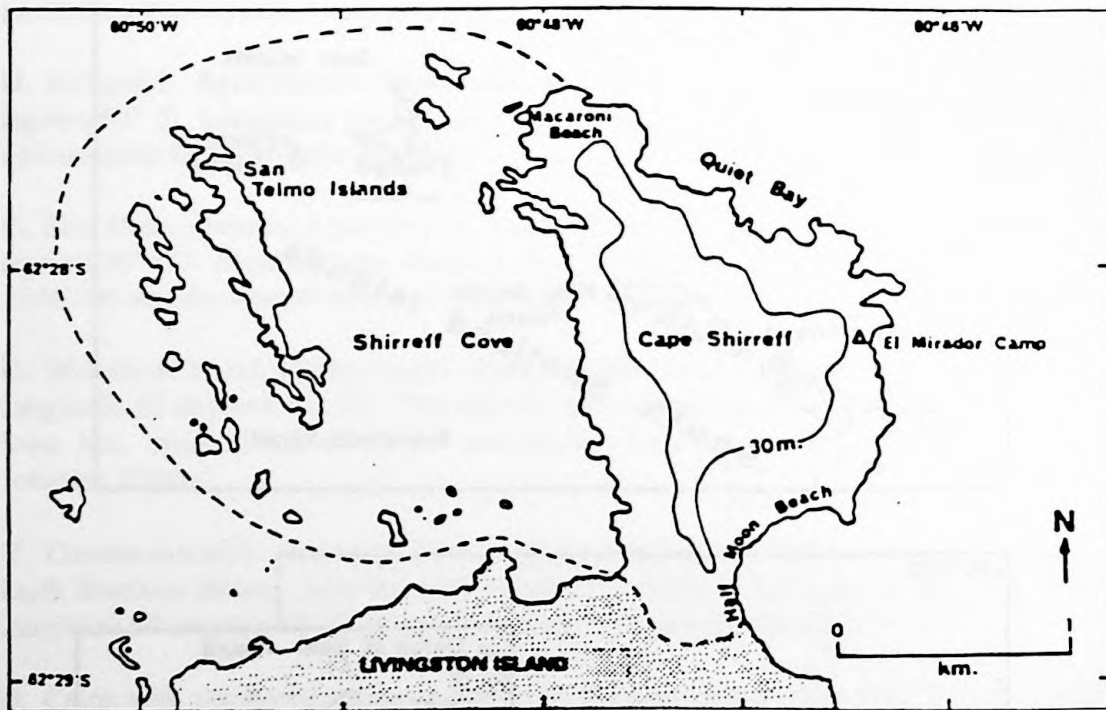
The Seal Islands cover an area approximately 5.7 km from east to west and 5 km from north to south. Seal Island is joined to the adjacent island to the west by a narrow sand bar that is approximately 50 m long.



No. 2  
**Cape Shirreff and the San Telmo Islands,**  
**South Shetland Islands**  
**Lat. 62 degrees 27' S; Longitude. 60 degrees 47' W**

Cape Shirreff is a low, ice-free peninsula towards the western end of the north coast of Livingston Island, South Shetland Islands, situated at Lat. 62 degrees 27' S, Longitude. 60 degrees 47' W, between Barclay Bay and Hero Bay. San Telmo Island is the largest of a small group of ice-free rock islets, approximately 2 km west of Cape Shirreff. Cape Shirreff is approximately 3 km from north to south and 0.5 to 1.2 km from east to west.

No man-made markers indicate the limits of the Protected Place, the boundaries being defined by natural features (i.e. coastlines or glacial margins). Its southern boundary is bordered by a permanent glacial ice barrier, which is located at the narrowest part of the Cape. The eastern side of the base of the Cape has two beaches with a total length of about 600 m. Above this the extremity of the Cape has a rocky barrier about 150 m long. The western side is formed by almost continuous cliffs 10 to 15 m high. Near the southern base of the Cape on the western side is a small sandy beach approximately 50 m long.



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## EXPLANATORY NOTE

*(not forming part of the above Regulations)*

These Regulations, made under the Antarctic Act 1994 in the form in which it applies to South Georgia and the South Sandwich Islands by virtue of the Antarctic Act 1994 (Overseas Territories) Order 1995 (SI 1995/1030), prescribe the procedure by which applications can be made for permits under the Act, including provisions relating to environmental evaluations, production of permits and their revocation or suspension. The Regulations establish a Tribunal to hear appeals against revocation or suspension. The Regulations designate special areas protected under the Act. There are also provisions regarding offences. The Regulations will come into force in accordance with regulation 1.

*Information on the implementation of the Act and the Regulations, including application forms, may be obtained from the Commissioner's Office, Government House, Stanley, Falkland Islands; telephone + 500 27433; fax +500 27434.*

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Government Secretary



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
PUBLISHED BY AUTHORITY

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No. 5

17th September 1997

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The following is published in this Gazette —

**Appropriation Ordinance 1997 (No: 1 of 1997).**

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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RICHARD PETER RALPH, C.M.G., C.V.O.,  
*Commissioner.*

**Appropriation Ordinance 1997**

(No: 1 of 1997)

ARRANGEMENT OF PROVISIONS

**Section**

1. Short title
2. Appropriation of £659,600

**Schedule**

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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RICHARD PETER RALPH, C.M.G., C.V.O.,  
*Commissioner.*

**APPROPRIATION ORDINANCE 1997**

(No: 1 of 1997)

**AN ORDINANCE**

*(assented to: 11 September 1997)*

*(commencement: on publication)*

*(published: 17 September 1997)*

To appropriate sums for the purposes of the period beginning on 1st July 1997 and ending on 31st December 1997.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands pursuant to section 9 of the South Georgia and the South Sandwich Islands Order 1985 as follows—

**Short title**

1. This Ordinance may be cited as the Appropriation Ordinance 1997.

**Appropriation of £659,600**

2.—(1) The Financial Secretary may cause a sum or sums not exceeding in aggregate the sum of SIX HUNDRED AND FIFTY NINE THOUSAND SIX HUNDRED POUNDS (£659,600) to be issued out of South Georgia and the South Sandwich Islands funds and to be applied in accordance with the Estimates to the service of the period beginning on 1st July 1997 and ending on 31st December 1997.

(2) The said sum is granted and shall be appropriated for the purposes and to defray the charges which come payable during the said year of the several services expressed and particularly mentioned in the Schedule to this Ordinance.

## SCHEDULE

| HEAD OF SERVICE        | Amount<br>£ |
|------------------------|-------------|
| A. Personal Emoluments | 900         |
| B. Other charges       | 268,650     |
| C. Special Expenditure | 390,050     |
|                        | £659,600    |

Made this 11th day of September 1997.

**R P Ralph CMG CVO**  
*(Commissioner for South Georgia  
and the South Sandwich Islands)*





**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
PUBLISHED BY AUTHORITY

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*No. 1*

*13th January 1998*

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The following is published in this Gazette —

**Antarctic Act 1994 (Commencement of sections 3, 4 and 6) Order 1998, S.R. & O. No. 1 of 1998).**

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SUBSIDIARY LEGISLATION

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ANTARCTICA

Antarctic Act 1994 (Commencement of sections 3, 4 and 6) Order 1998

(S. R. & O. No. 1 of 1998)

*Made..... 8 January 1998*

*Published..... 13 January 1998*

*Coming into force on publication*

IN EXERCISE of my powers under article 1(2) of the Antarctic Act 1994 (Overseas Territories) Order 1995(a) and all other powers enabling me in that behalf, I make the following Order—

**Citation and commencement**

1. This Order may be cited as the Antarctic Act 1994 (Commencement of sections 3, 4 and 6) Order 1998 and comes into force upon its publication in the *Gazette*.

**Commencement of sections 3, 4 and 6 of the Antarctic Act 1994**

2. Sections 3, 4 and 6 of the Antarctic Act 1994(b) shall come into force in respect of South Georgia and the South Sandwich Islands on 14th January 1998.

Made this 8th day of January 1998

R T Jarvis  
*Assistant Commissioner*

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EXPLANATORY NOTE  
*(not forming part of the above Order)*

The Environmental Protocol to the Antarctic Treaty comes into force in relation to South Georgia and the South Sandwich Islands on 14th January 1998 and it is therefore necessary to bring into force sections 3, 4 and 6 of the Antarctic Act 1994 on that date. This Order does so.

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(a) SI 1995/1030

(b) 1994 c.15



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
PUBLISHED BY AUTHORITY

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*No. 2*

*23rd March 1998*

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The following are published in this Gazette —

**The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997;**

**The Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997;**

**The Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997;**

**The Merchant Shipping (Oil Pollution) (South Georgia and the South Sandwich Islands) Order 1997.**

1997 No. 2578

**MERCHANT SHIPPING**

The Merchant Shipping (Liability and Compensation  
for Oil Pollution Damage) (Transitional Provisions)  
(Overseas Territories) Order 1997

Made - - - - 30th October 1997

Coming into force 30th November 1997

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315 (2) of the Merchant Shipping Act 1995(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997, and shall come into force on 30th November 1997.

2. The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996(b), shall extend to each of the following territories subject to the exceptions, adaptations and modifications specified in the Schedule to this Order:

Anguilla  
Bermuda  
British Indian Ocean Territory  
Falkland Islands  
Pitcairn, Henderson, Ducie and Oeno Islands  
South Georgia and the South Sandwich Islands  
Sovereign Base Areas of Akrotiri and Dhekelia  
Turks and Caicos Islands  
Virgin Islands

3. In this Order, "the Territory" means each of the territories listed in Article 2.

*N. H. Nicholls*  
Clerk to the Privy Council

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(a) 1995 c.21.  
(b) S.I. 1996/1143.

## SCHEDULE

## Article 2

**The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 as modified and extended to the Territories listed in Article 2**

2.—(1) In this Order, unless the context otherwise requires:

“the Act” means the Merchant Shipping Act 1995;

“the 1969 Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969, as amended by the Protocol signed in London in 1976;

“the 1992 Liability Convention” means the 1969 Liability Convention as amended by the 1992 Liability Protocol;

“the 1992 Liability Protocol” means the Protocol of 1992 to amend the 1969 Liability Convention signed in London in 1992;

“the 1971 Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage opened for signature in Brussels on 18th December 1971, as amended by the Protocol signed in London in 1976;

“the 1992 Fund Convention” means the 1971 Fund Convention as amended by the 1992 Fund Protocol;

“the 1992 Fund Protocol” means the Protocol of 1992 to amend the 1971 Fund Convention signed in London in 1992.

(2) In this Order, references to “the 1975 Order” shall be construed as follows:

(a) in the case of Anguilla, as references to the Merchant Shipping (Oil Pollution) (Anguilla) Order 1983(a);

(b) in the case of Bermuda, as references to the Merchant Shipping (Oil Pollution) (Bermuda) Order 1975(b);

(c) in the case of the British Indian Ocean Territory, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975(c), as that Order applies to the British Indian Ocean Territory;

(d) in the case of the Falkland Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975(d), as that Order applies to the Falkland Islands;

(e) in the case of Pitcairn, Henderson, Ducie and Oeno Islands, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975, as that Order applies to these Islands;

(f) in the case of South Georgia and the South Sandwich Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975, as that Order applies to South Georgia and the South Sandwich Islands;

(g) in the case of the Sovereign Base Areas of Akrotiri and Dhekelia, as references to the Merchant Shipping (Oil Pollution) (Overseas Territories) Order 1975, as that Order applies to the Sovereign Base Areas;

(h) in the case of the Turks and Caicos Islands, as references to the Merchant Shipping (Oil Pollution) (Turks and Caicos Islands) Order 1976(e); and

(i) in the case of the Virgin Islands, as references to the Merchant Shipping (Oil Pollution) (British Virgin Islands) Order 1975(f).

(3) In this Order, references to the “1997 Order” shall be construed as follows:

(a) in the case of Anguilla, as references to the Merchant Shipping (Oil Pollution) (Anguilla) Order 1997(g);

(b) in the case of Bermuda, as references to the Merchant Shipping (Oil Pollution) (Bermuda) Order 1997(h);

(c) in the case of the British Indian Ocean Territory, as references to the Merchant Shipping (Oil Pollution) (British Indian Ocean Territory) Order 1997(i);

(a) S.I. 1983/1519.

(b) S.I. 1975/2165, amended by S.I. 1981/215.

(c) S.I. 1975/2171, amended by S.I. 1981/222, 1981/431 and 1984/543.

(d) S.I. 1975/2167, amended by S.I. 1976/2143 and 1981/218.

(e) S.I. 1976/223, amended by S.I. 1981/223.

(f) S.I. 1975/2175, amended by S.I. 1981/216.

(g) S.I. 1997/2580.

(h) S.I. 1997/2581.

(i) S.I. 1997/2583.

- (d) in the case of the Falkland Islands, as references to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1997(a);
- (e) in the case of Pitcairn, Henderson, Ducie and Oeno Islands, as references to the Merchant Shipping (Oil Pollution) (Pitcairn) Order 1997(b);
- (f) in the case of South Georgia and the South Sandwich Islands, as references to the Merchant Shipping (Oil Pollution) (South Georgia and the South Sandwich Islands) Order 1997(c);
- (g) in the case of the Sovereign Base Areas of Akrotiri and Dhekelia, as references to the Merchant Shipping (Oil Pollution) (Sovereign Base Areas) Order 1997(d);
- (h) in the case of the Turks and Caicos Islands, as references to the Merchant Shipping (Oil Pollution) (Turks and Caicos Islands) Order 1997(e); and
- (i) in the case of the Virgin Islands, as references to the Merchant Shipping (Oil Pollution) (Virgin Islands) Order 1997(f).

3.—(1) Notwithstanding the coming into force of the 1997 Order (and the consequent ceasing to have effect of the 1975 Order), the provisions mentioned paragraph (2) below and set out in Schedule 1 to this Order being transitional provisions shall have the force of law in the Territory, subject to the modifications in Schedule 2 to this Order, and for this purpose the provisions of the 1975 Order shall continue to have effect.

(2) The provisions are:

- (i) Article XII bis of the 1969 Liability Convention inserted by Article 9 of the 1992 Liability Protocol;
- (ii) Article 36 bis of the 1971 Fund Convention, inserted by Article 26 of the 1992 Fund Protocol.

4. During the period while the United Kingdom remains a Party to the 1969 Liability Convention, references in sections 163 and 164 of the Act to the "Liability Convention" shall, in respect of ships registered in a State Party to the 1969 Liability Convention but not the 1992 Liability Convention, be references to the 1969 Liability Convention.

5. In section 173(7) of the Act the reference to "Article XII of the Fund Convention" shall have effect as a reference to Article XII subject to Article 36 ter of that Convention.

6. For convenience of reference Article XII bis of the 1992 Liability Convention, and Article 36 bis of the 1992 Fund Convention, as modified by Schedule 2 to this Order, are set out in Schedule 3.

#### *SCHEDULE 1 TO THE 1996 ORDER*

Article 3

#### *ARTICLE XII BIS OF 1992 LIABILITY CONVENTION AND ARTICLE 36 BIS OF THE 1992 FUND CONVENTION*

#### *Article XII bis of 1992 Liability Convention*

#### TRANSITIONAL PROVISIONS

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party to this Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;
- (b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of sub-paragraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;

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- (a) S.I. 1997/2584.
  - (b) S.I. 1997/2585.
  - (c) S.I. 1997/2588.
  - (d) S.I. 1997/2587.
  - (e) S.I. 1997/2589.
  - (f) S.I. 1997/2590.

- (c) in the application of Article III, paragraph 4, of this Convention the expression "this Convention" shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;
- (d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with sub-paragraph (a) of this Article.

*Article 36 bis of 1992 Fund Convention*

The following transitional provisions shall apply in the period, hereinafter referred to as the transitional period, commencing with the date of entry into force of this Convention and ending with the date on which the denunciations provided for in Article 31 of the 1992 Protocol to amend the 1971 Fund Convention take effect:

- (a) In the application of paragraph 1(a) of Article 2 of this Convention, the reference to the 1992 Liability Convention shall include reference to the International Convention on Civil Liability for Oil Pollution Damage, 1969, either in its original version or as amended by the Protocol thereto of 1976 (referred to in this Article as "the 1969 Liability Convention"), and also the 1971 Fund Convention.
- (b) Where an incident has caused pollution damage within the scope of this Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1969 Liability Convention, the 1971 Fund Convention and the 1992 Liability Convention, provided that, in respect of pollution damage within the scope of this Convention in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been Party to each of the above-mentioned Conventions.
- (c) In the application of Article 4 of this Convention, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the 1969 Liability Convention, if any, and the amount of compensation actually paid or deemed to have been paid under the 1971 Fund Convention.
- (d) Paragraph 1 of Article 9 of this Convention shall also apply to the rights enjoyed under the 1969 Liability Convention.

*SCHEDULE 2 TO THE 1996 ORDER*

Article 3

*PART A*

**The following are the modifications to Article XII bis of the 1992 Liability Convention:**

1. References to State being a party to a Convention shall be construed as references to the United Kingdom being Party to such a Convention in respect of the Territory.
2. In the chapeau, the reference to "this Convention" shall be a reference to the 1992 Liability Convention.
3. In sub-paragraph (a) of Article XII bis references to "this Convention" shall be references to sections 152 to 170 of the Act, and the reference to "the 1969 Liability Convention" shall be a reference to Schedule 1 to the 1975 Order.
4. In sub-paragraph (b) of Article XII bis the first and third references to "this Convention" shall be references to Sections 152 to 170 of the Act, and the second shall be a reference to the 1992 Liability Convention; and the reference to "the said 1971 Convention" shall be a reference to Schedule 2 to the 1975 Order.
5. For sub-paragraph (c) of Article XII bis there shall be substituted "subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate, and subsection (1)(ii) of section 156 of the Act applies to the persons referred to in section 156(2) of the Act or section 3(b) of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate".
6. In sub-paragraph (d) of Article XII bis, the reference to "Article V, paragraph 3 of this Convention" shall be a reference to section 158 of the Act.

## PART B

**The following are the modifications to Article 36 bis of the 1992 Fund Convention:**

1. The "transitional period" means the period from entry into force of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997 to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect.
2. "The Fund" shall have the same meaning as in section 172 of the Act.
3. Except for the second reference in sub-paragraph (b), references to the "1971 Fund Convention" shall be references to Schedule 2 to the 1975 Order.
4. Except for the third reference in sub-paragraph (b), references to "this Convention" shall be references to sections 172 to 181 of the Act.
5. References to the "1969 Liability Convention" shall be references to Schedule 1 to the 1975 Order.
6. References to the "1992 Liability Convention" shall be references to sections 152 to 170 of the Act.
7. Sub-paragraph (a) of Article 36 bis shall be omitted.
8. In sub-paragraph (b) of Article 36 bis for "the above-mentioned Conventions" there shall be substituted "the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention".
9. In sub-paragraph (c) of Article 36 bis, the reference to "Article 4 of this Convention" shall be a reference to Part I of Schedule 5 to the Act.
10. In sub-paragraph (d) of Article 36 bis, the reference to "paragraph 1 of Article 9 of this Convention" shall be a reference to section 179(1) of the Act.

## SCHEDULE 3 TO THE 1996 ORDER

Article 5

**The text of Article XII bis of the 1992 Liability Convention and Article 36 bis of the 1992 Fund Convention, as modified by Schedule 2 to this Order.**

## Article XII bis

## TRANSITIONAL PROVISIONS

The following transitional provisions shall apply when at the time of an incident the United Kingdom is Party in respect of the Territory both to the 1992 Liability Convention and to the 1969 Liability Convention:

- (a) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act liability under sections 152 to 170 of the Act shall be deemed to be discharged if, and to the extent that, it also arises under Schedule 1 to the 1975 Order;
- (b) where an incident has caused pollution damage within the scope of sections 152 to 170 of the Act and the United Kingdom in respect of the Territory is Party both to the 1992 Liability Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, liability remaining to be discharged after the application of sub-paragraph (a) of this Article shall arise under sections 152 to 170 of the Act only to the extent that pollution damage remains uncompensated after application of Schedule 2 to the 1975 Order;
- (c) subsection (1)(i) of section 156 of the Act refers to liability under section 153 of the Act or under section 1 of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order as appropriate and subsection (1)(ii) of section 156 applies to the persons referred to in section 156(2) of the Act or in section 3(b) of the Merchant Shipping (Oil Pollution) Act 1971 as set out in Schedule 1 to the 1975 Order, as appropriate;
- (d) in the application of section 158 of the Act the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with sub-paragraph (a) of this Article.



*Article 36 bis*

The following transitional provisions shall apply from the date of entry into force of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) (Overseas Territories) Order 1997 to the date on which the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996 ceases to have effect;

- (b) Where an incident has caused pollution damage within the scope of sections 172 to 181 of the Act, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of Schedule 1 to the 1975 Order, Schedule 2 to the 1975 Order, and sections 152 to 170 of the Act, provided that, in respect of pollution damage within the scope of sections 172 to 181 of the Act in respect of a Party to this Convention but not a party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the 1969 Liability Convention, the 1992 Liability Convention and the 1971 Fund Convention.
- (c) In the application of Part I of Schedule 5 to the Act the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under Schedule 1 to the 1975 Order if any, and the amount of compensation actually paid or deemed to have been paid under Schedule 2 to the 1975 Order.
- (d) Section 179(1) of the Act shall also apply to the rights enjoyed under Schedule 1 to the 1975 Order.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

The International Convention on Civil Liability for Oil Pollution Damage 1969 (the CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the Fund Convention) ensure that compensation is available to victims of oil pollution from tankers and provide for the sharing of the costs of compensation between shipowners and cargo interests.

Protocols were negotiated in 1992 which created a new 1992 CLC and a new 1992 Fund Convention. These Conventions provide for higher levels of compensation and more extensive liability, but they do not immediately replace the 1969 and 1971 Conventions: the latter will co-exist with the former for a transitional period. If an incident occurs during this period, compensation could in principle be available under both the original Conventions and the 1992 Conventions. The 1992 Protocols set out specific rules on the payment of compensation in these circumstances. This Order gives effect to these rules in the Territories listed in Article 2 of the Order by extending to these Territories (with the necessary exceptions, adaptations and modifications) the provisions of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) (Transitional Provisions) Order 1996.

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STATUTORY INSTRUMENTS

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1997 No. 2579

**MERCHANT SHIPPING**

**The Merchant Shipping (Limitation of Liability for  
Maritime Claims) (Overseas Territories) Order 1997**

*Made* - - - - - *30th October 1997*  
*Coming into force* *30th November 1997*

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

**Citation and commencement**

1. This Order may be cited as the Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997 and shall come into force on 30th November 1997.

**Implementation of the Limitation of Liability Convention**

2. Sections 185 and 186 of and Schedule 7 to the Merchant Shipping Act 1995 shall extend to each of the Territories listed in Schedule 1 to this Order subject to the exceptions, adaptations and modifications specified in Schedule 2 to this Order; and any instrument made, or to be made, under paragraphs 3, 5(2), 8(1) or 13 of Part II of Schedule 7 to the Act shall also extend to each Territory.

**Interpretation**

3. In this Order, "the Territory" means any of the territories listed in Schedule 1 to this Order.

*N. H. Nicholls*  
Clerk of the Privy Council

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(a) 1995 c.21.

## SCHEDULE 1 TO THE ORDER

Article 2

Anguilla  
 British Antarctic Territory  
 British Indian Ocean Territory  
 South Georgia and the South Sandwich Islands

## SCHEDULE 2 TO THE ORDER

SECTIONS 185 AND 186 OF THE MERCHANT  
SHIPPING ACT 1995

Article 2

Limitation of  
 liability for maritime  
 claims

*Limitation of liability of shipowners, etc and salvors for maritime claims*

185.—(1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 7 (in this section and Part II of that Schedule referred to as "the Convention") shall have the force of law in the Territory.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) above shall have effect subject to the provisions of that Part.

(3) The provisions having the force of law under this section shall apply in relation to Her Majesty's ships as they apply in relation to other ships.

(4) The provisions having the force of law under this section shall not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to any property of, a person who is on board the ship in question or employed in connection with that ship or with the salvage operations in question if—

- (a) he is so on board or employed under a contract of service governed by the law of the Territory; and
- (b) the liability arises from an occurrence which took place after the commencement of this Order.

In this subsection, "ship" and "salvage operations" have the same meaning as in the Convention.

Exclusion of  
 liability

186.—(1) Subject to subsection (3) below, the owner of a British ship shall not be liable for any loss or damage in the following cases, namely—

- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
- (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.

(2) Subject to subsection (3) below, where the loss or damage arises from anything done or omitted by a person in his capacity of master or member of the crew or (otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, subsection (1) above shall also exclude the liability of—

- (a) the master, member of the crew or servant; and
- (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.

(3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in Article 4 of the Convention set out in Part I of Schedule 7.

(4) This section shall apply in relation to Her Majesty's ships as it applies in relation to other ships.

(5) In this section "owner", in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

SCHEDULE 7 TO THE MERCHANT SHIPPING ACT 1995  
CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME  
CLAIMS 1976

Article 2

## PART I

## TEXT OF CONVENTION

## CHAPTER I. THE RIGHT OF LIMITATION

## ARTICLE 1

*Persons entitled to limit liability*

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
2. The term "shipowner" shall mean the owner, charterer, manager or operator of a seagoing ship.
3. Salvor shall mean any person rendering services in direct connection with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).
4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.
6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.
7. The act of invoking limitation of liability shall not constitute an admission of liability.

## ARTICLE 2

*Claims subject to limitation*

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:
  - (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
  - (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
  - (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with the operation of the ship or salvage operations;
  - (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
  - (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
  - (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.
2. Claims set out in paragraph 1 shall be subject to limitation of liability even

if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

### ARTICLE 3

#### *Claims excepted from limitation*

The rules of this Convention shall not apply to:

- (a) claims for salvage or contribution in general average;
- (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;
- (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
- (d) claims against the shipowner of a nuclear ship for nuclear damage;
- (e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

### ARTICLE 4

#### *Conduct barring limitation*

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

### ARTICLE 5

#### *Counterclaims*

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

## CHAPTER II. LIMITS OF LIABILITY

### ARTICLE 6

#### *The general limits*

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:
  - (a) in respect of claims for loss of life or personal injury,
    - (i) 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
    - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
      - for each ton from 501 to 3,000 tons, 500 Units of Account;
      - for each ton from 3,001 to 30,000 tons, 333 Units of Account;
      - for each ton from 30,001 to 70,000 tons, 250 Units of Account, and
      - for each ton in excess of 70,000 tons, 167 Units of Account,
  - (b) in respect of any other claims,

- (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
- (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):  
 for each ton from 501 to 30,000 tons, 167 Units of Account;  
 for each ton from 30,001 to 70,000 tons, 125 Units of Account; and  
 for each ton in excess of 70,000 tons, 83 Units of Account.

2. Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

3. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

## ARTICLE 7

### *The limit for passenger claims*

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 46,666 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate, but not exceeding 25 million Units of Account.

2. For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

- (a) under a contract of passenger carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

## ARTICLE 8

### *Unit of Account*

The Unit of Account referred to in Articles 6 and 7 is the special drawing right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

## ARTICLE 9

### *Aggregation of claims*

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:

- (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or
- (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or
- (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct

occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

## ARTICLE 10

### *Limitation of liability without constitution of a limitation fund*

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.
2. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.
3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

## CHAPTER III. THE LIMITATION FUND

### ARTICLE 11

#### *Constitution of the Fund*

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.
2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.
3. A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

### ARTICLE 12

#### *Distribution of the fund*

1. Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.
2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the persons so compensated would have enjoyed under this Convention.
3. The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.
4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where



the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

### ARTICLE 13

#### *Bar to other actions*

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:

- (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo; or
- (d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

### ARTICLE 14

#### *Governing law*

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

## CHAPTER IV. SCOPE OF APPLICATION

### ARTICLE 15

This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

## PART II

### PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

#### *Interpretation*

1. In this Part of this Schedule and reference to a numbered article is a reference to the article of the Convention which is so numbered.

*Right to limit liability*

2. The right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of "shipowner" in paragraph 2 of article 1 shall be construed accordingly.

*Claims subject to limitation*

3.—(1) Paragraph 1(d) of article 2 shall not apply unless provision has been made by an order of the Secretary of State for the setting up and management of a fund to be used for the making to harbour or conservancy authorities of payments needed to compensate them for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by them in claims of the kind there mentioned, and to be maintained by contributions from such authorities raised and collected by them in respect of vessels in like manner as other sums so raised by them.

(2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient.

*Claims excluded from limitation*

4.—(1) The claims excluded from the Convention by paragraph (a) of article 3 include claims under article 14 of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11(a) and corresponding claims under a contract.

(2) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 153 of this Act(b).

...

*The general limits*

5.—(1) In the application of article 6 to a ship with a tonnage less than 300 tons that article shall effect as if—

- (a) paragraph 1(a)(i) referred to 166,667 Units of Account; and
- (b) paragraph 1(b)(i) referred to 83,333 Units of Account.

(2) For the purposes of article 6 and this paragraph a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State.

(3) ...

*Limit for passenger claims*

6.—(1) In the case of a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by safety regulations, the ship's certificate mentioned in paragraph 1 of article 7 shall be that certificate.

(2) In paragraph 2 of article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person.

*Units of Account*

7.—(1) For the purpose of converting the amounts mentioned in articles 6 and 7 from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

- (a) the relevant date under paragraph 1 of article 8; or
- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Authority stating—

- 
- (a) Schedule 11 to the 1995 Act, which sets out the International Convention on Salvage 1989 was extended to the Territories by The Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 (S.I. 1997/ ).
  - (b) Section 153 of the 1995 Act was extended to Anguilla by S.I. 1997/ ; to the British Antarctic Territory by S.I. 1997/ ; and to the British Indian Ocean Territory by S.I. 1997/ . and to South Georgia and the South Sandwich Islands by S.I. 1997 ( ).

- (a) that a particular sum in sterling has been fixed as mentioned in sub-paragraph (1) above for a particular date; or
- (b) that no sum has been so fixed for that date and that a particular sum in sterling has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those articles; and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

- (3) For the purposes of this paragraph, "the Authority" means—
  - (a) in Anguilla, the Director of Finance;
  - (b) in the British Antarctic Territory, the Commissioner;
  - (c) in the British Indian Ocean Territory, the Commissioner;
  - (d) in South Georgia and the South Sandwich Islands, the Financial Secretary.

#### *Constitution of fund*

8.—(1) The Secretary of State may, with the concurrence of the Treasury, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11.

(2) . . .

(3) Where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

#### *Distribution of fund*

9. No lien or other right in respect of any ship or property shall affect the proportions in which under article 12 the fund is distributed among several claimants.

#### *Bar to other actions*

10. Where the release of a ship or other property is ordered under paragraph 2 of article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to . . . the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

#### *Meaning of "court"*

11. References in the Convention and the preceding provisions of this Part of this Schedule to the court are references to—

- (a) the High Court, in Anguilla;
- (b) the Supreme Court, in the British Antarctic Territory;
- (c) the Supreme Court, in the British Indian Ocean Territory.
- (d) the Supreme Court, in South Georgia and the South Sandwich Islands.

#### *Meaning of "ship"*

12. References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

#### *Meaning of "State Party"*

13. An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order gives effect in Anguilla, the British Antarctic Territory, the British Indian Ocean Territory and South Georgia and the South Sandwich Islands to the Convention on Limitation of Liability for Maritime Claims 1976, which lays down uniform rules relating to the liability of shipowners and salvors in respect of certain maritime claims.

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STATUTORY INSTRUMENTS

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1997 No. 2586

**MERCHANT SHIPPING**

**The Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997**

*Made* - - - - - *30th October 1997*

*Coming into force* *30th November 1997*

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995 and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

**Citation and commencement**

1. This Order may be cited as the Merchant Shipping (Salvage Convention) (Overseas Territories) Order 1997 and shall come into force on 30th November 1997.

**Implementation of the Salvage Convention**

2. Sections 224 and 255(1) of and Schedule 11 to the Merchant Shipping Act 1995 shall extend to each of the territories listed in Schedule 1 to this Order subject to the exceptions, adaptations and modifications specified in Schedule 2 to this Order, and any instrument made, or to be made under paragraph 7 of part II of Schedule 2 to this Order shall also extend to each Territory.

**Interpretation**

3. In this Order "the Territory" means any of the territories listed in Schedule 1.

*N. H. Nicholls*  
Clerk of the Privy Council

## SCHEDULE 1 TO THE ORDER

Article 2

Anguilla  
 British Antarctic Territory  
 British Indian Ocean Territory  
 Cayman Islands  
 Falkland Islands  
 Pitcairn, Henderson, Ducie and Oeno Islands and its Dependencies  
 Saint Helena  
 South Georgia and the South Sandwich Islands  
 Turks and Caicos Islands  
 Virgin Islands

## SCHEDULE 2 TO THE ORDER

Article 2

## SECTIONS 224 AND 255(1) OF THE MERCHANT SHIPPING ACT 1995

*Salvage*

224.—(1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 11 (in this Chapter referred to as "the Salvage Convention") shall have the force of law in the Territory.

Salvage  
 Convention  
 1989 to have  
 force of law

(2) The provisions of Part II of that Schedule shall have effect in connection with the Salvage Convention, and subsection (1) above shall have effect subject to the provisions of that Part.

...

(4) Nothing in subsection (1) or (2) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the entry into force of this Order.

...

255.—(1) In this Part—

...

"salvage" includes, subject to the Salvage Convention, all expenses properly incurred by the salvor in the performance of the salvage services;

...

"salvor" means, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, the person in command of the ship;

...

"vessel" includes any ship or boat, or any other description of vessel used in navigation.

## SCHEDULE 11 TO THE MERCHANT SHIPPING ACT 1995

## INTERNATIONAL CONVENTION ON SALVAGE 1989

## PART I

## TEXT OF CONVENTION

## CHAPTER I—GENERAL PROVISIONS

## ARTICLE 1

*Definitions*

For the purpose of this Convention—

- (a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.
- (b) Vessel means any ship or craft, or any structure capable of navigation.
- (c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.
- (d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.

- (e) Payment means any reward, remuneration or compensation due under this Convention.
- (f) Organisation means the International Maritime Organisation.
- (g) Secretary-General means the Secretary-General of the Organisation.

## ARTICLE 2

### *Application of the Convention*

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

## ARTICLE 3

### *Platforms and drilling units*

This Convention shall not apply to fixed or floating platforms or to mobile off-shore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

## ARTICLE 4

### *State-owned vessels*

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.

2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

## ARTICLE 5

### *Salvage operations controlled by public authorities*

1. This Convention shall not affect any provisions of national law or any international convention relating to salvage operations by or under the control of public authorities.

2. Nevertheless, salvors carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.

3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

## ARTICLE 6

### *Salvage contracts*

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.

2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

## ARTICLE 7

### *Annulment and modification of contracts*

A contract or any terms thereof may be annulled or modified if—

- (a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or
- (b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

## CHAPTER II—PERFORMANCE OF SALVAGE OPERATIONS

### ARTICLE 8

#### *Duties of the salvor and of the owner and master*

1. The salvor shall owe a duty to the owner of the vessel or other property in danger—
  - (a) to carry out the salvage operations with due care;
  - (b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimise damage to the environment;
  - (c) whenever circumstances reasonably require, to seek assistance from other salvors; and
  - (d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.
2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor—
  - (a) to cooperate fully with him during the course of the salvage operations;
  - (b) in so doing, to exercise due care to prevent or minimise damage to the environment; and
  - (c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

### ARTICLE 9

#### *Rights of coastal States*

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

### ARTICLE 10

#### *Duty to render assistance*

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.
2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph 1.
3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph 1.

### ARTICLE 11

#### *Cooperation*

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for cooperation between salvors, other interested parties and public authorities in



order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

### CHAPTER III—RIGHTS OF SALVORS

#### ARTICLE 12

##### *Conditions for reward*

1. Salvage operations which have had a useful result give right to a reward.
2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.
3. This chapter shall apply, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same owner.

#### ARTICLE 13

##### *Criteria for fixing the reward*

1. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below—
  - (a) the salvaged value of the vessel and other property;
  - (b) the skill and efforts of the salvors in preventing or minimising damage to the environment;
  - (c) the measure of success obtained by the salvor;
  - (d) the nature and degree of the danger;
  - (e) the skill and efforts of the salvors in salvaging the vessel, other property and life;
  - (f) the time used and expenses and losses incurred by the salvors;
  - (g) the risk of liability and other risks run by the salvors or their equipment;
  - (h) the promptness of the services rendered;
  - (i) the availability and use of vessels or other equipment intended for salvage operations;
  - (j) the state of readiness and efficiency of the salvor's equipment and the value thereof.
2. Payment of a reward fixed according to paragraph 1 shall be made by all of the vessel and other property interests in proportion to their respective salvaged values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.
3. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

#### ARTICLE 14

##### *Special compensation*

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.
2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under paragraph 1 may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph 1, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.

3. Salvor's expenses for the purpose of paragraphs 1 and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).

4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5. If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

#### ARTICLE 15

##### *Apportionment between salvors*

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2. The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

#### ARTICLE 16

##### *Salvage of persons*

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

#### ARTICLE 17

##### *Services rendered under existing contracts*

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

#### ARTICLE 18

##### *The effect of salvor's misconduct*

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

#### ARTICLE 19

##### *Prohibition of salvage operations*

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

## CHAPTER IV—CLAIMS AND ACTIONS

## ARTICLE 20

*Maritime lien*

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.
2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

## ARTICLE 21

*Duty to provide security*

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.
2. Without prejudice to paragraph 1, the owner of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.
3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

## ARTICLE 22

*Interim payment*

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.
2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

## ARTICLE 23

*Limitation of actions*

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.
2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.
3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

## ARTICLE 24

*Interest*

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

## ARTICLE 25

*State-owned cargoes*

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings *in rem* against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

## ARTICLE 26

*Humanitarian cargoes*

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

## ARTICLE 27

*Publication of arbitral awards*

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

## PART II

## PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

*Interpretation*

1. In this Part of this Schedule:

- (a) "the Convention" means the Convention as set out in Part I of this Schedule and any reference to a numbered article is a reference to the article of the Convention which is so numbered;
- (b) "the waters of the Territory" means the sea or other waters within the seaward limits of the territorial sea of the Territory.

*Claims excluded from Convention*

2.—(1) The provisions of the Convention do not apply—

- (a) to a salvage operation which takes place in inland waters of the Territory and in which all the vessels involved are of inland navigation; and
- (b) to a salvage operation which takes place in inland waters of the Territory and in which no vessel is involved.

(2) In this paragraph "inland waters" does not include any waters within the ebb and flow of the tide at ordinary spring tides or the waters of any dock which is directly or (by means of one or more other docks) indirectly, connected with such waters.

*Assistance to persons in danger at sea*

3.—(1) The master of a vessel who fails to comply with the duty imposed on him by article 10, paragraph 1 commits an offence and shall be liable—

- (a) in Anguilla,
  - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding 5000 East Caribbean dollars or both;
  - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
- (b) in the British Antarctic Territory, to be tried by the Supreme Court and, if convicted, to imprisonment for a term not exceeding two years or a fine, or both;

- (c) in the British Indian Ocean Territory, to be tried by the Supreme Court, and, if convicted, to imprisonment for a term not exceeding two years or a fine, or both;
  - (d) in the Falkland Islands,
    - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
  - (e) Pitcairn, Henderson, Ducie and Oeno Islands,
    - (i) on conviction by the Subordinate Court, to imprisonment for a term not exceeding six months, or a fine not exceeding two thousand five hundred pounds or its equivalent, or both;
    - (ii) on conviction by the Supreme Court, to imprisonment for a term not exceeding two years or a fine not exceeding ten thousand pounds or its equivalent, or both.
  - (f) in Saint Helena and its Dependencies,
    - (i) on summary conviction, to imprisonment for a term not exceeding two years or a fine not exceeding £1000 or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
  - (g) in South Georgia and the South Sandwich Islands,
    - (i) on summary conviction, to imprisonment for a term not exceeding two years or a fine not exceeding the statutory maximum or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
  - (h) in the Turks and Caicos Islands,
    - (i) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding 3000 United States dollars or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
  - (i) in the Virgin Islands,
    - (i) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding 3000 United States dollars or both;
    - (ii) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both;
- and in subparagraphs (d) and (g), "statutory maximum" means such sum as is for the time being the prescribed sum for the purposes of section 32 of the Magistrates' Courts Act 1980.

(2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

*The reward and special compensation: the common understanding*

4. In fixing a reward under article 13 and assessing special compensation under article 14 the court or arbitrator is under no duty to fix a reward under article 13 up to the maximum salved value of the vessel and other property before assessing the special compensation to be paid under article 14.

*Recourse for life salvage payment*

5.—(1) This paragraph applies where—

- (a) services are rendered wholly or in part in the waters of the Territory in saving life from a vessel of any nationality or elsewhere in saving life from any ship registered in the Territory; and
- (b) either—
  - (i) the vessel and other property are destroyed, or
  - (ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.

(2) Where this paragraph applies, the Authority may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life; and for the purposes of this paragraph, "the Authority" means—

- (a) in Anguilla, the Governor;
- (b) in the British Antarctic Territory, the Commissioner;

- (c) in the British Indian Ocean Territory, the Commissioner;
- (d) in the Cayman Islands, the Governor in Council;
- (e) in Pitcairn, Henderson, Ducie and Oeno Islands, the Governor;
- (f) in the Falkland Islands, the Governor;
- (g) in Saint Helena, the Governor;
- (h) in South Georgia and the South Sandwich Islands, the Commissioner;
- (i) in the Turks and Caicos Islands, the Governor;
- (j) in the Virgin Islands, the Governor in Council.

*Meaning of "judicial proceedings"*

6. References in the Convention to judicial proceedings are references to proceedings—
- (a) in Anguilla, in the High Court;
  - (b) in the British Antarctic Territory, in the Supreme Court;
  - (c) in the British Indian Ocean Territory, in the Supreme Court;
  - (d) in the Cayman Islands, in the Summary Court or the Grand Court;
  - (e) in Pitcairn, Henderson, Ducie and Oeno Islands, the Supreme Court;
  - (f) in the Falkland Islands, in the Supreme Court or the Magistrate's Court;
  - (g) in Saint Helena, in the Saint Helena Supreme Court;
  - (h) in South Georgia and the South Sandwich Islands, in the Supreme Court;
  - (i) in the Turks and Caicos Islands, in the Magistrate's Court or the Supreme Court;
  - (j) in the Virgin Islands, in the High Court;

and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

*Meaning of "State Party"*

7.—(1) An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention in respect of a specified country shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention in respect of that country.

- (2) In this paragraph "country" includes "territory".

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order extends to the dependent territories listed in Schedule 1 provisions of the Merchant Shipping Act 1995 which give effect in the United Kingdom to the International Convention on Salvage, 1989.

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S T A T U T O R Y   I N S T R U M E N T S

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**1997 No. 2588**

**MERCHANT SHIPPING**

The Merchant Shipping (Oil Pollution)  
(South Georgia and the South Sandwich Islands)  
Order 1997

*Made* - - - - - *30th October 1997*

*Coming into force* - - - - - *30th November 1997*

At the Court at Buckingham Palace, the 30th day of October 1997

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 315(2) of the Merchant Shipping Act 1995(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Citation and commencement**

1. This Order may be cited as the Merchant Shipping (Oil Pollution) (South Georgia and the South Sandwich Islands) Order 1997 and shall come into force on 30th November 1997.

**Implementation of the Liability and Fund Conventions**

2. Sections 152 to 170(b) and 172 to 181 of, and Schedule 5 to, the Merchant Shipping Act 1995, subject to the exceptions, adaptations and modifications specified in the Schedule to this Order, shall extend to South Georgia and the South Sandwich Islands, and any instrument made, or to be made, under section 152(2), 157(2), 157(4), 172(2) or 176(5) shall also extend to the South Georgia and the South Sandwich Islands.

**Interpretation**

3. In this Order—

- (a) “the Islands” means the South Georgia and the South Sandwich Islands;
- (b) a reference to a fine on the standard scale means a fine of an amount not exceeding the amount specified in relation to that level of the standard scale of fines appearing in section 37(2) of the Criminal Justice Act 1982(c) having effect on the date of the offence;
- (c) “statutory maximum” means such sum as is for the time being the prescribed sum for the purposes of section 32 of the Magistrate's Court Act 1980(d).

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(a) 1995 c.21.

(b) Section 158(2) was amended and section 158(2A) was added, by section 29(1) and Schedule 6 paragraph 4 of the Merchant Shipping and Maritime Security Act 1997 (1997 c.28).

(c) 1982 c.48.

(d) 1980 c.43.



**Revocations**

4. The following Orders, to the extent that they apply to the Islands, are hereby revoked—

- (a) The Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975(a);
- (b) The Merchant Shipping (Oil Pollution) (Falkland Islands) (Amendment) Order 1976(b);
- (c) The Merchant Shipping (Oil Pollution) (Falkland Islands) (Amendment) Order 1981(c).

*N. H. Nicholls*  
Clerk of the Privy Council

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(a) S.I. 1975/2167.  
(b) S.I. 1976/2143.  
(c) S.I. 1981/218.

**SCHEDULE TO THE ORDER**  
**THE MERCHANT SHIPPING ACT 1995**

Article 2

PART VI  
 PREVENTION OF POLLUTION  
 CHAPTER III  
 LIABILITY FOR OIL POLLUTION

*Preliminary*

Meaning of  
 "the Liability  
 Convention"  
 and related  
 expressions.

152.—(1) In this Chapter—

"the Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage 1992;

"Liability Convention country" means a country in respect of which the Liability Convention is in force, and includes the United Kingdom and any relevant British possession to which the Liability Convention has been extended; and

"Liability Convention State" means a State which is a party to the Convention.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Liability Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Liability Convention in respect of that country.

*Liability*

Liability for oil  
 pollution in  
 case of  
 tankers.

153.—(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in the territory of the Islands by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Islands by contamination resulting from the discharge or escape; and
- (c) for any damage caused in the territory of the Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by the contamination that might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Islands, and
- (b) for any damage caused outside the ship in the territory of the Islands by any measures so taken;

and in this Chapter any such threat is referred to as a relevant threat of contamination.

(3) Subject to subsection (4) below, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—

- (a) while it is carrying oil in bulk as cargo; and
- (b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2) above he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the territory of the Islands included the territory of any other Liability Convention country.

## (6) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
  - (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

## (7) For the purposes of this Chapter—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;
  - (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and
  - (c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.
- (8) The Law Reform (Contributory Negligence) Act 1945(a) shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

Liability for oil pollution in case of other ships.

154.—(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship other than a ship to which section 153 applies, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for any damage caused outside the ship in the territory of the Islands by contamination resulting from the discharge or escape; and
- (b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the territory of the Islands by contamination resulting from the discharge or escape; and
- (c) for any damage so caused in the territory of the Islands by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship other than a ship to which section 153 applies by the contamination which might result if there were a discharge or escape of oil from the ship, then (except as otherwise provided by this Chapter) the owner of the ship shall be liable—

- (a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the territory of the Islands; and
- (b) for any damage caused outside the ship in the territory of the Islands by any measures so taken;

and in the subsequent provisions of this Chapter any such threat is referred to as a relevant threat of contamination.

## (3) Where—

- (a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but
  - (b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,
- each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) The Law Reform (Contributory Negligence) Act 1945 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

(5) In this section "ship" includes a vessel which is not seagoing.

(a) 1945 c.28.

Exceptions from liability under sections 153 and 154. **155.** No liability shall be incurred by the owner of a ship under section 153 or 154 by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

- (a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or
- (b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or
- (c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

Restriction of liability for oil pollution.

**156.—**(1) Where, as a result of any occurrence—

- (a) any oil is discharged or escapes from a ship (whether one to which section 153 or one to which section 154 applies), or
- (b) there arises a relevant threat of contamination,

then, whether or not the owner of the ship in question incurs a liability under section 153 or 154—

- (i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and
- (ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(ii) above applies to—

- (a) any servant or agent of the owner of the ship;
- (b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;
- (c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;
- (d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;
- (e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 153 or 154;
- (f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.

(3) The liability of the owner of a ship under section 153 or 154 for any impairment of the environment shall be taken to be a liability only in respect of—

- (a) any resulting loss of profits, and
- (b) the cost of any reasonable measures of reinstatement actually taken or to be taken.

#### *Limitation of liability*

Limitation of liability under section 153.

**157.—**(1) Where, as a result of any occurrence, the owner of a ship incurs liability under section 153 by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) below)—

- (a) he may limit that liability in accordance with the provisions of this Chapter, and
- (b) if he does so, his liability (being the aggregate of his liabilities under section 153 resulting from the occurrence) shall not exceed the relevant amount.

(2) In subsection (1) above, “the relevant amount” means—

- (a) in relation to a ship not exceeding 5,000 tons, three million special drawing rights;

- (b) in relation to a ship exceeding 5,000 tons, three million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

but the Commissioner may by order make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Liability Convention.

(3) Subsection (1) above shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 153 or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship's tonnage shall be its gross tonnage calculated in such a manner as may be prescribed by an order made by the Secretary of State.

(5) ...

Limitation actions.

158.—(1) Where the owner of a ship has or is alleged to have incurred a liability under section 153 he may apply to the court for the limitation of that liability to an amount determined in accordance with section 157.

(2) If on such an application the court finds that the applicant has incurred such a liability but has not found that he is not entitled to limit it, the court shall, after determining the limit which would apply to the applicant's liability if he were entitled to limit it and directing payment into court of the amount of that limit—

- (a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and
- (b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

(2A) Where—

- (a) a distribution is made under (2)(b) above without the court having found that the applicant is entitled to limit his liability, and
  - (b) the court subsequently finds that the applicant is not so entitled,
- the making of the distribution is not to be regarded as affecting the applicant's liability in excess of the amount distributed.

(3) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling; and

- (a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—
  - (i) the day on which the determination is made; or
  - (ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;
- (b) a certificate given by or on behalf of the Financial Secretary stating—
  - (i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or
  - (ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Chapter;

- (c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

(4) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(5) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends—

- (a) by the owner or the person referred to in section 165 as “the insurer”; or
- (b) by a person who has or is alleged to have incurred a liability, otherwise than under section 153, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of section 185 or 186 as extended to the Islands<sup>(a)</sup>;

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(6) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(7) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the Islands.

(8) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) above.

Restriction on enforcement after establishment of limitation fund.

**159.**—(1) Where the court has found that a person who has incurred a liability under section 153 is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—

- (a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and
- (b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs. . . ;

if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 158 had been taken.

(2) . . .

Concurrent liabilities of owners and others.

**160.** Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of the ship incurs a liability under section 153 and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section then, if—

- (a) the owner has been found, in proceedings under section 158 to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and
- (b) the other person is entitled to limit his liability in connection with the ship by virtue of section 185 or 186;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

(a) Sections 185 and 186 of and Schedule 7 to the Merchant Shipping Act 1995 were extended to the Islands by the Merchant Shipping (Limitation of Liability for Maritime Claims) (Overseas Territories) Order 1997 (S.I. 1997/2579).

Establishment of limitation fund outside the Islands. **161.** Where the events resulting in the liability of any person under section 153 also resulted in a corresponding liability under the law of another Liability Convention country sections 159 and 160 shall apply as if the references to sections 153 and 158 included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

Extinguishment of claims. **162.** No action to enforce a claim in respect of a liability incurred under section 153 or 154 shall be entertained by any court in the Islands unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape, or (as the case may be) in the relevant threat of contamination, by reason of which the liability was incurred.

### *Compulsory insurance*

Compulsory insurance against liability for pollution. **163.—**(1) Subject to the provisions of this Chapter relating to Government ships, subsection (2) below shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of oil of a description specified in regulations made by the Commissioner.

(2) The ship shall not enter or leave a port in the Islands or arrive at or leave a terminal in the territorial sea of the Islands unless there is in force a certificate complying with the provisions of subsection (3) below and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention (cover for owner's liability).

(3) The certificate must be—

- (a) ...
- (b) if the ship is registered in a Liability Convention country other than the Islands, a certificate issued by or under the authority of the government of the other Liability Convention country; and
- (c) if the ship is registered in a country which is not a Liability Convention country, a certificate issued by the Commissioner or by or under the authority of the government of any Liability Convention country other than the Islands.

(4) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any customs officer.

(5) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) above, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding £50,000.

(6) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (4) above, the master shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(7) If a ship attempts to leave a port in the Islands in contravention of this section the ship may be detained.

Issue of certificate by Commissioner. **164.—**(1) Subject to subsection (2) below, if the Commissioner is satisfied, on the application for such a certificate as is mentioned in section 163 in respect of a ship registered in any country which is not a Liability Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Liability Convention, the Commissioner shall issue such a certificate to the owner.

(2) If the Commissioner is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 153 in all circumstances, he may refuse the certificate.

(3) The Commissioner may make regulations providing for the cancellation and delivery up of a certificate under this section in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3) above to deliver up to a certificate fails to do so he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) . . .

Rights of third parties against insurers.

**165.—**(1) Where it is alleged that the owner of a ship has incurred a liability under section 153 as a result of any discharge or escape of oil occurring, or as a result of any relevant threat of contamination arising, while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 163 related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as "the insurer").

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability), to prove that the discharge or escape, or (as the case may be) the threat of contamination, was due to the wilful misconduct of the owner himself.

(3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escape, or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 157(3).

(4) Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

(5) . . .

#### *Supplementary*

Jurisdiction of the Islands courts and registration for foreign judgments.

**166.—**(1) . . .

(2) Where—

- (a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the territory of the Islands and no measures are reasonably taken to prevent or minimise such damage in the territory, or
- (b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise such damage in the territory of the Islands,

no court in the Islands shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

- (i) against the owner of the ship, or
- (ii) against any person to whom section 156(1)(ii) applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(3) In subsection (2) above, "relevant damage or cost" means—

- (a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the territory of another Liability Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country;
- (b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise such damage in the territory of another Liability Convention country; or
- (c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 156(2)(e) shall have effect for the purposes of subsection (2)(ii) above as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.



(4) The Foreign Judgments (Reciprocal Enforcement) Ordinance 1959(a) shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Liability Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 153; and in its application to such a judgment that Ordinance shall have effect with the omission of subsections (2) and (3) of section 6.

Government ships.

**167.**—(1) Nothing in the preceding provisions of this Chapter applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with section 163(2) if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Liability Convention will be met up to the limit prescribed by Article V of the Convention.

(3) Every Liability Convention State shall, for the purposes of any proceedings brought in a court in the Islands to enforce a claim in respect of a liability incurred under section 153, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution against the property of any State.

Limitation of liability under section 154.

**168.** For the purposes of section 185 as extended to the Islands any liability incurred under section 154 shall be deemed to be a liability to damages in respect of such damage to property as is mentioned in paragraph 1(a) of Article 2 of the Convention on Limitation of Liability for Maritime Claims 1976.

Saving for recourse actions.

**169.** Nothing in this Chapter shall prejudice any claim, or the enforcement of any claim, a person incurring liability under this Chapter may have against another person in respect of that liability.

Interpretation.

**170.**—(1) In this Chapter—

“the court” means the Supreme Court of the Falkland Islands;

“damage” includes loss;

“oil” means persistent hydrocarbon mineral oil;

“owner” means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship’s operator, it means the person registered as its operator;

“relevant threat of contamination” shall be construed in accordance with section 153(2) or 154(2); and

“ship” (subject to section 154(5)) means any sea-going vessel or seaborne craft of any type whatsoever.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil from a ship, or from a relevant threat of contamination, references in this Chapter to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape or (as the case may be) in the threat of contamination.

(3) . . .

(4) References in this Chapter to the territory of any country include the territorial sea of that country and—

(a) in the case of the Islands, any area within the Maritime Zone; and

(b) in the case of any other Liability Convention country, the exclusive economic zone of that country established in accordance with international law, or, if

such a zone has not been established, such area adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of that sea is measured as may have been determined by that State in question in accordance with international law.

(5) In subsection (4) above, "Maritime Zone" means the maritime zone which was established for the Islands by and delimited in section 1 of the Proclamation by the Commissioner dated 7th May 1993(a);

171.—...

## CHAPTER IV INTERNATIONAL OIL POLLUTION COMPENSATION FUND

### *Preliminary*

Meaning of the "Liability Convention", "the Fund Convention" and related expressions.

172.—(1) In this Chapter—

- (a) "the Liability Convention" has the same meaning as in Chapter III of this Part;
- (b) "the Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992;
- (c) "the Fund" means the International Fund established by the Fund Convention; and
- (d) "Fund Convention country" means a country in respect of which the Fund Convention is in force, and includes the United Kingdom and any relevant British possession to which the Fund Convention has been extended.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Fund Convention in respect of any country so specified, the Order shall, while in force, be conclusive evidence that that State is a party to that Convention in respect of that country.

### *Contributions to Fund*

Contributions by importers of oil and others.

173.—(1) Contributions shall be payable to the Fund in respect of oil carried by sea to ports or terminal installations in the Islands otherwise than on a voyage only within waters landward of the baselines for measuring the breadth of the territorial sea of the Islands.

(2) Subsection (1) above applies whether or not the oil is being imported, and applies even if contributions are payable in respect of carriage of the same oil on a previous voyage.

(3) Contributions shall also be payable to the Fund in respect of oil when first received in any installation in the Islands after having been carried by sea and discharged in a port or terminal installation in a country which is not a Fund Convention country.

(4) The person liable to pay contributions is—

- (a) in the case of oil which is being imported into the Islands, the importer, and
- (b) otherwise, the person by whom the oil is received.

(5) A person shall not be liable to make contributions in respect of oil imported or received by him in any year if the oil so imported or received in the year does not exceed 150,000 tonnes.

(6) For the purpose of subsection (5) above—

- (a) all the members of a group of companies shall be treated as a single person, and
- (b) any two or more companies which have been amalgamated into a single company shall be treated as the same person as that single company.

(a) Proclamation Number 1 of 1993 of South Georgia and the Sandwich Islands.

(7) The contributions payable by a person for any year shall—

- (a) be of such amount as may be determined by the Director of the Fund under Article 12 of the Fund Convention and notified to that person by the Fund;
- (b) be payable in such instalments, becoming due at such times, as may be so notified to him;

and if any amount due from him remains unpaid after the date on which it became due, it shall from then on bear interest, at a rate determined from time to time by the Assembly of the Fund, until it is paid.

(8) The Commissioner may by regulations impose on persons who are or may be likely to pay contributions under this section obligations to give security for payment to the Commissioner or the Fund.

(9) Regulations under subsection (8) above—

- (a) may contain such supplemental or incidental provisions as appear to the Commissioner expedient,
- (b) may impose penalties for contravention of the regulations punishable on summary conviction by a fine not exceeding level 5 on the standard scale, or such lower limit as may be specified in the regulations.

(10) In this section and in section 174, unless the context otherwise requires—

“company” means a body incorporated under the law of the Islands, or of any other country;

“group” in relation to companies, means a holding company and any subsidiaries as defined by section 736 of the Companies Act 1985(a) as in force in the Islands, subject, in the case of a company incorporated outside the Islands, to any necessary modifications of those definitions;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;

“oil” means crude oil and fuel oil, and

- (a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation, and includes—
  - (i) crude oil from which distillate fractions have been removed, and
  - (ii) crude oil to which distillate fractions have been added,
- (b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D396-69)”, or heavier,

“terminal installation” means any site for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, including any facility situated off-shore and linked to any such site.

Power to  
obtain  
information.

174.—(1) For the purpose of transmitting to the Fund the names and addresses of the persons who under section 173 are liable to make contributions to the Fund for any year, and the quantity of oil in respect of which they are so liable, the Commissioner may by notice require any person engaged in producing, treating, distributing or transporting oil to furnish such information as may be specified in the notice.

(2) A notice under this section may require a company to give such information as may be required to ascertain whether its liability is affected by section 173(6).

(3) A notice under this section may specify the way in which, and the time within which, it is to be complied with.

(4) In proceedings by the Fund against any person to recover any amount due under section 173, particulars contained in any list transmitted by the Commissioner to the

Fund shall, so far as those particulars are based on information obtained under this section, be admissible as evidence of the facts stated in the list; and so far as particulars which are so admissible are based on information given by the person against whom the proceedings are brought, those particulars shall be presumed to be accurate until the contrary is proved.

(5) If a person discloses any information which has been furnished to or obtained by him under this section, or in connection with the execution of this section, then, unless the disclosure is made—

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the execution of this section, or
- (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) A person who—

- (a) refuses or wilfully neglects to comply with a notice under this section, or
- (b) in furnishing any information in compliance with a notice under this section makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,

shall be liable—

- (i) on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) above and not exceeding the statutory maximum in the case of an offence under paragraph (b) above, and
- (ii) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding twelve months, or both.

#### *Compensation for persons suffering pollution damage*

Liability of the Fund. 175.—(1) The Fund shall be liable for pollution damage in the territory of the Islands if the person suffering the damage has been unable to obtain full compensation under section 153—

- (a) because the discharge or escape, or the relevant threat of contamination, by reason of which the damage was caused—
  - (i) resulted from an exceptional, inevitable and irresistible phenomenon, or
  - (ii) was due wholly to anything done or omitted to be done by another person (not being a servant or agent of the owner) with intent to do damage, or
  - (iii) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible,
 (and because liability is accordingly wholly displaced by section 155), or
- (b) because the owner or guarantor liable for the damage cannot meet his obligations in full, or
- (c) because the damage exceeds the liability under section 153 as limited by section 157.

(2) Subsection (1) above shall apply with the substitution for the words “the Islands” of the words “a Fund Convention country” where the incident has caused pollution damage in the territory of the Islands and of another Fund Convention country, and proceedings under the Liability Convention for compensation for the pollution damage have been brought in a country which is not a Fund Convention country or in the Islands.

(3) Where the incident has caused pollution damage in the territory of the Islands and of another country in respect of which the Liability Convention is in force, references in this section to the provisions of Chapter III of this Part shall include references to the corresponding provisions of the law of any country giving effect to the Liability Convention.

(4) . . .

(5) For the purposes of this section an owner or guarantor is to be treated as incapable of meeting his obligations if the obligations have not been met after all reasonable steps to pursue the legal remedies available have been taken.

(6) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise pollution damage shall be treated as pollution damage for the purposes of this section, and accordingly he shall be in the same position with respect to claims against the Fund under this section as if he had a claim in respect of liability under section 153.

(7) The Fund shall incur no obligation under this section if—

(a) it proves that the pollution damage—

(i) resulted from an act of war, hostilities, civil war or insurrection, or

(ii) was caused by oil which has escaped or been discharged from a warship or other ship owned or operated by a State and used, at the time of the occurrence, only on Government non-commercial service, or

(b) the claimant cannot prove that the damage resulted from an occurrence involving a ship identified by him, or involving two or more ships one of which is identified by him.

(8) If the Fund proves that the pollution damage resulted wholly or partly—

(a) from anything done or omitted to be done with intent to cause damage by the person who suffered the damage, or

(b) from the negligence of that person,

the Fund may (subject to subsection (10) below) be exonerated wholly or partly from its obligations to pay compensation to that person.

(9) Where the liability under section 153 in respect of the pollution damage is limited to any extent by subsection (8) of that section, the Fund shall (subject to subsection (10) below) be exonerated to the same extent.

(10) Subsections (8) and (9) above shall not apply where the pollution damage consists of the costs of preventive measures or any damage caused by such measures.

Limitation of Fund's liability under section 175. 176.—(1) The Fund's liability under section 175 shall be subject to the limits imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention (which impose an overall limit on the liabilities of the Fund and the text of which is set out in Part I of Schedule 5), and in those provisions references to the Liability Convention are references to the Liability Convention within the meaning of this Chapter.

(2) A certificate given by the Director of the Fund stating that subparagraph (c) of paragraph 4 of Article 4 of the Fund Convention is applicable to any claim under section 175 shall be conclusive evidence for the purposes of this Chapter that it is so applicable.

(3) For the purpose of giving effect to paragraphs 4 and 5 of the Fund Convention a court giving judgment against the Fund in proceedings under section 175 shall notify the Fund, and—

(a) no steps shall be taken to enforce the judgment unless and until the court gives leave to enforce it,

(b) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under those paragraphs, or that it is to be reduced to a specified amount, and

(c) in the latter case the judgment shall be enforceable only for the reduced amount.

(4) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (3) above shall be steps to obtain payment in sterling; and—

(a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in

sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

- (i) the relevant day, namely the day on which the Assembly of the Fund decide the date for the first payment of compensation in respect of the incident, or
  - (ii) if no sum has been so fixed for the relevant day, the last day before that day for which a sum has been so fixed; and
- (b) a certificate given by or on behalf of the Financial Secretary stating—
- (i) that a particular sum in sterling has been so fixed for the relevant day, or
  - (ii) that no sum has been so fixed for the relevant day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the relevant day,

shall be conclusive evidence of those matters for the purposes of this Chapter.

(5) The Secretary of State may by order make such amendments of this section and Part I of Schedule 5 as appear to him to be appropriate for the purpose of giving effect to the entry into force of any amendment of the provisions set out in that Schedule.

(6) Any document purporting to be such a certificate as is mentioned in subsection (2) or (4)(b) above shall, in any legal proceedings, be received in evidence, and, unless the contrary is proved, be deemed to be such a certificate.

### *Supplemental*

Jurisdiction  
and effect of  
judgments.

177.—(1) . . .

(2) Where in accordance with rules of court made for the purposes of this subsection the Fund has been given notice of proceedings brought against an owner or guarantor in respect of liability under section 153, any judgment given in the proceedings shall, after it has become final and enforceable, become binding upon the Fund in the sense that the facts and evidence in the judgment may not be disputed by the Fund even if the Fund has not intervened in the proceedings.

(3) Where a person incurs a liability under the law of a Fund Convention country corresponding to Chapter III of this Part for damage which is partly in the territory of the Islands, subsection (2) above shall, for the purpose of proceedings under this Chapter, apply with any necessary modifications to a judgment in proceedings under that law of the said country.

(4) Subject to subsection (5) below, Part I of the Foreign Judgments (Reciprocal Enforcement) Ordinance 1959(a) shall apply, whether or not it would so apply apart from this subsection, to any judgment given by a court in a Fund Convention country to enforce a claim in respect of liability incurred under any provision corresponding to section 175; and in its application to such a judgment the said Ordinance shall have effect with the omission of subsections (2) and (3) of section 6.

(5) No steps shall be taken to enforce such a judgment unless and until the court in which it is registered under the 1959 Ordinance gives leave to enforce it; and—

- (a) that leave shall not be given unless and until the Fund notifies the court either that the amount of the claim is not to be reduced under paragraph 4 of Article 4 of the Fund Convention (as set out in Part I of Schedule 5) or that it is to be reduced to a specified amount; and
- (b) in the latter case, the judgment shall be enforceable only for the reduced amount.

Extinguishment  
of claims.

178.—(1) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the Islands unless—

- (a) the action is commenced, or
  - (b) a third party notice of action to enforce a claim against the owner or his guarantor in respect of the same damage is given to the Fund,
- not later than three years after the claim against the Fund arose.

(a) Laws of the Falkland Islands, No. 4 of 1959.

In this subsection "third party notice" means a notice of the kind described in section 177(2) and (3).

(2) No action to enforce a claim against the Fund under this Chapter shall be entertained by a court in the Islands unless the action is commenced not later than six years after the occurrence, or first of the occurrences, resulting in the discharge or escape or (as the case may be) in the relevant threat of contamination, by reason of which the claim against the Fund arose.

**Subrogation.** 179.—(1) In respect of any sum paid by the Fund as compensation for pollution damage the Fund shall acquire by subrogation any rights in respect of the damage which the recipient has (or but for the payment would have) against any other person.

(2) In respect of any sum paid by a public authority in the Islands as compensation for pollution damage, that authority shall acquire by subrogation any rights which the recipient has against the Fund under this Chapter.

**Supplementary provisions as to proceedings involving the Fund.** 180.—(1) Any proceedings by or against the Fund may either be instituted by or against the Fund in its own name or be instituted by or against the Director of the Fund as the Fund's representative.

(2) Evidence of any instrument issued by any organ of the Fund or of any document in the custody of the Fund, or any entry in or extract from such a document, may be given in any legal proceedings by production of a copy certified as a true copy by an official of the Fund; and any document purporting to be such a copy shall, in any such proceedings, be received in evidence without proof of the official position or handwriting of the person signing the certificate.

**Interpretation.** 181.—(1) In this Chapter, unless the context otherwise requires—

"damage" includes loss;

"discharge or escape", in relation to pollution damage, means the discharge or escape of oil from the ship;

"guarantor" means any person providing insurance or other financial security to cover the owner's liability of the kind described in section 163;

"incident" means any occurrence, or series of occurrences having the same origin, resulting in a discharge or escape of oil from a ship or in a relevant threat of contamination;

"oil", except in sections 173 and 174, means persistent hydrocarbon mineral oil;

"owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship, except that, in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator;

"pollution damage" means—

- (a) damage caused outside a ship by contamination resulting from a discharge or escape of oil from the ship,
- (b) the cost of preventive measures, and
- (c) further damage caused by preventive measures,

but does not include any damage attributable to any impairment of the environment except to the extent that any such damage consists of—

- (i) any loss of profits, or
- (ii) the cost of any reasonable measures of reinstatement actually taken or to be taken;

"preventive measures" means any reasonable measures taken by any person to prevent or minimise pollution damage, being measures taken—

- (a) after an incident has occurred, or
- (b) in the case of an incident consisting of a series of occurrences, after the first of those occurrences;

“relevant threat of contamination” means a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship; and

“ship” means any ship (within the meaning of Chapter III of this Part) to which section 153 applies.

(2) For the purposes of this Chapter—

- (a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank; and
- (b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one.

(3) References in this Chapter to the territory of any country shall be construed in accordance with section 170(4) reading the reference to a Liability Convention country as a reference to a Fund Convention country.

## SCHEDULE 5

Section 176

### OVERALL LIMIT ON LIABILITY OF FUND

#### PART I

#### PERMANENT PROVISION

##### Article 4—paragraphs 4 and 5

- 4. (a) Except as otherwise provided in sub-paragraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.
- (b) Except as otherwise provided in sub-paragraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed 135 million units of account.
- (c) The maximum amount of compensation referred to in sub-paragraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.
- (d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.
- (e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.



**EXPLANATORY NOTE**

*(This note is not part of the Order)*

The International Convention on Civil Liability for Oil Pollution Damage 1969 (CLC), which was implemented in the South Georgia and the South Sandwich Islands by Schedule 1 to the Merchant Shipping (Oil Pollution) (Falkland Islands) Order 1975, provides uniform rules and procedures for determining questions of liability and for awarding compensation when damage is caused by pollution resulting from the escape or discharge of oil from ships. The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (the Fund Convention), which was implemented in the Islands by Schedule 2 to the 1975 Order, set up an international fund to provide a supplementary system for compensation and indemnification for such damage. The 1992 Protocol to the CLC, and the 1992 Protocol to the Fund Convention respectively create a new 1992 Civil Liability Convention and a 1992 Fund Convention which together provide for higher levels of compensation and more extensive liability. The 1992 Conventions are given effect in the United Kingdom by Part VI, Chapters III and IV of the Merchant Shipping Act 1995. This Order extends those provisions of the 1995 Act to South Georgia and the South Sandwich Islands, with the necessary exceptions, adaptations and modifications.

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Government Secretary



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
PUBLISHED BY AUTHORITY

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*No. 3**30th June 1998*

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The following are published in this Gazette —

**Visitors (Landing Fees) Regulations 1998, (S.R. & O. No. 2 of 1998);**

**Harbours (Fees) (Amendment) Regulations 1998, (S.R. & O. No. 3 of 1998);**

**Customs (Fees) (Amendment) Regulations 1998, (S.R. & O. No. 4 of 1998);**

**Fisheries (Transshipment and Export) (Amendment) Regulations 1998, (S.R. & O. No. 5 of 1998).**

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SUBSIDIARY LEGISLATION

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SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

VISITORS

**Visitors (Landing Fees) Regulations 1998**

S. R. & O. No. 2 of 1998

*Made:* 24 June 1998  
*Published:* 30 June 1998  
*Coming into force:* 1 July 1998

IN EXERCISE of my powers under section 6 of the Visitors Ordinance 1992(a), and of all other powers enabling me in that behalf, I make the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as the Visitor (Landing Fees) Regulations 1998 and shall come into force on 1 July 1998.

**Amendment of the passenger landing fee**

2. The passenger landing fee payable under section 3(1) of the Visitors Ordinance 1992 is 50 pounds sterling.

Made this 24th day of June 1998

R P Ralph  
*Commissioner*

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**SUBSIDIARY LEGISLATION**

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**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**HARBOURS**

**Harbours (Fees)(Amendment) Regulations 1998**

S. R. & O. No. 3 of 1998

*Made:* 25 June 1998  
*Published:* 30 June 1998  
*Coming into force:* 1 July 1998

IN EXERCISE of my powers under section 3 of the Harbours Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as the Harbours (Fees)(Amendment) Regulations 1998 and shall come into force on 1 July 1998.

**Amendment of the Harbours (Fees) Regulations 1994**

2. The Harbours (Fees) Regulations 1994(b) are amended as follows—

(a) regulation 2 is amended by deleting the figures and symbol “£25” and replacing them with “£30”.

(b) the Schedule to the Regulations is amended by replacing it with the following—

**“SCHEDULE**

(regulation 3(1))

Yachts (irrespective of tonnage)— £50.00

The following fees are payable in relation to the net tonnage of the vessel concerned—

| Vessels (other than yachts)—   | Fee—    |
|--------------------------------|---------|
| Under 30 tonnes                | £53.00  |
| 30 tonnes and under 50 tonnes  | £182.00 |
| 50 tonnes and under 800 tonnes | £254.00 |

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(a) Cap 30 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

(b) S.R.&O. No 1 of 1994 as amended by S.R.&O. No 1 of 1995

|                                     |            |
|-------------------------------------|------------|
| 800 tonnes and under 1000 tonnes    | £319.00    |
| 1000 tonnes and under 1500 tonnes   | £373.00    |
| 1500 tonnes and under 2000 tonnes   | £452.00    |
| 2000 tonnes and under 5000 tonnes   | £547.00    |
| 5000 tonnes and under 7000 tonnes   | £680.00    |
| 7000 tonnes and under 10000 tonnes  | £1,012.00  |
| 10000 tonnes and under 15000 tonnes | £1,234.00  |
| 15000 tonnes and under 20000 tonnes | £1,452.00  |
| Vessels over 20000 tonnes           | £1,525.00" |

Made this 25th day of June 1998

R P Ralph  
*Commissioner*

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**EXPLANATORY NOTE**

*(not forming part of the above regulations)*

These Regulations set revised harbour dues for South Georgia and the South Sandwich Islands.

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SUBSIDIARY LEGISLATION

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SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

CUSTOMS

Customs (Fees)(Amendment) Regulations 1998

S. R. & O. No. 4 of 1998

*Made:* 25 June 1998  
*Published:* 30 June 1998  
*Coming into force:* 1 July 1998

IN EXERCISE of my powers under section 230 of the Customs Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as the Customs (Fees)(Amendment) Regulations 1998 and shall come into force on 1 July 1998.

**Amendment of the Customs (Fees) Regulations 1992**

2. Regulation 3 of the Customs (Fees) Regulations 1992(b) are amended by deleting the figures and symbols “£40.00”, “£20.00”, “£60” and “£30” wherever they appear in regulation 3 and replacing them as follows—

“£40.00” to be replaced by “£44”;  
“£20.00” to be replaced by “£22”;  
“£60” to be replaced by “£66”; and  
“£30” to be replaced by “£33”.

Made this 25th day of June 1998

R P Ralph  
*Commissioner*

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(a) Cap 16 Laws of the Falkland Islands 1950 Edition in its application under Cap 1(DS) to South Georgia and the South Sandwich Islands

(b) SR&O No 1 of 1992

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**EXPLANATORY NOTE**

*(not forming part of the above regulations)*

These Regulations make revised provision for the charging of customs fees for customs services provided in respect of South Georgia and the South Sandwich Islands.



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SUBSIDIARY LEGISLATION

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SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

FISHERIES

**Fisheries (Transshipment and Export)(Amendment) Regulations 1998**

S. R. & O. No. 5 of 1998

*Made:* 25 June 1998  
*Published:* 30 June 1998  
*Coming into force:* 1 July 1998

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as the Fisheries (Transshipment and Export) (Amendment) Regulations 1998 and shall come into force on 1 July 1998.

**Amendment of the Fisheries (Transshipment and Export) Regulations 1990**

2. The Fisheries (Transshipment and Export) Regulations 1990(b) are amended by deleting the symbol and figures "£1000" appearing in the Schedule and replacing them with "£1,100".

Made this 25th day of June 1998

R P Ralph  
*Commissioner*

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(a) Cap 27 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

(b) SR&O No 1 of 1990

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**EXPLANATORY NOTE**  
*(not forming part of the above regulations)*

These Regulations revise the fee payable for a licence to tranship fish within the waters of South Georgia and the South Sandwich Islands.



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE  
PUBLISHED BY AUTHORITY**

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*No.4*

*23rd December 1998*

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**Marriage Ordinance 1949, Cap 43  
(section 5)**

**Registration as a Minister for Celebrating Marriage**

It is hereby notified that ALISTAIR McHAFFIE has been registered as a Minister for Celebrating Marriage with effect from 18 December 1998.

Dated 21 December 1998.



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*7th February 2000*

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The following are published in this Gazette:-

**Notices 1 - 3.**

**Marriage Ordinance (Cap 43) (Amendment) Ordinance 2000.**

No. 1 28th January 2000

**MARRIAGE ORDINANCE (CAP 43)**

**APPOINTMENT OF REGISTRAR**

**I DONALD ALEXANDER LAMONT**  
Commissioner for South Georgia and the South  
Sandwich Islands **IN EXERCISE** of my powers under  
section 4 of the Marriage Ordinance and all other  
powers enabling me **HEREBY APPOINT**

**SARAH JANE LURCOCK**

to be a Registrar for the purposes of solemnising  
marriages generally in South Georgia and the South  
Sandwich Islands.

Dated this 28<sup>th</sup> day of January 2000.

D A Lamont,  
*Commissioner.*

No. 2 28th January 2000

**MARRIAGE ORDINANCE (CAP 43)**

**APPOINTMENT OF REGISTRAR**

**I DONALD ALEXANDER LAMONT**  
Commissioner for South Georgia and the South  
Sandwich Islands **IN EXERCISE** of my powers under  
section 4 of the Marriage Ordinance and all other

powers enabling me **HEREBY APPOINT**

**PAULINE GRACE SHAW**

to be a Registrar for the purposes of solemnising  
marriages generally in South Georgia and the South  
Sandwich Islands.

Dated this 28<sup>th</sup> day of January 2000.

D A Lamont,  
*Commissioner.*

No. 3 28th January 2000

**MARRIAGE ORDINANCE (Cap. 43)**

**CERTIFICATE OF REGISTRATION**

**I DONALD ALEXANDER LAMONT**  
Commissioner for South Georgia and the South  
Sandwich Islands **IN EXERCISE** of my powers under  
section 6(2) of the Marriage Ordinance and all other  
powers enabling me **HEREBY REGISTER** the  
Church at Grytviken as a place at which marriages  
may be celebrated and **GRANT** this Certificate of  
Registration in respect of the Church at Grytviken.

Given at Stanley in the Falkland Islands under my  
hand as witness the Public Seal this 2<sup>nd</sup> day of February  
2000.

D A Lamont,  
*Commissioner.*

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**Marriage Ordinance (Cap 43) (Amendment) Ordinance 2000**

*(No. 1 of 2000)*

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Interpretation
3. Amendment of Principal Ordinance

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**MARRIAGE ORDINANCE (CAP 43) (AMENDMENT) ORDINANCE 2000**

*(No. 1 of 2000)*

AN ORDINANCE

*(assented to: January 2000)*

*(commencement: on publication)*

*(published: 7th February 2000)*

To amend the provisions of the Marriage Ordinance (Cap 43) of the Falkland Islands in its continued application to South Georgia and the South Sandwich Islands.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows —

**Short title**

1. This Ordinance may be cited as the Marriage Ordinance (Cap 43) (Amendment) Ordinance 2000.

**Interpretation**

2. In this Ordinance the "Principal Ordinance" means the Marriage Ordinance (Cap 43) of the Falkland Islands having effect in South Georgia and the South Sandwich Islands by virtue of section 12 of the South Georgia and the South Sandwich Islands Order 1985.

**Amendment of Principal Ordinance**

3. The Principal Ordinance is amended by deleting section 8 and replacing it with the following <sup>3</sup>/<sub>4</sub>

**"Declaration of intended marriage**

8. One of the parties to the intended marriage shall make and sign before a magistrate, registrar, justice of the peace, British consular official or notary public a solemn declaration as in Form 1 in the First Schedule hereto, before any licence is granted."

Made this 28<sup>th</sup> day of January 2000

D A Lamont,  
*Commissioner.*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

No. 2

19th July 2000

The following are published in this Gazette:-

**Notices 4 & 5.**

**Afghanistan (United Nations Sanctions) (Overseas Territories) Order 1999;  
Fisheries (Conservation and Management) Ordinance 2000.**

No. 4

4th February 1999

**APPOINTMENT OF ATTORNEY GENERAL**

**IN EXERCISE** of my powers under section 7 of the South Georgia and the South Sandwich Islands Order 1985 and all other powers me enabling **I RICHARD PETER RALPH** Companion of the Most Distinguished Order of Saint Michael and Saint George Commander of the Royal Victorian Order Commissioner for South Georgia and the South Sandwich Islands **HEREBY** authorise **ROBERT MARK TITTERINGTON** to discharge the functions and duties of the post of Attorney General whenever the substantive holder of the post of Attorney General **DAVID GEOFFREY LANG** is unavailable to discharge the same through absence from the Falkland Islands.

Given under my hand and the Public Seal at Stanley on this 4th day of February 1999.

**R P RALPH,**  
*Commissioner.*

No. 5

18th April 2000

**APPOINTMENT OF POSTMASTER**

**IN EXERCISE** of all powers enabling me **I DONALD ALEXANDER LAMONT** Commissioner for South Georgia and the South Sandwich Islands **APPOINT MOIRA ECCLES** to be Postmaster for South Georgia and the South Sandwich Islands for so long as she holds the position of Superintendent of Posts and Telecommunications in the Falkland Islands.

Given under my hand at Stanley this 18th day of April 2000.

**D A LAMONT,**  
*Commissioner.*



**AFGHANISTAN (UNITED NATIONS SANCTIONS)  
(OVERSEAS TERRITORIES) ORDER 1999**

*(SI 1999/3136)*

On 22 December 1999 the Committee established by the Security Council of the United Nations in paragraph 6 of its resolution 1267 (1999) of 15 October 1999, designated, for the purposes of paragraph 4(a) of that resolution, the following aircraft owned, leased, or operated by or on behalf of the Taliban:

| <b>Operator:</b> | <b>Owner:</b>    | <b>Registration:</b> | <b>Make:</b> | <b>Model:</b> | <b>Serial:</b> |
|------------------|------------------|----------------------|--------------|---------------|----------------|
| Afghan Air Force | Afghan Air Force | 229                  | Antonov      | AN26          | SFG1008        |
| Afghan Air Force | Afghan Air Force | 230                  | Antonov      | AN26          | SFG1009        |
| Afghan Air Force | Afghan Air Force | 231                  | Antonov      | AN26          | SFG1010        |
| Afghan Air Force | Afghan Air Force | 232                  | Antonov      | AN26          | SFG1011        |
| Afghan Air Force | Afghan Air Force | 233                  | Antonov      | AN26          | SFG1012        |
| Afghan Air Force | Afghan Air Force | 234                  | Antonov      | AN26          | SFG1013        |
| Afghan Air Force | Afghan Air Force | 235                  | Antonov      | AN26          | SFG1014        |
| Afghan Air Force | Afghan Air Force | 236                  | Antonov      | AN26          | SFG1015        |
| Afghan Air Force | Afghan Air Force | 237                  | Antonov      | AN26          | SFG1016        |
| Afghan Air Force | Afghan Air Force | 238                  | Antonov      | AN26          | SFG1017        |
| Afghan Air Force | Afghan Air Force | 239                  | Antonov      | AN26          | SFG1018        |
| Afghan Air Force | Afghan Air Force | 240                  | Antonov      | AN26          | SFG1019        |
| Afghan Air Force | Afghan Air Force | 241                  | Antonov      | AN26          | SFG1020        |
| Afghan Air Force | Afghan Air Force | 242                  | Antonov      | AN26          | SFG1021        |
| Afghan Air Force | Afghan Air Force | 243                  | Antonov      | AN26          | SFG1022        |
| Afghan Air Force | Afghan Air Force | 244                  | Antonov      | AN26          | SFG1023        |
| Afghan Air Force | Afghan Air Force | 245                  | Antonov      | AN26          | SFG1024        |
| Afghan Air Force | Afghan Air Force | 246                  | Antonov      | AN26          | SFG1025        |
| Afghan Air Force | Afghan Air Force | 247                  | Antonov      | AN26          | SFG1026        |
| Afghan Air Force | Afghan Air Force | 252                  | Antonov      | AN26          | SFG1027        |
| Afghan Air Force | Afghan Air Force | 268                  | Antonov      | AN26          | SFG1028        |
| Afghan Air Force | Afghan Air Force | 284                  | Antonov      | AN32          | AN32021        |
| Afghan Air Force | Afghan Air Force | 301                  | Antonov      | AN32          | AN32053        |
| Afghan Air Force | Afghan Air Force | 302                  | Antonov      | AN32          | AN32054        |
| Afghan Air Force | Afghan Air Force | 303                  | Antonov      | AN32          | AN32055        |
| Afghan Air Force | Afghan Air Force | 304                  | Antonov      | AN32          | AN32056        |
| Afghan Air Force | Afghan Air Force | 305                  | Antonov      | AN32          | AN32057        |
| Afghan Air Force | Afghan Air Force | 306                  | Antonov      | AN32          | AN32058        |
| Afghan Air Force | Afghan Air Force | 307                  | Antonov      | AN32          | AN32022        |
| Afghan Air Force | Afghan Air Force | 308                  | Antonov      | AN32          | AN32023        |
| Afghan Air Force | Afghan Air Force | 346                  | Antonov      | AN32          | AN32059        |
| Afghan Air Force | Afghan Air Force | 353                  | Antonov      | AN32          | AN32024        |
| Afghan Air Force | Afghan Air Force | 363                  | Antonov      | AN32          | AN32060        |
| Afghan Air Force | Afghan Air Force | 381                  | Antonov      | AN12          | AN12235        |
| Afghan Air Force | Afghan Air Force | 382                  | Antonov      | AN12          | AN12236        |
| Afghan Air Force | Afghan Air Force | 384                  | Antonov      | AN12          | AN12237        |
| Afghan Air Force | Afghan Air Force | 387                  | Antonov      | AN12          | 4342205        |
| Afghan Air Force | Afghan Air Force | 388                  | Antonov      | AN12          | AN12238        |
| Afghan Air Force | Afghan Air Force | 390                  | Antonov      | AN12          | AN12239        |
| Afghan Air Force | Afghan Air Force | T-001                | Ilyushin     | IL18          | 87010105       |
| Afghan Air Force | Afghan Air Force | T-004                | Antonov      | AN26          | SFG1007        |

| <b>Operator:</b>       | <b>Owner:</b>             | <b>Registration:</b> | <b>Make:</b> | <b>Model:</b> | <b>Serial:</b> |
|------------------------|---------------------------|----------------------|--------------|---------------|----------------|
| Afghan Air Force       | Afghan Air Force          | T-005                | Antonov      | AN24          | SFG1006        |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | CCCP-87255           | Yakoviev     | YK40          | AFG01          |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-BAG               | Antonov      | AN24          | 7306602        |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-BAH               | Antonov      | AN24          | 17306709       |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-BAL               | Antonov      | AN26          | 14105          |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-BAN               | Antonov      | AN26          | 14304          |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-BAO               | Antonov      | AN26          | 14305          |
| Ariana Afghan Airlines | Unconfirmed CIS operator  | YA-DAA               | Antonov      | AN12          | AN12353        |
| Ariana Afghan Airlines | Polet Russian Air Company | YA-DAB               | Antonov      | AN12          | 5342801        |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-DAG               | Antonov      | AN24          | 87304504       |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-FAU               | Boeing       | B727          | 20343          |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-FAW               | Boeing       | B727          | 19619          |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-GAX               | De Haviland  | DHC6          | 331            |
| Caspian Airlines       | Ariana Afghan Airlines    | EP-CPG               | Tupolev      | T154          | 748            |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-DAF               | Antonov      | AN24          |                |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-DAJ               | Antonov      | AN24          | 47309603       |
| Ariana Afghan Airlines | Ariana Afghan Airlines    | YA-FAY               | Boeing       | B727          | 22289          |
| Ariana Afghan Airlines | Tyumenaviatrans           | YA-87486             | Yakoviev     | YK40          | 9441438        |

These particulars are published in accordance with article 3(2) of the above-mentioned Order.

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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RUSSELL THOMAS JARVIS,  
*Acting Commissioner.*

**FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2000**

*(No: 2 of 2000)*

ARRANGEMENT OF PROVISIONS

Section

PART I  
INTRODUCTORY

*Short title, commencement and interpretation*

1. Short title
2. Interpretation

*Administration*

3. Fishing waters
4. Director of Fisheries and Fisheries Protection Officers

*Restriction of fishing and fishing-related operations*

5. Licensing of fishing boats
6. Receiving and trans-shipping of fish and other fishing-related operations
7. Supplementary to sections 5 and 6
8. Report prior to entry
9. Fishing waters outside specified areas

PART II  
PROVISIONS APPLYING IN OR IN RELATION TO SPECIFIED AREAS OF THE FISHING  
WATERS

*Introductory*

10. Application and interpretation of this Part

*Powers of Fishery Protection Officers*

11. Powers of Fishery Protection Officers: introductory provisions  
12. Powers referred to in section 11 and provisions related to those powers

*Release of things seized or detained*

13. Release of fishing boat, other vessel or thing if no proceedings are instituted  
14. Security for and release of fishing boat, fish other vessel or thing by court

*Miscellaneous offences relating to specified areas*

15. Unstowed fishing gear  
16. Reports on departure  
17. Supplementary to sections 8 and 16

PART III  
GENERAL

*Provisions as to offences*

18. Further provisions as to offences  
19. Jurisdiction of Summary and Magistrate's Court  
20. Forfeiture of licence  
21. Administrative penalties for minor offences  
22. Provisions as to amounts of fine which may be imposed and other orders to be made by a court on conviction  
23. Detention or forfeiture of fishing boats on failure to pay or secure fine  
24. Regulations  
25. Service of proceedings and notices  
26. Repeal and saving

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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RUSSELL THOMAS JARVIS,  
*Acting Commissioner.*

**FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2000**

*(No. 2 of 2000)*

*(assented to: 30 June 2000)*  
*(commencement: in accordance with section 1)*  
*(published: 19 July 2000)*

AN ORDINANCE

To repeal the Fishing (Conservation and Management) Ordinance 1993 and to re-enact it with amendments.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows —

PART I  
INTRODUCTORY

*Short title, commencement and interpretation*

**Short title**

1. This Ordinance may be cited as the Fisheries (Conservation and Management) Ordinance 2000 and shall come into force on such date as the Commissioner may appoint by notice published in the *Gazette*.

**Interpretation**

2. In this Ordinance unless the context otherwise requires —

“catch” and its correlatives include “take” and its correlatives;

“Convention” means the Convention on the Conservation of Antarctic Marine Living Resources made in Canberra on 20th May 1980, as amended from time to time, and includes any Protocol to that Convention and any decision or measure which is for the time being in force adopted pursuant to that Convention by the Commission to that Convention;

“Director of Fisheries” means the Director of Fisheries appointed as provided in section 4(1);

“Fisheries Protection Officer” means the Director of Fisheries and any of the Fisheries Protection Officers provided for in section 4(4);

“fish” means any sea fish, including shellfish, and any marine animal other than a bird;

“fish product” means anything made from or derived from fish;

“fishing” means the catching of fish and any other activity which can reasonably be expected to result in the catching of fish;

“fishing boat” means any vessel of whatever size, and in whatever way propelled, which is for the time being adapted or used for fishing;

“fishing gear” includes nets of every kind, fish-hooks, lines, pots, trawl doors and buoys;

“fishing licence” means a licence provided for under section 5;

“fishing-related operations” means the processing, storage, carriage or trans-shipment of fish aboard any vessel and any operation ancillary to any of those operations;

“fishing waters” means the fishing waters of South Georgia and the South Sandwich Islands provided for in section 3;

“individual” means a living person;

“internal waters” means those sea waters on the landward side of the base line from which the territorial sea is measured;

“Maritime Zone” means the zone of that name established by and defined in a Proclamation of the Commissioner dated 7th May 1993 (Proclamation No 1 of 1993);

“this Ordinance” includes any regulations made under this Ordinance which are for the time being in force;

“processing” (in relation to fish) includes preserving or preparing fish or processing any article or substance obtained from fish, by any method whatever and for whatever purpose;

“master”, in relation to a fishing boat, means both the person appearing to be the person who is for the time being in command or in charge of the boat and any person who is for the time being in charge of fishing operations on board that fishing boat;

“sea fish” means any fish or part of any fish found in the fishing waters;

“shellfish” includes crustaceans and molluscs of any kind, and includes any (or any part of any) brood, ware, half-ware or spat of shellfish and any spawn of shellfish, and the shell, or any part of the shell, of a shellfish;

“specified area” means any area of the fishing waters for the time being the subject of an Order made under, or continuing to have effect as if made under, section 5(1);

“territorial sea” has the same meaning as it has by virtue of article 2 of the South Georgia and the South Sandwich Islands (Territorial Sea) Order 1989;

“trans-shipment licence” means a licence granted under section 6;

“trans-shipment of fish” includes the passing of fish from one fishing boat to another whether or not the fish has first been taken on board the boat from which the fish is passed;

“the 1993 Ordinance” means the Fishing (Conservation and Management) Ordinance 1993.

#### *Administration*

#### **Fishing waters**

3. The fishing waters of South Georgia and the South Sandwich Islands comprise —

- (a) the internal waters;
- (b) the territorial sea; and
- (c) the Maritime Zone.

#### **Director of Fisheries and Fisheries Protection Officers**

4.—(1) The Commissioner shall appoint a person to be the Director of Fisheries who shall administer this Ordinance and be responsible for —

- (a) the conservation of fish stocks;
- (b) the assessment of fish stocks and the collection of data, statistics and any other relevant information;
- (c) the development and management of fisheries;
- (d) the monitoring, control and surveillance of fishing and fishing-related operations;

- (e) the regulation of the conduct of fishing and fishing-related operations;
- (f) the issue, variation, suspension and revocation of licences for fishing and fishing-related operations;
- (g) the collection of fees in respect of fishing licences and trans-shipment licences;
- (h) the making of such reports to the Commissioner as the latter, in his discretion, may require;
- (i) other matters referred to in this Ordinance.

(2) In the performance of his duties under this Ordinance the Director of Fisheries shall be subject to the direction of the Commissioner except that in the performance of such of his duties as relate to the prosecution or non-prosecution of offences under this Ordinance he shall act in accordance with such directions as the Attorney General may give to him.

(3) This Ordinance shall be enforced by Fisheries Protection Officers acting (save as provided in subsection (2)) subject to the direction of the Director of Fisheries, and for that purpose Fisheries Protection Officers shall have the powers set out in section 12.

(4) The following persons shall be Fisheries Protection Officers, that is to say every person appointed in that behalf by the Commissioner, every police officer, customs officer, Marine Officer or Harbour Master of any harbour in South Georgia and the South Sandwich Islands, commissioned officer on any of Her Majesty's ships and persons in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.

(5) In the performance of their duties under this Ordinance the Director of Fisheries and every Fishery Protection Officer shall have regard to the provisions of the Convention but the question as to whether the Director of Fisheries or any Fishery Protection Officer has done so in any particular instance shall not be inquired into in any court.

#### *Restriction of fishing and fishing-related operations*

##### **Licensing of fishing boats**

5.—(1) The Commissioner may by Order provide that in any of the fishing waters lying to the north of sixty degrees south of latitude specified in the Order (a "specified area") fishing is prohibited unless it is authorised by a licence granted by the Director of Fisheries or is permitted under subsection (14).

(2) Such an Order may apply to fishing boats generally in the specified area or to fishing —

- (a) for a specified description of fish;
- (b) by a specified method; or



(c) during a specified season of the year or other period.

(3) Where any fishing boat is used in contravention of any prohibition imposed by an Order under this section, the master, the owner and the charterer (if any) of the fishing boat each commit an offence under this subsection and are each liable on conviction thereof to a fine not exceeding £500,000.

(4) An Order under this section may authorise the charging of a fee for licences under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(5) Where an Order under this section authorises the charging of a fee for a licence —

(a) the Commissioner may waive or reduce that fee if he sees fit to do so in the circumstances of the particular case;

(b) any such fee may be expressed to be variable in relation to all or any of the following matters —

(i) the size of the fishing boat;

(ii) the equipment in relation to fishing affixed to or employed upon or in connection with the fishing boat;

(iii) the facilities aboard the fishing boat for the storage, freezing, processing or other treatment of fish;

(iv) the area in which fishing is authorised;

(v) the description and quantities of fish which may be taken;

(vi) the method or methods of fishing authorised to be used.

(6) An Order under this section may be amended, modified, revoked or replaced by a further Order under this section.

(7) A licence under this section may authorise fishing either unconditionally or subject to such conditions —

(a) as the Director of Fisheries may have been directed by the Commissioner to impose;

(b) as in the opinion of the Director of Fisheries may be necessary or expedient to regulate the conduct of fishing and fishing-related operations by the licensee under authority of the licence;

(c) as to the use to which the fish may be put;

(d) prohibiting or restricting the use of any equipment which might kill or harm any aquatic bird or marine mammal to be found or likely to be found in the area to which the licence relates;

(e) as to the disposal of waste, effluvia or deleterious matter by the fishing boat to which the licence relates;

(f) otherwise as in the opinion of the Director of Fisheries may be necessary or expedient to secure the fulfilment of any obligation under or objective of the Convention,

as are contained in or specified in the licence, and the conditions subject to which a licence may be granted under this section may differ between different fishing boats or fishing boats of different descriptions.

(8) Subsection (7) has effect without prejudice to any power under section 24 to make regulations as to any matter as to which under subsection (7) conditions may be imposed.

(9) The licensing powers conferred by this section may be exercised so as to limit the number of fishing boats, or any class of fishing boats, engaged in fishing in any area, or fishing in any area for any description of fish in any manner which appears to the Director of Fisheries to be expedient or necessary for the regulation of fishing.

(10) The Director of Fisheries —

(a) may from time to time vary a licence granted under this section;

(b) may revoke or suspend such a licence if he considers it to be necessary for the regulation of fishing or to be appropriate having regard to the conduct of the licensee, and whether that conduct was within a specified area or elsewhere.

(11) Where the Director of Fisheries varies, revokes or suspends a licence he may, if he considers it appropriate in all the circumstances of the case, refund the whole or part of the fee paid in respect of that licence.

(12) If a licence condition is broken, the owner and charterer (if any) of the fishing boat named in the licence each commit an offence under this section and are each liable on conviction of that offence to a fine not exceeding £250,000.

(13) Any person who —

(a) for the purpose of obtaining a licence under this section; or

(b) in purported compliance with any condition contained in a licence requiring the provision to the Director of Fisheries or to any person on his behalf of statistical information,

furnishes information which he knows to be false or recklessly furnishes information which is false in a material particular, commits an offence under this section and is liable to a fine not exceeding £100,000 and where a person other than the owner or charterer (if any) of the fishing boat in question furnishes such false information, that owner and that charterer (if any) as well as the person who actually furnished the information shall be deemed to have furnished it and to have committed the offence and shall be liable to be dealt with in respect of unless he or they shall prove that the person who actually furnished the information was not authorised to act on his or their behalf.

(14) Nothing in the foregoing provisions of this section or of any Order under it shall apply to fishing which is undertaken for the purpose of genuine scientific research which has been notified in advance to the Secretariat of the Commission.

### **Receiving and trans-shipping of fish and other fish-related operations**

6.—(1) In the subsequent provisions of this section “fish” includes fish products.

(2) The Commissioner may by Order provide that in any specified area (that is to say an area to which an Order under section 5(1) relates) or any part of any specified area described in the Order under this section any fishing-related operation is prohibited unless authorised by a licence granted by the Director of Fisheries.

(3) An Order made under this section may apply to the receiving fish generally or to the receiving of —

(a) a specified description of fish;

(b) fish taken by a specified method;

(c) fish taken in an area described in the Order (and whether within the fishing waters, the area to which the Convention relates or otherwise); or

(d) fish taken or trans-shipped during a specified period of the year or other period,

but it shall not prohibit the receiving of fish in circumstances to which subsection (1) applies and may provide for exemptions from the prohibitions contained in it.

(4) An Order made under this section may authorise the charging of a fee for any licence granted under this section and may additionally authorise the charging of a fee in connection with any application for such a licence.

(5) Where an Order under this section authorises the charging of a fee for a licence —

(a) the Commissioner may waive or reduce that fee if he sees fit to do so in the circumstances of the particular case;

(b) any such fee may be expressed so as to be variable in relation to all or any of the following factors —

(i) the size of the fishing boat;

(ii) the facilities aboard the fishing boat for the storage, freezing, processing or other treatment of fish;

(iii) the area in which (and whether within the fishing waters, the area in relation to which the Convention relates or otherwise) the fish were taken or the place within a specified area (that is to say an area to which section 5(1) relates) in which the fish is trans-shipped;

(iv) the periods, times or particular voyages during which the fish was caught or trans-shipped;

(v) the description and quantities of fish that may be received;

(vi) the description of the fishing boat or method by which the trans-shipped fish was caught.

(6) An Order made under this section may be amended, modified, revoked or replaced by a further Order under this section.

(7) A licence granted under this section may authorise the receiving of fish either unconditionally or subject to such conditions —

(a) as the Director of Fisheries may have been directed by the Commissioner to impose;

(b) as in the opinion of the Director of Fisheries may be necessary or expedient to regulate the receiving of fish by, or the processing or treatment of fish aboard, the receiving vessel;

(c) as to the use to which the fish received may be put;

(d) prohibiting or restricting the use of any equipment or apparatus which might kill or harm any aquatic bird or marine mammal to be found or likely to be found in or in the vicinity of any place where the receiving of fish is authorised;

(e) as to the disposal of any waste, effluvia or deleterious matter by the fishing boat to which the licence relates;

(f) otherwise as may in the opinion of the Director of Fisheries be necessary or convenient to secure the fulfilment of any obligation under or objective of the Convention.

(8) Subsection (7) has effect without prejudice to any power under section 24 to make regulations as to any matters as to which under subsection (7) conditions may be imposed.

(9) Subsection (10), (11) and (13) of section 5 apply in relation to a licence granted under this section as they do in relation to a licence granted under section 5, substituting in those subsections wherever appropriate a reference to this section to any reference to that section.

(10) Where any vessel is used in contravention of any provision imposed by an Order under this section or of any condition of any licence granted under this section, the master, the owner and the charterer (if any) of the vessel each commit an offence under this subsection and each are liable on conviction of that offence to a fine not exceeding £500,000.

(11) Nothing in the foregoing provisions of this section or of any Order under it shall apply to any fishing-related operation which is undertaken for the purpose of genuine scientific research which has been notified in advance to the Secretariat of the Commission.

#### **Supplementary to sections 5 and 6**

7.—(1) Any Order made under section 5(1) of the 1993 Ordinance which was in force immediately before the commencement of this Ordinance shall on the commencement of this Ordinance continue in force as if it had been made under section 5(1) of this Ordinance.

(2) Any licence granted under section 5 or 6 of the 1993 Ordinance and which was in force immediately before the commencement of this Ordinance shall on the commencement of this Ordinance continue in force as if it had been granted under section 5 or 6 of this Ordinance subject to the same terms and conditions (if any) to which it was subject immediately before the commencement of this Ordinance.

(3) With effect from the commencement of this Ordinance, and until they are revoked by an Order under section 6, the Fisheries (Trans-shipment and Export) Regulations 1990, in so far as they make provision which could be made by an Order under section 6, shall continue to have effect as if they had been made as an Order under this section and except as hereinbefore provided, in so far as they make provision which could be made as regulations under section 24 of this Ordinance, they shall continue to have effect as if they had been made under that section.

#### **Report prior to entry**

8.—(1) Not less than twelve hours and no more than twenty-four hours before it enters a specified area, and whether intending to fish therein or to exercise the right of free passage through the waters lying within that specified area, every fishing boat shall call by radio to the Marine Officer Grytviken or such other person or establishment as the Director of Fisheries may have approved for the purpose and provide the following information —

(a) the name and port and country of registry of the fishing boat and its international radio call sign;

(b) the estimated time and date of entry into the specified area and the co-ordinates of the point of entry and, in the case of a fishing boat intending to exercise the right of free passage through the specified area, the estimated time, date of its departure from the fishing waters and the co-ordinates of its intended point of departure;

(c) in the case of a fishing boat intending to fish in the specified area pursuant to a fishing licence granted under this Ordinance, the reference number or other sufficient details of the licence; and

(d) in any case, the quantity of fish, according to species, aboard the fishing boat.

(2) Fish reported pursuant to subsection (1) to be on board a fishing boat shall, in the absence of proof of circumstances tending to indicate that the report was materially false, be presumed to have been caught outside a specified area but, subject to that, if any fish is found on a fishing boat within the fishing waters, that fish shall be presumed, unless the contrary is proved, to have been taken within a specified area.

(3) If the requirements of subsection (1) of this section are contravened in respect of a fishing boat, the master, owner and the charterer (if any) of the fishing boat each commit an offence and each is liable on conviction of that offence to a fine not exceeding £100,000.

#### **Fishing waters outside specified areas**

9.—(1) In relation to such parts of the fishing waters as are not for the time being the subject of an Order under subsection 5(1) (that is to say, are not for the time being part of a specified area, with the effect that no licence under this Ordinance is required in relation to the undertaking of fishing or any fishing-related operations in them), the Commissioner may take or concur or assist in the taking of such measures for the conservation, increase or improvement of marine living resources therein as may be required so as to give effect to the Convention or so as to meet any obligation under, or objective of, the Convention.

(2) Nothing in subsection (1) shall be construed so as to permit the Commissioner to do, concur or assist in doing anything which, if subsection (1) had not been enacted, would be invalid or unlawful under the laws of South Georgia and the South Sandwich Islands.

(3) The Commissioner may exercise in such manner as he considers necessary or expedient to give effect to any obligation under, or objective of, the Convention such of his powers under section 24 to make regulations as are not solely related to the licensing of fishing boats and other vessels.

PART II  
PROVISIONS APPLYING IN OR IN RELATION TO SPECIFIED AREAS OF THE FISHING  
WATERS

*Introductory*

**Application and interpretation of this Part**

**10.—(1)** The provisions of this Part (that is to say, this section and sections 11 to 17 of this Ordinance) apply only in respect of —

(a) every area which is a specified area that is to say, an area of the fishing waters in respect of which an Order under section 5(1) is for the time being in force (in the subsequent provisions of this Part called “a specified area”);

(b) fishing and fishing-related operations within a specified area; and

(c) fishing boats licensed to fish within a specified area under section 5 and vessels licensed to receive fish within a specified area under section 6.

(2) In this Part, “fish”, where the context so admits, includes fish products.

*Powers of Fishery Protection Officers*

**Powers of Fishery Protection Officers: introductory provisions**

**11.—(1)** For the purposes of enforcing and administering the provisions of this Part or any regulations under section 24 so far as such regulations apply to any matter to which by virtue of section 10(1) the provisions of this Part apply, Fishery Protection Officers have the powers conferred upon them by section 12(1) and they also have those powers so far as they may be necessary or expedient for the enforcement or administration of any Order under section 5 or under section 6 for the time being in force.

(2) So far as is in accord with international law and practice, the powers referred to in subsection (1) may be exercised outside, as well as within, South Georgia and the South Sandwich Islands and the fishery waters and irrespective of whether the vessel in question is for the time being engaged in fishing or fishing-related operations.

(3) In exercising the powers conferred by section 12(1), a Fisheries Protection Officer may —

(a) use such force as may reasonably be necessary; and

(b) engage the assistance of any person who may have been assigned to assist him in the exercise of those powers, provided that in such a case the Fisheries Protection Officer shall, subject to subsection (4), be liable for anything done by any such person if he would be liable had he himself done it.

(4) A Fisheries Protection Officer shall not be liable to any civil or criminal proceedings for any thing done in the purported exercise of any of the powers conferred upon him by this Part, if the

court is satisfied that the thing was done in good faith and that there were reasonable grounds for doing it.

**Powers referred to in section 11 and provisions related to those powers**

12.—(1) The powers referred to in section 11(1) are —

(a) a power to stop any fishing boat or any other vessel which it reasonably appears to him has been or may have been engaged in any fishing or fishing-related operation in a specified area;

(b) a power to require any such fishing boat or other vessel to do anything else which may facilitate the boarding of that boat or vessel;

(c) a power to board any such fishing boat or other vessel accompanied by such person or persons as may have been assigned to assist him or as he may engage to accompany him;

(d) a power to require the attendance of the master and other persons aboard any such fishing boat or other vessel;

(e) a power to make any examination and inquiry which appears to him to be necessary for any of the purposes mentioned in section 11(1) and, in particular —

(i) to examine any fish aboard the fishing boat or other vessel concerned and the equipment thereof, including the fishing gear and any other equipment related to, or possibly related to, any fishing or fishing-related operations and for that purpose to require any person aboard the fishing boat or other vessel concerned to do anything which appears to him to be necessary for facilitating the examination;

(ii) to require any such persons on board the fishing boat or other vessel concerned to produce any document relating thereto, to its fishing or fishing-related operations or to the persons on board which is in that person's custody or possession and to take copies of any such document;

(iii) for the purpose of ascertaining whether the master, owner or charterer (if any) of the fishing boat or other vessel concerned, has or may have committed an offence under this Ordinance, a power to search the fishing boat or other vessel concerned for any such documents and to require any person on board to do anything which appears to him to be necessary for facilitating the search;

(iv) where the fishing boat or other vessel is one in relation to which he has reason to suspect that an offence under this Ordinance has been committed, a power to seize and detain any document for use as evidence in proceedings for that offence,



but nothing in subparagraph (iv) shall permit any document required, or appearing to be required, by the law of the fishing boat's or vessel's State of registry to be carried on board it to be seized and detained except where the fishing boat or vessel is detained in a port;

(f) where it appears to a Fisheries Protection Officer that an offence of a kind mentioned in paragraph (e)(iv) has been committed, the following powers —

(i) to require the master and any person under the master's command to take the fishing boat or other vessel to any place nominated by the Fisheries Protection Officer in South Georgia and the South Sandwich Islands or in the Falkland Islands;

(ii) to detain or require the master to detain the fishing boat or other vessel in that place;

(iii) to take steps, or require any person aboard the fishing boat or other vessel, and having regard always to the safety of the fishing boat or other vessel, to immobilise it so as to prevent it being taken or navigated other than as he or another Fisheries Protection Officer may permit and until such time as it may be released by him or another Fisheries Protection Officer or by a court;

(iv) to seize and detain any fishing gear, instruments or appliances which appear to him to have been, or may have been used in the commission of the offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court;

(v) to seize and detain any fish which appear to him to have been taken as a result of such offence and until such time as the same are released by him or by another Fisheries Protection Officer or by order of a court.

(2) It shall not be an excuse or reason for any person to refuse to answer, or fail to answer, any question, or to refuse to do so, fail to do so or to prevent another person from doing anything required by a Fisheries Protection Officer in the exercise of his powers under subsection (1) that to answer that question or to do that thing might or would tend to incriminate that person or any other person.

(3) Any information, document or other thing obtained by a Fisheries Protection Officer by the lawful exercise of his powers under subsection (1) shall not be excluded from admissibility in evidence in any proceedings in relation to an offence under this Ordinance on the ground that it was unfairly obtained.

(4) Any person who on any fishing boat or other vessel —

(a) fails without reasonable excuse to comply with any requirement imposed, or to answer any question asked, by a Fisheries Protection Officer in the exercise of his powers under subsection (1);

(b) prevents, obstructs or attempts to prevent or obstruct, any other person from complying with any such requirement or answering any such question;

(c) assaults any Fisheries Protection Officer, or any person engaged to assist him, while that Officer is exercising any of those powers,

commits an offence under this subsection and is liable on conviction of that offence to a fine not exceeding £50,000.

(5) For the purposes of paragraph (a) of subsection (4), an excuse is not reasonable if it is an excuse or reason of a kind referred to in subsection (2).

*Release of things seized or detained*

**Release of fishing boat, other vessel or thing if no proceedings are instituted**

13.—(1) Where a fishing boat, fish, other vessel or thing has been seized or detained under any power conferred by section 12(1), a Fisheries Protection Officer may at any time release it if no proceedings have been commenced in relation to any offence in respect of which that fishing boat, fish, other vessel or thing could lawfully have been seized or detained under any power conferred by section 12(1).

(2) In any case where —

(a) a fishing boat, fish, other vessel or thing has been seized or detained under a power conferred by section 12(1); and

(b) no proceedings in respect of such an offence have been commenced within fourteen days of the arrival of that fishing boat or other vessel at a place in South Georgia and the South Sandwich Islands or in the Falkland Islands to which it has, in accordance with section 12(1)(f)(i) been required to proceed or, in the case of any fish or other thing, within fourteen days of its arrival in South Georgia and the South Sandwich Islands or the Falkland Islands, or at any earlier time at which the Director of Fisheries is satisfied that no such offence has been committed,

the Director of Fisheries shall release the fishing boat, fish, other vessel or thing.

(3) Where a fishing boat, fish, other vessel or thing has been seized or detained by a Fisheries Protection Officer under a power conferred by section 12(1) and —

(a) has been brought to a place in South Georgia and the South Sandwich Islands or to a place in the Falkland Islands; and

(b) no proceedings in relation to an offence in respect of which the power could have been exercised have been commenced within fourteen days of the arrival of the fishing boat, fish,

other vessel or thing at a place in South Georgia and the South Sandwich Islands or in the Falkland Islands,

a court may on the application of the master, owner, charterer (if any) or of any other person appearing to it to have a sufficient interest in the matter, order that the fishing boat, fish, other vessel or thing seized be released, whereupon it shall immediately be released.

(4) In subsection (3), "a court" means a court having jurisdiction under section 19(1) to try and determine proceedings in respect of an offence under this Ordinance.

**Security for and release of fishing boat, fish other vessel or thing by court**

14.—(1) Where proceedings in respect of an offence under this Ordinance have been commenced against any person, but have not been determined, the court in which such proceedings have been commenced may on the application of the master, owner or charterer (if any) of a fishing boat, fish, other vessel or thing seized or detained under a power conferred by section 12(1) or of any other person appearing to the court to have a sufficient interest in the thing in question, exercise the powers conferred upon that court by this section.

(2) The court may order the release of any fishing boat, fish, other vessel or thing so seized on being satisfied —

(a) that the applicant has given adequate security to the Crown in a sum appearing to the court to equal or exceed the relevant sum;

(b) that a person or persons approved by the court have executed and delivered to the court a bond or bonds in a suitable form, conditioned in accordance with subsection (4), and in an amount appearing to the court to equal or exceed the relevant sum; or

(c) that there are special circumstances justifying the court proceeding under this paragraph, that a bond or bonds in a suitable form, conditioned in accordance with subsection (4), but in an amount appearing to the court to be less than the relevant sum,

and in this subsection "relevant sum" means the aggregate of —

(i) the maximum fine the court has power to impose in the event it convicts the owner, or as the case may be the charterer of the fishing boat;

(ii) (in the case only of an alleged offence under section 5(3) of (12)) the sum appearing to the court to be the value free on board Grytviken or Stanley (as the court sees fit) of all fish aboard the fishing boat immediately after the time of the alleged offence; and

(iii) the maximum amount it appears to the court that might reasonably be awarded to the Crown in respect of costs and expenses pursuant to section 19(2).

(3) The Director of Fisheries shall be the respondent in respect of any application under this section and shall be entitled to be heard in relation to thereto.

(4) The conditions of the bond or bonds referred to in subsection (2)(b) and (c) shall be that if —

(a) the defendant to the proceedings is not convicted or the charge or information is not proceeded with; or

(b) the defendant, on having been convicted and sentenced, pays in full within 14 days, or such greater period as the court may allow at the time of sentencing the defendant, the fine and all other sums he is ordered by the court to pay to the Crown,

then the bond shall be of no further effect and is discharged, but otherwise shall remain in full force and effect, and may be enforced accordingly.

#### *Miscellaneous offences relating to specified areas*

##### **Unstowed fishing gear**

15.—(1) A fishing boat or other vessel shall not within a specified area carry unstowed aboard it any fishing net, line or other device directly employed in the taking of fish which it is not authorised by the licence under that section to use in that specified area or, as the case may be, the part of the specified area in question —

(a) if it is not licensed under section 5 to fish within that specified area; or

(b) if it is licensed under section 5 to fish within that specified area; and

(i) it is not licensed to fish within the part of the specified area in which it for the time being happens to be, or

(ii) it is not authorised by that licence, to use a net, line or other device directly employed in the taking of fish of any particular type, dimensions or specification mentioned in the licence.

(2) Where subsection (1) is contravened, the master, owner or charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) In subsection (1) “unstowed” means not stored or secured in such a manner as to be not readily capable of use within a reasonable period of time, and in any proceedings for an offence under subsection (2) it shall be for the defendant to prove that the thing in question was not unstowed.

##### **Reports on departure**

16.—(1) Before departing from a specified area (or in the case of a fishing boat authorised by a licence under section 5 to fish only in part of a specified area, before proceeding from that part)

the master, owner or charterer (if any) of a fishing boat licensed under section 5 shall notify the Director of Fisheries in accordance with subsection (3).

(2) If subsection (1) is contravened the master, owner or charterer (if any) of the fishing boat each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(3) The notification required by subsection (1) is a notification by such means as the Director of Fisheries may approve made as nearly as possible immediately before departure of the following or such of the following as he may require —

(a) the name, port of registry, international radio call sign and fishing licence number of that fishing boat;

(b) the quantity of fish aboard the fishing boat in relation to every species, and if any fish of any species then aboard that fishing boat was taken outside a specified area or a part of a specified area in which the fishing boat was licensed by licence under section 5 to fish, a statement in relation to each species of the quantity of it which was taken under authority of the licence and of the quantity of it which was not;

(c) if any fish of any species was, while the fishing boat was within a specified area trans-shipped to any other vessel or in any other manner disposed of particulars —

(i) of the name, port of registry, and international radio call sign of any vessel to which any fish was trans-shipped;

(ii) of the date or dates of the trans-shipping and the place at which it occurred;

(iii) in relation to each species so trans-shipped, of the quantity trans-shipped on every occasion and, in relation to each occasion, the quantity of that species trans-shipped which was taken under authority of the fishing licence and the quantity of that species of it which was not;

(d) as to whether or not it is expected that the fishing boat will return to fish under the authority of the same fishing licence;

(e) as to the expected next port of call of the fishing boat and its expected date of arrival thereat;

(f) as to the place or places it is expected that the fishing boat will discharge or trans-ship the fish aboard any other fishing boat or other vessel;

(g) if the fishing boat has discharged any fish other than by trans-shipping, particulars —

(i) of the date or dates of the discharge and the place at which it occurred;

(ii) in relation to each species so discharged, of the quantity discharged on every occasion and, in relation to each occasion, the quantity of that species discharged which was taken under authority of the fishing licence and of the quantity of that species which was not; and

(iii) in relation to each species so discharged, of the reasons for the discharge on each occasion.

(4) Before proceeding from any place in a specified area at which it is authorised by a licence under section 6 to receive fish, the master, owner or charterer (if any) of the vessel shall notify the Director of Fisheries in accordance with subsection (6).

(5) If subsection (4) is contravened the master, owner or charterer (if any) of the vessel each commits an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

(6) The notification required by subsection (4) is a notification by such means as the Director of Fisheries may approve made as nearly as possible before departure of the following or such of the following as he may require —

(a) the name, port of registry, international radio call sign and trans-shipment licence number of the vessel;

(b) the quantity of fish aboard the vessel in relation to every species and, if any fish of any species then aboard was received outside a specified area, a statement in relation to each species of the quantity of it which was received under the authority of the trans-shipment licence and the quantity of it which was not;

(c) in relation to fish of any species received under the authority of the trans-shipment licence—

(i) the quantity of it received from any fishing boat from which it was received;

(ii) the date or dates on which and the place at which it was received;

(iii) the name, international radio call sign and port of registry of the fishing boat from which it was received;

(d) whether or not it is expected that the vessel will return to receive fish under the authority of the same trans-shipment licence;

(e) the expected next port of call of the vessel and its expected date of arrival at that port;

(f) the place or places at which it is expected that the vessel will discharge or trans-ship the fish aboard the vessel.

(7) The proceeding provisions of this section have effect without prejudice to —

(a) any obligation under the conditions of any licence granted under section 5 or section 6;

(b) any obligation under any regulations made under section 24 requiring documents or other records to be kept as to any matter to which any provision of this section relates and to deliver those documents or records or copies of them to the Director of Fisheries or to such person as he directs.

(8) Where a person contravenes any provision of this section and has also contravened or thereafter contravenes any obligation under any other provision in such a manner as to constitute an offence, he may be convicted and punished both in respect of an offence under this section and of an offence in relation to any such obligation.

#### **Supplementary to sections 8 and 16**

17.—(1) For the sake of avoidance of doubt it is hereby declared that where a fishing boat has temporarily departed from a specified area or part thereof or, in the case of a vessel licensed to carry on any fishing-related operation, from the place it was authorised to carry on that operation, and thereafter returns to undertake further operations under the same licence, the provisions of section 8 and 16 apply to it on each occasion of entry or departure of that vessel.

(2) If any person, in purported compliance with any obligation under section 14 and 15, provides any information which to his knowledge is false or misleading or is incomplete, or recklessly as to its truth, falsehood, misleading nature or incompleteness, the master, owner and charterer (if any) of the fishing boat or other vessel each commit an offence and each of them is liable on conviction of that offence to a fine not exceeding £100,000.

### PART III GENERAL

#### *Provisions as to offences*

#### **Further provisions as to offences**

18.—(1) Subject to section 8(2) (fish in certain circumstances to be presumed to have been caught outside a specified area), unless the contrary is proved any fish found on board a fishing boat shall for the purposes of this Ordinance be presumed to have been taken —

(a) within an area of the fishing waters in respect of which a licence under section 5 is required; or

(b) where a licence has been granted under section 5 restricting fishing to a part of such an area and the fishing boat is outside that area, within the vicinity in which the fishing boat is found.

(2) Unless the contrary is proved, any fish found on board a fishing boat of a species in respect of which that fishing boat is not authorised by a licence under section 5 to take shall be deemed

to have been taken within a specified area, but it shall be a defence in relation to an offence to which this subsection relates for the defendant to prove that the fish taken, if taken within a specified area, were taken inadvertently at a time when the fishing boat was seeking to take fish of a species it was authorised by such a licence to take.

(3) In any proceedings for an offence under this Ordinance, a certificate purporting to be signed by the Director of Fisheries or any officer authorised by him for that purpose to the effect that on a date specified in the certificate —

(a) that the fishing boat or other vessel was not licensed under section 5 or (as the case may be) section 6; or

(b) that the defendant or any other named person was not the holder of the licence; or

(c) that by such a licence, the fishing boat or other vessel was not licensed to take fish in a particular place or of a particular species or (as the case may be) to receive fish or fish product in a particular place,

shall, unless the contrary be proved, be sufficient evidence of the matter stated in the certificate.

(4) Where the owner or charterer of a fishing vessel is prosecuted in relation to an offence under this Ordinance, it is not a defence for him to show that the offence —

(a) was committed without his knowledge; or

(b) contrary to any instructions he may have given to any person.

(5) If, in any proceedings for an offence under section 5(3) it is proved beyond reasonable doubt that at a time relevant to the commission of the offence —

(a) fishing gear belonging to the vessel in question —

(i) was in use;

(ii) had recently been in use; or

(iii) was apparently about to be put into use;

(b) fish which occur in the specified area in question —

(i) were being processed aboard the vessel; or

(ii) had recently been processed aboard the vessel;

(c) fishing gear from the vessel was in the water, or



(d) fish which occur in a specified area (or the products of such fish) was stowed on board, the court in deciding whether or not the offence has been committed shall give such weight as it considers proper to any of the foregoing which is so proved.

(6) An attempt to commit an offence under this Ordinance constitutes an offence under this subsection and is punishable in respect of all persons who could have been prosecuted in respect of the offence which was attempted in the same manner as if that offence had been completed.

(7) Notwithstanding any provision or rule of law to the contrary a prosecution in respect of an offence under this Ordinance may be commenced at any time within twelve years of the date on which that offence appears to have been committed.

(8) Where any offence under this Ordinance or under regulations made under section 24 committed by an owner or charterer of a fishing boat or other vessel is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of the body corporate (or, in the case of a body corporate existing under the laws of an overseas jurisdiction, with the consent or approval of any person occupying in relation to it a position similar in function to that of director, manager or secretary) he, as well as the body corporate, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly.

#### **Jurisdiction of Summary and Magistrate's Courts**

19.—(1) All penalties, offences and proceedings under this Ordinance or any regulation may be recovered, prosecuted and taken before any court of summary jurisdiction in South Georgia and the South Sandwich Islands or, pursuant to the provisions of the Falkland Islands Courts (Overseas Jurisdiction) Order 1989, the Magistrate's Court of the Falkland Islands, and those courts have jurisdiction to try and determine any offence under this Ordinance or any regulation made thereunder.

(2) In respect of such offences and notwithstanding any provision of law to the contrary, any court before which, pursuant to subsection (1), any such offence is tried has jurisdiction to impose any fine provided for under this Ordinance and may award to the Crown such costs and expenses (including expenses incurred in exercise of any power under section 12(1) and expenses incurred in relation to the prosecution of any such offence) as may appear to it to be proper.

#### **Forfeiture of licence**

20. Every person who is convicted of an offence under this Ordinance or any regulation made under this Ordinance and is again convicted of such an offence shall, in addition to any other penalty, forfeit any licence granted under this Ordinance and any fees paid for that licence.

#### **Administrative penalties for minor offences**

21.—(1) Where the Commissioner has reasonable cause to believe that —

(a) an offence against this Ordinance has been committed by any person in respect of any fishing boat;

(b) the offence is of a minor nature; and

(c) having regard to the previous conduct of the fishing boat and the person concerned it would be appropriate to impose a penalty under this section;

he may, unless the Attorney General has given a direction which has not been withdrawn to the Director of Fisheries that a prosecution in respect of the offence shall be brought, cause a notice in writing in accordance with subsection (2) to be served on that person.

(2) A notice under subsection (1) shall specify —

(a) the date and nature of the offence;

(b) a summary of the facts on which the allegation that an offence has been committed is based (being a sufficient summary fully and fairly to inform the person of the allegation against him); and

(c) any other matters (not being previous convictions) that the Commissioner considers relevant to the imposition of a penalty;

and shall be endorsed with a statement setting out the provisions of this section.

(3) Any person on whom a notice under subsection (1) is served may, within 28 days after such service, by notice in writing in the prescribed form served on the Commissioner require that proceedings in respect of the alleged offence shall be dealt with by a court having jurisdiction to try and determine that offence, in which case the following shall apply —

(a) no further proceedings shall be taken under this section by the Commissioner; and

(b) nothing in this section shall be construed to prevent the subsequent laying of any information charge in respect of the alleged offence, or the conviction of the person of the offence by that court, or the imposition of any penalty or forfeiture under this Ordinance upon such conviction.

(4) Any person on whom a notice under subsection (1) is served who does not require that proceedings in respect of the alleged offence shall be dealt with by a court may by notice in writing served on the Commissioner —

(a) admit the offence; and

(b) bring to the attention of the Commissioner any matters he wishes the Commissioner to take into account in imposing any penalty under this section.

(5) Where a person on whom a notice under subsection (1) is served does not within 28 days after the notice is served on him —

- (a) require that proceedings in respect of the alleged offence shall be dealt with by a court; or
- (b) admit the offence;

he shall on the expiration of that period be deemed to have admitted the offence.

(6) Where under this section a person admits or is deemed to have admitted an offence the Commissioner may, after taking into account any submissions made by that person under subsection (4), impose a monetary penalty on that person in respect of the offence not exceeding in amount one third of the maximum fine to which the person would be liable if he were convicted of the offence by a court.

(7) An admission or deemed admission of an offence and the imposition of a penalty under this section shall not count as a conviction of an offence for the purposes of section 20.

(8) Where the Commissioner imposes a penalty on a person under this section in respect of an offence the Commissioner shall cause a notice in writing in the prescribed form of the particulars of the penalty to be served on the person.

(9) A person on whom a penalty is imposed under this section shall pay the amount of the penalty to the Crown within 28 days after the notice of the penalty is served on him in accordance with subsection (8).

(10) A penalty imposed under this section shall be recoverable by the Crown from the person on whom it has been imposed in the same manner as a fine is recoverable on conviction for an offence and without prejudice to the foregoing may be recovered in any manner in which a civil debt to the Crown from that person may be recovered.

(11) Notwithstanding any other provision of this Ordinance or of any other enactment, where an offence has been admitted or is deemed to have been admitted under this section no information or charge may be laid in respect of the offence against any person by whom it is admitted or is deemed to have been admitted.

(12) Nothing in this section shall apply —

- (a) in respect of any offence or alleged offence under section 5(3) or 6(10); or
- (b) in respect of any offence or alleged offence in respect of which any information or charge has already been laid.

**Provisions as to amounts of fine which may be imposed and other orders to be made by a court on conviction**

22.—(1) Before ordering an individual to pay a fine after convicting him of an offence under this Ordinance, the court shall inquire into and take into account the means of the individual to pay that fine within a reasonable time, but in respect of a person, other than an individual, convicted of an offence under this Ordinance, the court shall order that person to pay such fine (not being greater than the maximum it is permitted to impose in respect of the offence) as the court considers just and proper in all the circumstances of the case.

(2) Where the owner or charterer of a fishing boat is convicted of an offence under section 5(3) the court shall, in addition to any fine or other sum it orders to be paid, make an order of one or other of the kinds mentioned in subsections (3) and (4) of this section and in so doing shall take into account any representations made by or on behalf of the prosecution as to which of those orders it should make.

(3) An order under this subsection is an order that all the fish concerned in the offence be forthwith forfeit to the Crown.

(4) An order under this subsection is an order that the convicted person do within seven days pay to the Crown a sum appearing to the court to be the value free on board at Grytviken or Stanley (depending on the place of conviction) of all fish appearing to the court to have been concerned in the offence.

**Detention or forfeiture of fishing boats on failure to pay or secure fine**

23.—(1) Where a court has ordered the master, owner or charterer of any fishing boat in respect of an offence under this Ordinance or any regulation made under this Ordinance to pay a fine or costs and expenses or the value of the catch aboard the vessel or any part of that catch, the court shall, if no security has been given to the Crown for payment thereof or it considers that insufficient security has been given to the Crown, order that in default of payment forthwith the person so order shall give security for payment of the amount due, and the court shall further order the detention in such place within its jurisdiction as the court shall name of the fishing boat concerned, its equipment and the catch aboard it, until security to the satisfaction of the court is given or all sums hereinbefore referred to are paid, whichever shall first occur.

(2) Where a person is convicted of an offence under section 5(3) or (12) or section 6(10) and is ordered to pay a fine and that fine is not paid or security given within 7 days of the date of the order of the court, or such longer period as the court may have determined at the time the fine was imposed, the court shall, on the application of the Crown and unless sufficient cause is shown to the contrary, order that the fishing boat concerned in that offence and its equipment concerned in the commission of it, together with the catch aboard that fishing boat in so far as that catch has not already been forfeited under section 22(2) or such of the foregoing as are the subject of the application by the Crown, shall be forfeited to the Crown. On making an order under this subsection, the court shall revoke or vary any order under subsection (1) previously made in such manner as is in the circumstances it believes to be appropriate.

(3) On an order of forfeiture being made pursuant to subsection (2), the property to which it relates shall forthwith vest in the Crown free from encumbrances and may be disposed of in such a manner as the Commissioner, acting in his discretion, may direct.

(4) No appeal shall lie to any court against an order under subsection (2).

#### **Regulations .**

**24.—(1)** The Commissioner may make regulations for the better carrying into effect of the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of subsection (1) of this section, such regulations may provide for —

- (a) anything which is to be, or may be, prescribed under this Ordinance;
- (b) the forms to be used for the purposes of this Ordinance;
- (c) the persons to whom and the manner in which applications may be made;
- (d) the procedures to be followed by applicants for licences;
- (e) terms and conditions that shall apply to licences issued under this Ordinance;
- (f) the protection of the marine environment within the fishing waters and of any living thing to be found therein;
- (g) the equipment to be carried on board fishing boats;
- (h) the reports to be made and statistics to be kept and submitted for the purposes of this Ordinance;
- (i) any matters in relation to which under section 5 of section 6 a condition may be imposed on the grant of a licence thereunder;
- (j) the designation by applicants for licences and licensees of authorised agents in South Georgia and the South Sandwich Islands or in the Falkland Islands in respect of fishing and fishing-related operations and otherwise for the purposes of this Ordinance;
- (k) the provision by applicants for licences or licensees of bonds or other forms of security for securing their compliance with the obligations under the terms and conditions of their licences or their compliance with the provisions of this Ordinance;
- (l) the placing of Fisheries Protection Officers and official observers on fishing boats and the terms for their presence thereon;

(m) a fine of such amount as may be prescribed therein in respect of any offence under any such regulations (but so that no such fine shall exceed £100,000 and, subject to that limitation, so that different fines may be prescribed in relation to different offences);

(n) any other purpose related to any obligation under, or objective of, the Convention.

(3) Regulations made under this section may make different provisions for different parts of the fishing waters, different specified areas, different parts of the year, different types and sizes of fishing boats or any one or more of the foregoing.

### **Service of proceedings and notices**

25.—(1) Where an agent for the licensee under a licence is named in that licence —

(a) any summons to the owner, charterer or master of the fishing boat or other vessel to which such licence relates to attend before any court to answer to that summons shall be deemed to be duly served if it is shown that the summons was delivered to or received by that agent;

(b) any administrative penalty notice under section 21(1) shall be deemed to have been duly served on the owner, charterer or master of the boat (as the case may be) if it is shown that it was delivered to or received by that agent;

(c) the agent may, on behalf of the owner, charterer or master of the boat, give to the Commissioner any notice or notification which the owner, charterer or master of the boat could give under any provisions of this Ordinance; and

(d) any notice which the Director of Fisheries is empowered under this Ordinance or any regulations made under section 24 to give or serve upon the owner, charterer or master of the boat shall be deemed to have been duly given to or served upon that person if it is shown that it was delivered to or received by the agent.

(2) Subsection (1) has effect whether the summons or notice is delivered, served or given to the agent in South Georgia and the South Sandwich Islands, the Falkland Islands or elsewhere.

### **Repeal and saving**

26.—(1) The Fisheries (Conservation and Management) Ordinance 1993 is hereby repealed.

(2) Notwithstanding the repeal effected by subsection (1) —

(a) any notice, form, order, rule, regulation or direction prescribed, made, issued or given under the 1993 Ordinance shall continue in force as if it had been prescribed, made, issued, or given under this Ordinance, and may be repealed, revoked, varied or amended accordingly;

(b) any Order or regulation made under any provision of the 1993 Ordinance in effect immediately before the commencement of this Ordinance shall after such commencement

continue in force as if it had been made under the corresponding provisions of this Ordinance; and

(c) any offence under any provision of the 1993 Ordinance committed before the commencement of this Ordinance may be prosecuted and punished under the provisions of the 1993 Ordinance as if it had not been repealed, but no greater punishment may be imposed in respect of any such offence than is permitted by the corresponding provisions of this Ordinance.

(3) Nothing in subsection (2) shall be construed as excluding the operation of any provisions of the Interpretation and General Clauses Ordinance 1977 of the Falkland Islands (in its application to South Georgia and the South Sandwich Islands) which are not inconsistent with that subsection.

Enacted this thirtieth day of June 2000

R T Jarvis  
*Acting Commissioner*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 3*

*12th October 2000*

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The following is published in this Gazette:-

**Currency Ordinance 2000.**



ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**Currency Ordinance 2000**

(No. 3 of 2000)

ARRANGEMENT OF PROVISIONS

Section

PART I  
INTRODUCTORY

1. Short title
2. Interpretation

PART II  
CURRENCY OF THE TERRITORY

3. Currency of the Territory
4. Legal tender etc
5. Issue of currency

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

DONALD ALEXANDER LAMONT,  
*Commissioner.*

**CURRENCY ORDINANCE 2000**

(No. 3 of 2000)

*(assented to: 4th October 2000)*  
*(commencement: in accordance with section 1)*  
*(published: 12th October 2000)*

AN ORDINANCE

To provide for the currency of South Georgia and the South Sandwich Islands and all matters related thereto.

ENACTED by the Commissioner as follows —

PART I  
INTRODUCTORY

**Short title**

1. This Ordinance may be cited as the Currency Ordinance 2000 and shall come into force on such date as the Commissioner shall specify in a notice published in the Gazette.

**Interpretation**

2. In this Ordinance —

“sterling coin” means a coin of the United Kingdom coinage minted by the Royal Mint or otherwise by the authority of Her Majesty’s Government in the United Kingdom; and  
“sterling note” and “note” means a note denominated in sterling issued by the Bank of England.

PART II  
CURRENCY OF THE TERRITORY

**Currency of the Territory**

3.—(1) The currency of the Territory shall be the pound sterling.

(2) Notwithstanding subsection (1) it shall be lawful for the Commissioner by Order under section 5(2) to authorise the issue of commemorative coins of the Territory in any denomination not exceeding five pounds and every such coin shall have parity in value with any sterling coin of the United Kingdom of the same denomination.

(3) The Commissioner shall at any time on demand buy any coin of the Territory for sterling coins or notes at par,

Provided that —

(a) the Commissioner shall not be required at any time to buy less than £10 in value of the coinage of the Territory;

(b) the Commissioner shall be entitled to charge and levy a person desiring to exchange Territory coins for United Kingdom coins or notes commission at such rate not exceeding two and a quarter per cent as he may, in his discretion, fix or such greater or lesser margins as are permitted by international monetary agreements which apply to or have been extended to the Territory as may, from time to time be prescribed, and the Commissioner is entitled, in addition, to recover from the seller any disbursements incurred by the Commissioner or any agent or correspondent of his in such transaction.

(4) The Commissioner shall be entitled to sell any commemorative coin of the Territory at such price over par as he may in his discretion determine.

**Legal tender etc.**

4.—(1) Subject to subsection (2), the following respective notes and coins shall be legal tender—

(a) in the case of Bank of England sterling notes, for the payment of any amount;

(b) in the case of coins of nickel brass, silver or gold or as to part of nickel brass and another part of cupro-nickel of a denomination of one pound or more, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount;

(c) in the case of cupro-nickel, silver or gold of a denomination of more than ten pence but less than one pound, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount not exceeding ten pounds;

(d) in the case of coins of cupro-nickel, silver or gold of a denomination of ten pence or less, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount not exceeding two pounds; and

(e) in the case of bronze coins or bronze sandwiching a layer of steel or any other metal, whether United Kingdom coins or coins of the Territory or a mixture of the two, for the payment of any amount not exceeding twenty pence.

(2) A note or coin that has been illegally dealt with is not legal tender.

(3) For the purposes of this Ordinance a note or coin has been illegally dealt with if it has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by having any name, word, device or number stamped or engraved thereon, whether it has or has not been thereby diminished or lightened.

(4) No person is entitled to recover from the Commissioner the value of any lost, stolen, mutilated or imperfect coin or of any coin which has been illegally dealt with.

**Issue of currency**

5.—(1) The Commissioner has the sole right to issue on behalf of the Government of the Territory coins and tokens having the appearance of coins.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to imprisonment for a term not exceeding seven years and to a fine not exceeding £25,000.

(3) The Commissioner may by Order authorise the minting of such commemorative coins of the Territory of such denominations, weight, form, design and metal or metals as is specified in the Order.

Made this fourth day of October 2000

D A Lamont  
*Commissioner*





**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 4*

*21st November 2000*

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The following is published in this Gazette:-

**Post Office Order 2000.**

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## SUBSIDIARY LEGISLATION

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### SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

#### POST OFFICE

##### Post Office Order 2000

S. R. & O. No. 1 of 2000

*Made:* 6 November 2000  
*Published:* 21 November 2000  
*Coming into force:* in accordance with section 1

IN EXERCISE of my powers under section 4 of the Post Office Ordinance(a), and of all other powers enabling me in that behalf, I make the following Order —

#### **Citation and commencement**

1. This Order may be cited as the Post Office Order 2000 and shall be deemed to have come into force on 1<sup>st</sup> November 2000.

#### **Interpretation**

2. In this Order unless the context otherwise requires —

“aerogramme” means a letter written on a form consisting of a single sheet of paper suitably folded and gummed on all sides and sold by the Post Office for the purpose of being used to send messages by air mail;

“inland” means the Falkland Islands, South Georgia and the South Sandwich Islands and the British Antarctic Territory; and

“printed paper” means reproductions on paper, cardboard or other materials commonly used in printing produced in several identical copies.

#### **Postage rates**

3. The rates of postage on the various categories of postal matter shall be as shown in the First, Second and Third Schedules to this Order and shall be effective from the coming into force of this Order.

#### **Weight limitations**

4. No item shall be accepted for transmission —

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(a) Cap. 52 Laws of the Falkland Islands 1950 Edition in its application under Cap. 1 (DS) The South Georgia and the South Sandwich Islands

- (a) as an overseas air mail letter or as an overseas small packet if it exceeds 2 kilograms in weight;
- (b) as an overseas air mail parcel;
- (c) as an overseas surface mail letter, printed paper or small packet if it exceeds 2 kilograms in weight;
- (d) as an overseas surface mail parcel if it exceeds 30 kilograms in weight;
- (e) as an inland letter, printed paper or small packet if it exceeds 2 kilograms in weight; or
- (f) as an inland parcel if it exceeds 10 kilograms in weight.

### **Aerogrammes**

5.—(1) An aerogramme shall not be accepted for transmission by air mail —

- (a) if it has any enclosure; or
- (b) if it is not sufficiently stamped for transmission as an aerogramme by air mail.

(2) Where an aerogramme is not by virtue of paragraph (1) to be accepted for transmission by air mail, it may, at the discretion of the Postmaster, be accepted for transmission by surface mail if it is sufficiently stamped for such transmission.

### **Small packets**

6.—(1) A class of postal packets called "small packets" is authorised with the object of affording facilities, in the international service, for the transmission of small articles of merchandise in the letter mails. The exchange of small packets is limited to those countries which have agreed to participate in the service.

(2) The prohibitions applicable to letter post shall apply also to the service of small packets. In addition, the following shall be specially excluded from transmission in small packets —

- (a) letters, notes or documents having the character of actual and personal correspondence including tapes, disks or wires bearing recordings of current and personal messages (this prohibition shall not apply to open invoices reduced to the simplest form, the addresses of the addressee, the description of the article and the sender's address);
- (b) coins;
- (c) banknotes;
- (d) currency notes;
- (e) negotiable instruments payable to the bearer;
- (f) platinum, gold or silver, manufactured or not;
- (g) precious stones;
- (h) jewels and other valuable articles; and
- (i) postage stamps, whether obliterated or not.

(3) Small packets addressed to a destination outside the South Georgia and the South Sandwich Islands shall —

- (a) have securely fixed to them an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the postal authorities) which shall have been fully and properly completed by the sender; and
- (b) be marked with the words "small packet" in the top left-hand corner of the obverse of the packet.

A small packet not complying with this paragraph shall not be accepted for transmission by mail.

(4) Small packets may be registered but not insured.



### **Exemptions from postage**

7.—(1) The following postal articles may be accepted for transmission by mail without the prepayment of postage —

(a) postal articles originating in a department of the Government, posted in South Georgia and the South Sandwich Islands and bearing —

(i) the words “On Her Majesty’s Service” conspicuously marked at the top of the obverse of the item; and

(ii) in the lower left-hand or right-hand corner the official departmental stamp; and

(b) postal articles sent on postal business by the postal authorities.

(2) Postage shall ordinarily be prepaid by affixing adhesive postage stamps obtained from the postal authorities but, by arrangement between the sender and the Postmaster, may be prepaid by use of a franking machine approved by him and subject to compliance with such conditions the Postmaster may specify.

### **Unpaid or underpaid postage**

8.—(1) Where the postage payable on any postal packet has not been prepaid or has not been fully prepaid, the following surcharge shall be payable —

(a) in the case of an overseas postal packet, the surcharge calculated according to the Detailed Regulations of the Universal Postal Union; and

(b) in the case of an inland postal packet, double the postage or double the deficiency as the case may be.

(2) An air mail packet on which no part, or part only, of the postage payable thereon has been paid may be dealt with as if it were not an airmail packet.

### **Undelivered parcels**

9.—(1) Any parcel not collected within three months from the posting of a notification of arrival may be returned to the sender or otherwise disposed of as the Postmaster thinks fit.

(2) Any fee payable under this section shall be payable in cash in such manner as the Postmaster may direct.

### **Registration**

10.—(1) The fees for registration shall be —

(a) inland - 50 pence; and

(b) overseas - £1.

(2) The maximum limit of compensation for the loss of a registered postal packet is £20 where the overseas fee has been paid and £10 otherwise.

### **Cash on delivery parcels**

11. For cash on delivery parcels a fee equivalent of the rates of poundage for the time being charged by the United Kingdom Post Office on British Postal Orders and calculated by reference to the trade charge in respect of the parcel or sum of £300, which ever is the lower.

**Insurance**

12.—(1) Insurance shall be available only in relation to letters and parcels addressed to an address in the United Kingdom and any other country for the time being notified by the Postmaster.

(2) Insurance charges shall be £3 with the maximum insured value of £300.

**Parcels and customs declarations**

13. Paragraph 6(3)(a) above (customs declarations in relation to small packets addressed to overseas destinations) shall also apply to parcels so addressed.

**Inland small packets**

14.—(1) Paragraph 6(3)(b) above (marking of small packets addressed to overseas destinations) shall also apply to small packets addressed to inland destinations.

(2) Where an inland small packet is not marked as required by sub-paragraph (1) or exceeds 1 kilogram in weight it shall if it does not exceed 2 kilograms in weight attract postage at the rate applicable to letters and otherwise shall be treated as a parcel and be charged for and transmitted accordingly.

Made this sixth day of November 2000

D A Lamont  
*Commissioner*

## SCHEDULES

### **FIRST SCHEDULE**

#### **AIR MAIL RATES - TO ALL COUNTRIES**

- Letters - 43p first 20 gm, 25p each extra 10 gm (or part)
- Small Packets - 33p first 20 gm, 15p each extra 10 gm (or part)
- Printed Papers - 33p first 20 gm, 15p each extra 10 gm (or part)
- Post Cards - 37p
- Aerogramme - 40p
- Illustrated Aerogramme - 52p

### **SECOND SCHEDULE**

#### **SURFACE MAIL RATES**

- (a) not over 20 gm - 35p
- (b) over 20 gm but not over 100 gm - 80p
- (c) over 100 gm - 115p plus 35p for each 50 gm or part thereof that the weight exceeds 150 gm

#### **SMALL PACKET AND PRINTED PAPER RATES**

- (a) not over 20 gm - 25p
- (b) over 20 gm but not over 100 gm - 70p
- (c) over 100 gm - 95p plus 25p for each 50 gm or part thereof that the weight exceeds 150 gm
- Post Card - 25p
- Literature for the Blind - Free

### **PARCELS**

#### United Kingdom

- Not over 1 kg - £8.00
- £4.00 for each additional kg - maximum weight 30 kg

#### Other Countries

Parcels for some other countries need additional postage

### **THIRD SCHEDULE**

#### **INLAND RATES**

- (a) not over 20 gm - 20p
- (b) over 20 gm - 20p plus 15p for each 50 gm or part thereof that the weight exceeds 20 gm
- Post Card - 15p

#### **SMALL PACKET AND PRINTED PAPER RATES**

- (a) not over 20 gm - 10p
- (b) over 20 gm - 10p plus 7p for each 50 gm or part thereof that the weight exceeds 20 gm

### **INLAND PARCELS**

- (a) not over 3 kg - £3.50p
- (b) not over 5 kg - £5.50p
- (c) not over 10 kg - £10.50p

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**EXPLANATORY NOTE**

*(not forming part of the above regulations)*

This Order imposes air mail rates, surface mail rates and inland rates to be applied to all posted matter, to be applied from 1<sup>st</sup> November 2000.

20th Anniversary 1945-1965



THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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No. 5

21st December 2000

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FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 2000

(SECTION 1)

NOTICE OF COMING INTO FORCE OF THE ORDINANCE

Pursuant to section 1 of the Fisheries (Conservation and Management) Ordinance 2000 I **APPOINT** 1 January 2001 as the day on which all the provisions of the Ordinance shall come into force.

Dated this twentieth day of December 2000.

Donald Alexander Lamont,  
*Commissioner.*



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*23rd February 2001*

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The following is published in this Gazette -

**Currency (Amendment) Ordinance 2001.**

ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**Currency (Amendment) Ordinance 2001**

(No. 1 of 2001)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of the Currency Ordinance



ELIZABETH II



The Territories of South Georgia and the  
South Sandwich Islands

DONALD ALEXANDER LAMONT,  
*Commissioner.*

**CURRENCY (AMENDMENT) ORDINANCE 2001**

(No. 1 of 2001)

*(assented to: 14 February 2001)*

*(commencement: on publication)*

*(published: 23 February 2001)*

AN ORDINANCE

To amend the Currency Ordinance

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows —

**Short title**

1. This Ordinance may be cited as the Currency (Amendment) Ordinance 2001.

**Amendment of the Currency Ordinance**

2. The Currency Ordinance 2000(a) is amended by the insertion of the words “in the case of any coin which is not a gold coin and twenty pounds in relation to any gold coin” after the words “five pounds” in section 3(2) of the Ordinance.

Made this fourteenth day of February 2001

D A Lamont  
*Commissioner*

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(a) No 3 of 2000



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**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 2*

*19th November 2001*

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The following are published in this Gazette -

**Notice No. 1 of 2001 - Appointment of Acting Attorney General;**

**Trade Marks Ordinance 2001.**

**NOTICE**

No. 1

19th November 2001.

**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**APPOINTMENT OF ACTING ATTORNEY GENERAL**

**IN EXERCISE** of my powers under section 7 of the South Georgia and the South Sandwich Islands Order 1985 and all other powers me enabling I **DONALD ALEXANDER LAMONT** Commissioner for South Georgia and the South Sandwich Islands **HEREBY** authorise **GRAHAM JAMES CRIPPS** to discharge the functions and duties of the post of Attorney General whenever the substantive holder of the post of Attorney General **DAVID GEOFFREY LANG** is unavailable to discharge the same through absence from the Falkland Islands

Given under my hand and the Public Seal at Stanley on this first day of June 2001

D A Lamont  
*Commissioner*

ELIZABETH II



The Territories of South Georgia  
and the South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**TRADE MARKS ORDINANCE 2001**

(No. 2 of 2001)

ARRANGEMENT OF PROVISIONS

Section

1. Short title and commencement
2. Repeal and saving
3. Extension to the South Georgia and the South Sandwich Islands of protection for certain trade marks

ELIZABETH II



The Territories of South Georgia  
and the South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**Trade Marks Ordinance 2001**

(No. 2 of 2001)

An Ordinance

*(assented to: 8<sup>th</sup> November 2001)*  
*(commencement: in accordance with section 1)*  
*(published: 19<sup>th</sup> November 2001)*

To repeal the Registration of United Kingdom Trade Marks Ordinance, to provide that trade marks which have effect in the United Kingdom shall have effect in South Georgia and the South Sandwich Islands and for connected purposes.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows—

**Short title and commencement**

1. This Ordinance may be cited as the Trade Marks Ordinance 2001 and shall come into force on such date as may be fixed by the Commissioner by notice published in the *Gazette*.

**Repeal and saving**

2.—(1) The Registration of United Kingdom Trade Marks Ordinance (“the disappplied Ordinance”) shall no longer have effect in South Georgia and the South Sandwich Islands.

(2) Notwithstanding subsection (1) but subject to subsection (3) of this section, the registration of any trade mark registered under the disappplied Ordinance which had effect immediately before the commencement of this Ordinance shall continue to have effect as if the Ordinance had not been disappplied.

(3) Where, by virtue of subsection (2) of this section, the registration of a trade mark continues to have effect, in respect of that trade mark section 9 of the Registration of United Kingdom Trade Marks Ordinance (power of the Supreme Court to declare that rights and privileges obtained by registration have not been acquired) shall continue to have effect as if that section had not been repealed, but without prejudice to the operation of section 3 of this Ordinance in respect of the trade mark in question.

**Extension to South Georgia and the South Sandwich Islands of protection for certain trade marks**

3.—(1) The proprietor of a trade mark which is in the United Kingdom a registered trade mark for the purposes of the Trade Marks Act 1994 (“the 1994 Act”) has exclusive rights in South Georgia and the South Sandwich Islands in that trade mark which are infringed by use of that trade mark in South Georgia and the South Sandwich Islands without his consent.

The acts amounting to infringement, if done without the consent of the proprietor, are those specified in section 10 of the 1994 Act, substituting “South Georgia and the South Sandwich Islands” for “United Kingdom” in that section. but a trade mark is not infringed by anything declared by sections 11 and 12 of the 1994 Act not to amount to infringement of it.

(2) Sections 14 to 19, 21 and 100 of the 1994 Act shall have effect in South Georgia and the South Sandwich Islands in and in relation to proceedings for infringement of a registered trade mark and so as to confer the like jurisdiction upon the Supreme Court as by virtue of those sections is in England enjoyed by the High Court.

(3) Sections 28 and 31 of the 1994 Act (licensing) shall have effect in South Georgia and the South Sandwich Islands in relation to all trade marks to which subsection (1) of this section relates.

(4) The provisions of the 1994 Act mentioned in the foregoing provisions of this section shall also have effect in South Georgia and the South Sandwich Islands —

(a) in relation to collective marks, subject to any modifications required by the provisions of Schedule I to the 1994 Act; and

(b) in relation to certification marks, subject to any modifications required by the provisions of Schedule II to the 1994 Act.

(5) Sections 92, 95, 97 and 99 of the 1994 Act shall apply in South Georgia and the South Sandwich Islands —

(a) with the substitution in section 92(4)(b) of the words “South Georgia and the South Sandwich Islands” for the words “United Kingdom”;

(b) with the substitution of the following subsection for section 92(6) —

“(6) A person who is convicted of an offence under this section is liable to a fine not exceeding fifty thousand pounds or imprisonment for a term not exceeding ten years.”

(c) with the substitution of the words “South Georgia and the South Sandwich Islands” for the words “England and Wales or Northern Ireland” in section 97(1);

(d) with the substitution of the words “court of summary jurisdiction” for the words “magistrates’ court” in section 97(2)(b);

(e) with the substitution of the following subsection for section 97(5) —

“(5) Any person aggrieved by an order under this section by a court of summary jurisdiction, or by a decision of such a court not to make such an order may appeal against that order or decision to the Supreme Court; and an order made by a court of summary jurisdiction under this section may contain such provision as appears to the court to be appropriate pending the making and determination of any appeal.”

(f) in section 97(8), by omission of the reference to the Trade Descriptions Act 1968.

(6) In this section, and in application by this section to South Georgia and the South Sandwich Islands of any provision of the 1994 Act —

“certification mark” has the meaning given by section 50(1) of the 1994 Act;

“collective mark” has the meaning given by section 49(1) of the 1994 Act; and

“registered trade mark” means a trade mark (within the meaning given by section 1 of the 1994 Act) which is a registered trade mark for the purposes of the 1994 Act.

Made this eighth day of November 2001

D A Lamont  
*Commissioner*









**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 3*

*20th November 2001*

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The following is published in this Gazette -

**The Civil Aviation Act 1982 (Overseas Territories)(No. 2) Order 2001.**

2001 No. 3367

**CIVIL AVIATION**

**The Civil Aviation Act 1982 (Overseas Territories) (No. 2)  
Order 2001**

*Made* - - - - - 9th October 2001

*Coming into force* - - - 10th October 2001

At the Court at Buckingham Palace, the 9th day of October 2001

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 108 of the Civil Aviation Act 1982(a) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation and commencement**

1. This Order may be cited as the Civil Aviation Act 1982 (Overseas Territories) (No. 2) Order 2001 and shall come into force on 10th October 2001.

**Extension of section 76(4) of the Civil Aviation Act 1982**

2. Section 76(4) of the Civil Aviation Act 1982, modified as in Schedule 1 to this Order, shall extend to the Territories specified in Schedule 2.

*A. K. Galloway*  
Clerk of the Privy Council

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(a) 1982 c. 16.

## SCHEDULE 1

Article 2

### CIVIL AVIATION ACT 1982

Section 76.—(4) Where an aircraft has been bona fide demised, let or hired out for any period exceeding fourteen days to any other person by the owner thereof, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, section 40(2) of the Civil Aviation Act 1949(a) (as extended by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(b) to any of the Territories specified in Schedule 2 to this Order) shall have effect as if for references to the owner of the aircraft there were substituted references to the person to whom the aircraft has been so demised, let or hired out.

## SCHEDULE 2

Article 2

### TERRITORIES TO WHICH THIS ORDER APPLIES

Anguilla  
Bermuda  
British Antarctic Territory  
British Indian Ocean Territory  
Cayman Islands  
Falkland Islands  
Gibraltar  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St Helena and Dependencies  
South Georgia and the South Sandwich Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia  
Turks and Caicos Islands  
Virgin Islands

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(a) 1949 c. 67.  
(b) S.I. 1969/592.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order extends, with modifications, section 76(4) of the Civil Aviation Act 1982 to the Territories listed in Schedule 2 to the Order. The liability of the owner under section 40(2) of the Civil Aviation Act 1949, as extended to those Territories, for loss or damage caused by an aircraft in flight or by a person in, or an article, animal or person falling from such an aircraft, is transferred to the person to whom the owner has demised, let or hired out the aircraft if the demise, let or hire is for a period of more than 14 days and no crew member is employed by the owner.



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*13th March 2002*

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The following is published in this Gazette -

**Fisheries (Conservation and Management) (Amendment) Ordinance 2002.**

ELIZABETH II



The Territories of South Georgia  
and the South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**Fisheries (Conservation and Management) (Amendment) Ordinance 2002**

(No. 1 of 2002)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Amendment of section 5 of principal Ordinance



ELIZABETH II



The Territories of South Georgia  
and the South Sandwich Islands

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DONALD ALEXANDER LAMONT,  
*Commissioner.*

**FISHERIES (CONSERVATION AND MANAGEMENT)(AMENDMENT) ORDINANCE  
2002**

(No. 1 of 2002)

*(assented to: 8 March 2002)*  
*(commencement: on publication)*  
*(published: 13 March 2002)*

**AN ORDINANCE**

To amend the Fisheries (Conservation and Management) Ordinance 2000

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows—

**Short title**

1. This Ordinance may be cited as the Fisheries (Conservation and Management)(Amendment) Ordinance 2002 and comes into force immediately on its publication in the Gazette.

**Amendment of section 5 of the principal Ordinance**

2. Section 5 of the Fisheries (Conservation and Management) Ordinance 2000 is amended by inserting the following subsection after subsection (10) —

“(10A) Notwithstanding any direction by the Commissioner under section 4(2), the Director of Fisheries shall, before issuing, varying, suspending or revoking a licence under any provision of this Ordinance, consult the Secretary of State on whether there would be any implications for foreign policy and shall act in accordance with such advice as he may receive from the Secretary of State.”

Made this eighth day of March 2002

D A Lamont  
*Commissioner*



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Main body of the document containing multiple paragraphs of extremely faint, illegible text.



**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 2*

*26th June 2002*

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The following is published in this Gazette -

**Post Office Order 2002, (S.R. & O. No. 1 of 2002).**

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## SUBSIDIARY LEGISLATION

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### SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

#### POST OFFICE

##### Post Office Order 2002

S. R. & O. No: 1 of 2002

*Made: 18<sup>th</sup> June 2002*

*Published: 26<sup>th</sup> June 2002*

*Commencing: 1<sup>st</sup> July 2002*

IN EXERCISE of my powers under sections 3 and 4 of the Post Office Ordinance (a), I make the following Order —

#### **Citation and commencement**

1. This Order may be cited as the Post Office Order 2002 and shall come into force on 1 July 2002.

#### **Interpretation**

2. In this Order —

“Aerogramme” means a letter written on a form consisting of a single sheet of paper suitably folded and gummed on all sides and sold by the post office for the purpose of being used to send messages by airmail;

“Inland” means the Falkland Islands, the British Antarctic Territory and South Georgia and the South Sandwich Islands;

“Newspaper” means any paper containing public news intelligence of occurrences or any remarks or observations printed in it for sale, and published in South Georgia and the South Sandwich Islands or elsewhere periodically, or in parts or numbers at intervals not exceeding 26 days between the publication of any two such papers, parts or numbers; and also any printed paper printed in order to be dispersed, and made public weekly or more often, or at intervals not exceeding 26 days, containing only or principally advertisements; and

“Printed Paper” means a newspaper or a document which is a reproduction on paper, cardboard or other materials commonly used in printing, not less than six copies of which, identical in all respects, are intended to be mailed ;

#### **Postage Rates**

3. The rates of postage on the various categories of postal matter shall be as shown in the First, Second and Third Schedules to this Order.

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(a) Of the Falkland Islands in its application to South Georgia and the South Sandwich Islands

### **Weight Limitations**

4. The maximum weight for the following postal articles, for any destination, shall be —

- (a) letters ..... 2 kg
- (b) printed papers ..... 2 kg
- (c) small packets ..... 2 kg
- (d) literature for the blind ..... 7 kg
- (e) postal parcels ..... 30 kg

### **Aerogrammes**

5. — (1) An aerogramme shall not be accepted for transmission by airmail —

- (a) if it has any enclosure; or
- (b) if it is not sufficiently stamped for transmission as an aerogramme by airmail.

(2) Where an aerogramme is not by virtue of paragraph (1) to be accepted for transmission by airmail it may, at the discretion of the Postmaster, be accepted for transmission by surface mail if it is sufficiently stamped for such transmission.

### **Small Packets**

6. — (1) A class of postal packets called “small packets” is authorised with the object of affording facilities, in the international service, for the transmission of small articles of merchandise in the letter mails. The small packets service is limited to those countries which have agreed to participate in it.

(2) The same prohibitions applicable to letter post also apply to the small packet service. In addition, the following are excluded from transmission in small packets —

- (a) letters, notes or documents having the character of actual and personal correspondence including tapes, discs or wires bearing recordings of current and personal messages;
- (b) coins, bank notes and currency notes;
- (c) negotiable instruments payable to bearer;
- (d) platinum, gold or silver, manufactured or not;
- (e) precious stones, jewels and other valuable articles; and
- (f) postage stamps whether obliterated or not.

(3) Small packets addressed to a destination outside the Falkland Islands shall —

- (a) have securely affixed to them an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the Postmaster) which shall have been fully and properly completed by the sender; and

(b) be marked with the words "small packet" in the top left-hand corner of the obverse of the packet.

A small packet which does not comply with this paragraph shall not be accepted for transmission by mail.

(4) Small packets may be registered, but may not be insured.

#### **Exemptions from Postage**

7. (1) The following postal articles may be accepted for transmission by mail without the prepayment of postage —

(a) postal articles originating in a department of the Government posted in the Falkland Islands and bearing —

(i) the words "On Her Majesty's Service" conspicuously marked at the top of the obverse of the item; and

(ii) in the lower left-hand or right-hand corner of the obverse of the item, the official departmental stamp; and

(b) postal articles sent on postal business by the postal authorities.

(2) Postage shall ordinarily be pre-paid by affixing adhesive postage stamps obtained from the postal authorities but, by arrangement between the sender and the Postmaster, may be pre-paid by use of a franking machine approved by him and subject to compliance with such conditions as he may specify.

#### **Unpaid or Underpaid Postage**

8. —(1) Where the postage payable on any postal packet has not been pre-paid or has not been fully pre-paid, the following surcharge is payable —

(a) in the case of an overseas postal packet, the surcharge calculated according to the Detailed Regulations of the Universal Postal Union; and

(b) in the case of an inland postal packet, double the postage or double the deficiency as the case may be.

(2) An airmail packet on which no part, or part only, of the postage payable thereon has been paid may be dealt with as if it were not an airmail packet.

#### **Undelivered Parcels**

9. Any parcel not collected within three months from the posting of a notification of arrival may be returned to the sender or otherwise disposed of as the Postmaster thinks fit.

### **Registration**

10. — (1) The fees for registration are —

- (a) Inland                      50p; and
- (b) Overseas                    £1.00

(2) The maximum limit of compensation for the loss of a registered postal packet is £20 where the overseas fee has been paid and £10 otherwise.

### **Cash on Delivery Parcels**

11. For cash on delivery parcels a fee equivalent to the rates of poundage for the time being charged by the United Kingdom Post Office on British Postal Orders and calculated by reference to the trade charge in respect of the parcel or the sum of £300, whichever is the lower.

### **Postal Orders**

12. — (1) The rates of poundage on British Postal Orders shall be those for the time being in force under the legislation relating to the United Kingdom Post Office with such additional charge by way of poundage as the Postmaster may determine.

(2) The value of a postal order may be increased by affixing such number of postage stamps of such type and to such aggregate value as is for the time being permitted by the United Kingdom Post Office.

### **Insurance**

13. — (1) Insurance shall be available only in relation to letters and parcels addressed to an addressee in the United Kingdom and any country for the time being notified by the Postmaster.

(2) The insurance charge shall be £3 with a maximum insured value of £300.

### **Customs Declarations: Overseas Parcels**

14. Parcels addressed to a destination outside South Georgia and the South Sandwich Islands shall have securely affixed to them an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the Postmaster) which shall have been fully and properly completed by the sender.

### **Inland Small Packets**

15. — (1) Inland small packets shall be marked with the words "small packet" in the top left-hand corner of the obverse of the packet.

(2) Where an inland small packet is not marked as required by subparagraph (1) or exceeds 1 kg in weight it shall if it does not exceed 2kg in weight attract postage at the rate applicable to letters and otherwise shall be treated as a parcel and be charged for and transmitted accordingly.

### **Weight Limitation**

16. No item shall be accepted for transmission —

- (a) as an overseas airmail letter or as an overseas small packet if it exceeds 2 kg in weight;
- (b) as an overseas airmail parcel if it exceeds 2kg in weight;
- (c) as an overseas surface mail letter, printed paper or small packet if it exceeds 2 kg in weight;
- (d) as an overseas surface mail parcel if it exceeds 30 kg in weight;
- (e) as an inland letter, printed paper or small packet, if it exceeds 2 kg weight; or
- (f) as an inland parcel if it exceeds 10 kg in weight.

**Postage Rates etc**

17. The First, Second and Third Schedules shall have effect so as to set rates of postage for the various matters referred to therein.

**Revocation**

18. The Post Office Order 1981 and all Orders amending that Order are revoked.

FIRST SCHEDULE  
Airmail Rates to all Countries

AIRMAIL RATES

|   |                      |     |
|---|----------------------|-----|
| Letters   | First 20gm           | 45p |
|   | each additional 10gm | 25p |
| Small Packets & Printed Papers                  | First 60gm           | 95p |
|   | each additional 10gm | 15p |
| Printed Papers<br>(Registered with Post Office) | First 60gm           | 92p |
|   | each additional 10gm | 15p |
| Postcard  |                      | 40p |
| Aerogramme                                      |                      | 40p |
| “ (illustrated)                                 |                      | 52p |

SECOND SCHEDULE  
Surface Mail Rates

SURFACE RATES

|                                   |                      |     |
|-----------------------------------|----------------------|-----|
| Postcards                         |                      | 26p |
| LETTERS                           | First 20gm           | 36p |
|                                   | up to 100gm          | 81p |
|                                   | each additional 50gm | 35p |
| Small packets &<br>Printed Papers | First 100gm          | 70p |



|                              |                       |     |
|------------------------------|-----------------------|-----|
|                              | each additional 50 gm | 25p |
| Parcels to<br>United Kingdom | First kg              | £8  |
|                              | each additional kg    | £4  |
|                              | Maximum weight 30 kg  |     |

*(Rates to other countries, as notified from time to time)*

THIRD SCHEDULE  
Inland Rates

INLAND RATES

|                                   |                      |     |
|-----------------------------------|----------------------|-----|
| Letters                           | First 20gm           | 22p |
|                                   | each additional 50gm | 15p |
| Small Packets &<br>Printed Papers | First 70gm           | 19p |
|                                   | each additional 50gm | 7p  |
| Postcard                          |                      | 16p |

Literature for the blind shall not attract postage.

Made this 18<sup>th</sup> day of June 2002

D A Lamont  
*Commissioner*

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**EXPLANATORY NOTE**

This Order consolidates, with amendments, the Post Office Order 1981, as amended. It does not amend the effect of the law, except as to a number of postal rates and the definitions of "Newspaper", "Printed Paper" and one of the prohibitions in relation to Small Packets.





**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*4th July 2003*

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The following are published in this Gazette -

**Customs (Fees) (Amendment) Regulations 2003, (S. R. & O. No. 1 of 2003);**

**Fisheries (Transshipment and Export) (Amendment) Regulations 2003, (S. R. & O. No. 2 of 2003);**

**Harbours (Fees) (Amendment) Regulations 2003, (S. R. & O. No. 3 of 2003);**

**Visitors (Landing Fees) (Amendment) Regulations 2003, (S. R. & O. No. 4 of 2003).**

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**SUBSIDIARY LEGISLATION**

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**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**CUSTOMS**

**Customs (Fees)(Amendment) Regulations 2003**

S. R. & O. No. 1 of 2003

*Made:* 27 June 2003  
*Published:* 4 July 2003  
*Coming into force:* on publication

IN EXERCISE of my powers under section 230 of the Customs Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations —

**Citation and commencement**

1. These Regulations may be cited as the Customs (Fees)(Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

**Amendment of the Customs (Fees) Regulations 1992**

2.—(1) Regulation 3 of the Customs (Fees) Regulations 1992(b) is amended by deleting the symbols and figures “£44”, “£22”, “£66” and “£33” wherever they appear in regulation 3 and replacing them as follows —

“£44” to be replaced by “£50”;  
“£22” to be replaced by “£25”;  
“£66” to be replaced by “£80”; and  
“£33” to be replaced by “£40”.

(2) Regulation 4 is amended by deleting the symbol and figures “£20” and replacing them with “£35” and by deleting the symbol and figures “£10” and replacing them with “£15”.

(3) Regulation 4 is further amended by inserting the following after the word “paid” appears in the last line of that regulation —

“except that a fee of £5 only shall be paid in respect of any yacht which is not under commercial charter with passengers carried for reward.”

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(a) Cap 16 Laws of the Falkland Islands 1950 Edition in its application under Cap 1(DS) to South Georgia and the South Sandwich Islands

(b) SR&O No 1 of 1992 as amended by SR&O No 4 of 1998

Made this 27<sup>th</sup> day of June 2003

R T Jarvis  
*Acting Commissioner*

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**EXPLANATORY NOTE**

*(not forming part of the above regulations)*

These Regulations make revised provision for the charging of customs fees for customs services provided in respect of South Georgia and the South Sandwich Islands.

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SUBSIDIARY LEGISLATION

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SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

FISHERIES

**Fisheries (Transshipment and Export)(Amendment) Regulations 2003**

S. R. & O. No. 2 of 2003

*Made:* 27 June 2003

*Published:* 4 July 2003

*Coming into force: on publication*

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations —

**Citation and commencement**

1. These Regulations may be cited as the Fisheries (Transshipment and Export)(Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

**Amendment of the Fisheries (Transshipment and Export) Regulations 1990**

2. The Fisheries (Transshipment and Export) Regulations 1990(b) are amended by deleting the symbol and figures “£1,100” appearing in the Schedule and replacing them with “£1,300”.

Made this 27<sup>th</sup> day of June 2003

R T Jarvis  
*Acting Commissioner*

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**EXPLANATORY NOTE**

*(not forming part of the above regulations)*

These Regulations revise the fee payable for a licence to tranship fish within the waters of South Georgia and the South Sandwich Islands.

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(a) Cap 27 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

(b) SR&O No 1 of 1990 as amended by SR&O No 5 of 1998

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**SUBSIDIARY LEGISLATION**

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**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**HARBOURS**

**Harbours (Fees)(Amendment) Regulations 2003**

S. R. & O. No. 3 of 2003

*Made:* 27 June 2003

*Published:* 4 July 2003

*Coming into force: on publication*

IN EXERCISE of my powers under section 3 of the Harbours Ordinance(a), and of all other powers enabling me in that behalf, I make the following Regulations —

**Citation and commencement**

1. These Regulations may be cited as the Harbours (Fees)(Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

**Amendment of the Harbours (Fees) Regulations 1994**

2. The Harbours (Fees) Regulations 1994(b) are amended as follows —

(a) regulation 2 is amended by deleting the symbol and figures “£30” and replacing them with “£35”.

(b) the Schedule to the Regulations is amended by replacing it with the following —

---

(a) Cap 30 Laws of the Falkland Islands 1950 Edition in its application under Cap 1 (DS) to South Georgia and the South Sandwich Islands

(b) S.R.&O. No 1 of 1994 as amended by S.R.&O. No 1 of 1995 and No 3 of 1998

**“SCHEDULE**

(regulation 3(1))

Yachts (irrespective of tonnage) — £50.00

The following fees are payable in relation to the net tonnage of the vessel concerned —

| Vessels (other than yachts) —       | Fee —      |
|-------------------------------------|------------|
| Under 30 tonnes                     | £60.00     |
| 30 tonnes and under 50 tonnes       | £210       |
| 50 tonnes and under 800 tonnes      | £290.00    |
| 800 tonnes and under 1000 tonnes    | £370.00    |
| 1000 tonnes and under 1500 tonnes   | £430.00    |
| 1500 tonnes and under 2000 tonnes   | £520.00    |
| 2000 tonnes and under 5000 tonnes   | £630.00    |
| 5000 tonnes and under 7000 tonnes   | £780.00    |
| 7000 tonnes and under 10000 tonnes  | £1,160.00  |
| 10000 tonnes and under 15000 tonnes | £1,420.00  |
| 15000 tonnes and under 20000 tonnes | £1,670.00  |
| Vessels over 20000 tonnes           | £1,750.00” |

Made this 27<sup>th</sup> day of June 2003

R T Jarvis  
*Acting Commissioner*

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**EXPLANATORY NOTE**  
*(not forming part of the above regulations)*

These Regulations set revised harbour dues for South Georgia and the South Sandwich Islands.



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**SUBSIDIARY LEGISLATION**

---

**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**VISITORS**

**Visitors (Landing Fees)(Amendment) Regulations 2003**

S. R. & O. No. 4 of 2003

*Made:* 27 June 2003  
*Published:* 4 July 2003  
*Coming into force:* on publication

IN EXERCISE of my powers under section 6 of the Visitors Ordinance 1992(a), and of all other powers enabling me in that behalf, I make the following Regulations —

**Citation and commencement**

1. These Regulations may be cited as the Visitor (Landing Fees) (Amendment) Regulations 2003 and shall come into force upon publication in the *Gazette*.

**Amendment of passenger landing fee**

2. Regulation 2 of the Visitors (Landing Fee) Regulations 1998(b) is amended by deleting the figures "50" and replacing them with "55".

Made this 27<sup>th</sup> day of June 2003

R T Jarvis  
*Acting Commissioner*

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(a) No 2 of 1992

(b) SR&O No 2 of 1998





**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*28th September 2004*

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The following are published in this Gazette -

**Notices 1, 2, 3 and 4;**

**Fisheries (Conservation and Management) (Amendment) Ordinance 2004,  
(No. 1 of 2004).**



NOTICES

No. 1

14th July 2003

**APPOINTMENT OF ASSISTANT COMMISSIONER  
SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS**

Notice is hereby given that the Commissioner has appointed the following person to be Assistant Commissioner for South Georgia and the South Sandwich Islands with effect from 20th July 2003 -

Harriet Hall

Dated this 14th day of July 2003.

---

No. 2

14th July 2003

**APPOINTMENT OF DIRECTOR OF FISHERIES  
SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS**

Notice is hereby given that the Commissioner has appointed the following person to be Director of Fisheries for South Georgia and the South Sandwich Islands with effect from 20th July 2003 -

Harriet Hall

Dated this 14th day of July 2003.

---

No. 3

14th July 2003

**APPOINTMENT OF MEMBER OF THE  
SOUTH GEORGIA MUSEUM TRUST**

Notice is hereby given that the Commissioner has appointed the following person to be Trustee with effect from 20th July 2003 -

Harriet Hall

Dated this 14th day of July 2003.

---

No. 4

21st September 2004

**APPOINTMENT OF MEMBERS OF THE  
SOUTH GEORGIA MUSEUM TRUST**

Notice is hereby given that the Acting Commissioner has appointed the following persons to be Trustees for a period of three years with effect from 1st September 2004 -

Jane Diana Mary Keith Cameron  
Janet Lynda Cheek  
John Smith  
Paul Lee Sweeting

Dated this 21st day of September 2004.

**ELIZABETH II**



**The Territories of South Georgia  
and the South Sandwich Islands**

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HARRIET HALL,  
*Acting Commissioner.*

**Fisheries (Conservation and Management)(Amendment) Ordinance 2004**

(No: 1 of 2004)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title
2. Amendment of Fisheries (Conservation and Management) Ordinance 2000

ELIZABETH II



The Territories of South Georgia  
and the South Sandwich Islands

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HARRIET HALL,  
*Acting Commissioner.*

**FISHERIES (CONSERVATION AND MANAGEMENT)  
(AMENDMENT) ORDINANCE 2004**

(No: 1 of 2004)

*(assented to: 18 August 2004)*  
*(commencement: on publication)*  
*(published: 28 September 2004)*

AN ORDINANCE

To amend the Fisheries (Conservation and Management) Ordinance 2000

ENACTED by the Acting Commissioner in exercise of her powers under section 9 of the South Georgia and the South Sandwich Islands Order 1985(a) as follows —

**Short title**

1. This Ordinance may be cited as the Fisheries (Conservation and Management)(Amendment) Ordinance 2004 and comes into force upon publication in the *Gazette*.

**Amendment of Fisheries (Conservation and Management) Ordinance 2000**

2. The Fisheries (Conservation and Management) Ordinance 2000(b) is amended by inserting the following cross-heading and section after section 12 —

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(a) 1985/449  
(b) No 2 of 2000

*“Interception of communications*

**Interception of communications**

**12A.**—(1) Subject to this section, the Commissioner may by writing signed by him authorise any person by such conduct as may be described in the authority —

(a) to intercept in the course of its transmission any communication from any vessel in the Maritime Zone;

(b) to disclose to him or such person or other persons as he may identify in the authority the position of the vessel at the time of any transmission intercepted or such information derived from such interception as may assist in locating the vessel.

(2) An authority under subsection (1) shall not authorise the disclosure of the contents of any transmission except in so far as may be necessary for the purpose of the disclosure mentioned in paragraph (b) of that subsection.

(3) An authority under subsection (1) may only be given for the purpose of locating the position of any vessel or vessels.”

Made this 18<sup>th</sup> day of August 2004

H Hall  
*Acting Commissioner*









**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*14th February 2005*

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The following are published in this Supplement -

- The Liberia (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 347);**
- The Liberia (United Nations Sanctions) Order 2004, (2004 No. 348);**
- The Sudan (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 349);**
- The Burma (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 1979);**
- The Sudan (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004, (2004 No. 1980);**
- The Iraq (United Nations Sanctions) (Overseas Territories) (Amendment) Order 2004, (2004 No. 1983);**
- The International Criminal Tribunal for the former Yugoslavia (Restrictive Measures) (Overseas Territories) Order 2004, (2004 No. 3039);**
- The Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2004, (2004 No. 3040);**
- The Burma (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004, (2004 No. 3333).**

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STATUTORY INSTRUMENTS

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2004 No. 347

**OVERSEAS TERRITORIES**

The Liberia (Restrictive Measures) (Overseas Territories) Order 2004

|                               |                           |
|-------------------------------|---------------------------|
| <i>Made</i>                   | <i>11th February 2004</i> |
| <i>Laid before Parliament</i> | <i>12th February 2004</i> |
| <i>Coming into force</i>      | <i>13th February 2004</i> |

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833[1], the British Settlements Acts 1887 and 1945[2], and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: -

**Citation, commencement, extent and application**

1. - (1) This Order may be cited as the Liberia (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 13th February 2004.

(2)

(a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 17 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

(3) Articles 3, 4 and 5 shall apply to any person within the Territory and any person elsewhere who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory; or

(b) a body incorporated or constituted under the law of the Territory.

### **Interpretation**

2. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say -

"assistance" means any form of assistance including technical assistance, services, financing and financial assistance;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Territory of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"Governor" means the Governor or other officer administering the Government of the Territory;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"restricted goods" means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003[3] made under the Export Control Act 2002[4];

"ship" includes every description of vessel used in navigation;

"shipment" includes loading into an aircraft;

"stores" means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

"vehicle" means a land transport vehicle.

## RESTRICTED GOODS, ASSISTANCE AND TRAINING, IMPORTS

### **Supply of restricted goods**

3. - (1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4 -

(a) supplies or delivers;

(b) agrees to supply or deliver; or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Liberia shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Liberia.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

### **Exportation of restricted goods to Liberia**

4. - (1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Liberia or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Liberia.

(2) Any restricted goods which are exported or attempted to be exported shall be liable to forfeiture.

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) above and of an offence under article 3(1) above, he shall not be guilty of the offence under paragraph (3) above.

### **Provision of assistance, advice or training related to restricted goods**

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person, entity or body in, or for use in, Liberia any:

(a) assistance;

(b) advice; or

(c) training,

related to military activities or to the provision, manufacture, maintenance or use of restricted goods shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person, entity or body in, or for use in, Liberia.

#### **Importation of rough diamonds from Liberia**

6. - (1) Except under the authority of a licence granted by the Governor under this article, no person shall import directly or indirectly into the Territory any rough diamonds exported from Liberia.

(2) Subject to the provisions of paragraph (3) of this article, any person who contravenes the provisions of paragraph (1) of this article shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of this article, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the diamonds in question had been exported from Liberia.

#### **Importation of round logs and timber products from Liberia**

7. - (1) Except under the authority of a licence granted by the Governor under this article, no person shall import directly or indirectly into the Territory any round logs or timber products exported from Liberia.

(2) Subject to the provisions of paragraph (3), any person who contravenes the provisions of paragraph (1) shall be guilty of an offence under this Order.

(3) In the case of proceedings for an offence in contravention of this article, it shall be a defence for the accused person to prove that he did not know and had no reason to suppose that the round logs or timber products in question had been exported from Liberia.

#### **Use of ships, aircraft and vehicles: restricted goods**

8. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Liberia to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or

(b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

(a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Liberia to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Liberia was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

#### GENERAL

##### **Customs powers to demand evidence of destination which goods reach**

9. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either -

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.



**Offences in connection with applications for licences, conditions attaching to licences, etc.**

10. - (1) If for the purposes of obtaining any licence under this Order any person makes any statement, or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

**Declaration as to goods: powers of search**

11. - (1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor -

(a) declare whether or not he has with him any restricted goods which are destined for Liberia or for delivery, directly or indirectly, to or to the order of any person in Liberia; and

(b) produce any such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

**Investigation, etc. of suspected ships**

12. - (1) Where any authorised officer has reason to suspect that any ship to which article 8 applies has been or is being or is about to be used in contravention of paragraph (1) of that article

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 8, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps -

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 15(3), where -

(a) a master refuses or fails to comply with a request made under paragraph 2(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means -

(a) any commissioned naval or military officer;

(b) any British consular officer;

(c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

### **Investigation, etc. of suspected aircraft**

**13.** - (1) Where any authorised person has reason to suspect that any aircraft to which article 8 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the Territory, any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 15(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and upon that aircraft;

(b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

**Investigation, etc. of suspected vehicles**

14. - (1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 8 -

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;

(c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 15(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;

(b) detain, or authorise the detention of, that vehicle and any goods contained in it; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

**Provisions supplementary to articles 12 to 14**

15. - (1) No information furnished or document produced by any person in pursuance of a request made under article 12, 13 or 14 shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under article 12, 13 or 14 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 12, 13 or 14 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say -

(a) a master of a ship who disobeys any direction given under article 12(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who -

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 12, 13 or 14 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 12, 13 or 14.

(4) Nothing in articles 12 to 15 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

#### **Obtaining of evidence and information**

16. The provisions of Schedule 3 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the Territory; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and

(b) of evidence of the commission of -

(i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

#### **Penalties and proceedings**

17. - (1) Any person guilty of an offence under article 3(1), 4(3), 5, 6(2), 7(2) or 8(3) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 15(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 10(1) or (2) or article 11(4) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 15(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 9 or 11(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### **Exercise of powers of the Governor**

18. - (1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 3 to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

#### **Miscellaneous**

19. - (1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

*A.K. Galloway*  
Clerk of the Privy Council

### SCHEDULE 1

Article 1(2)(a)

#### TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands



Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena and Dependencies

South Georgia and South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

## SCHEDULE 2

Article 1(2)(b)

### APPLICATION OF ARTICLE 17 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1. - (1) Any person who commits an offence under article 3(1), 4(3), 5, 6(2), 7(2) or 8(3), or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction -

(a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 10(1) or (2), 11(4), or 15(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 15(3)(a), (b)(i) or (c), or paragraph (5)(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 9 or 11(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

5. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on

the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

6. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

7. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

8. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### SCHEDULE 3

#### Article 16

#### EVIDENCE AND INFORMATION

1. - (1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the Sovereign Base Areas of Akrotiri and Dhekelia any reference to a justice of the peace includes a reference to a judge or associate judge.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order applies to each of the territories specified in Schedule 1. It gives effect to Resolution 1521, adopted by the Security Council of the United Nations on 22nd December 2003, which prohibits the delivery or supply of arms and related matériel, the provision of assistance, advice and training related to the provision, manufacture, maintenance or use of arms and related

matériel, and bans the import of diamonds and round logs or timber products from Liberia, and to a Common Position adopted by the Council of the European Union on 10th February 2004 which adopted the measures in Resolution 1521 and applied additional related measures to Liberia.

It replaces The Liberia (United Nations Sanctions) (Overseas Territories) Order 2001 (S.I. 2001/946), and The Liberia (United Nations Sanctions) (Overseas Territories) (No. 2) Order 2001 (S.I. 2001/1867 as amended by S.I. 2003/1876), which ceased to have effect by virtue of the cancellation of the relevant parts of United Nations Security Council resolution 1343 of 7th March 2001 and resolution 1478 of 6th May 2003.

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Notes:

[1] 1833 c. 85.

[2] 1887 c. 54 and 1945 c. 7.

[3] S.I. 2003/2764.

[4] 2002 c. 28.

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STATUTORY INSTRUMENTS

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2004 No. 348

UNITED NATIONS

The Liberia (United Nations Sanctions) Order 2004

|                               |                           |
|-------------------------------|---------------------------|
| <i>Made</i>                   | <i>11th February 2004</i> |
| <i>Laid before Parliament</i> | <i>12th February 2004</i> |
| <i>Coming into force</i>      | <i>13th February 2004</i> |

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas under Article 41 of the Charter of the United Nations the Security Council of the United Nations has, by a resolution adopted on 22nd December 2003 called upon Her Majesty's Government in the United Kingdom and all other States to apply certain measures to give effect to decisions of that Council in relation to Liberia:

Now, therefore, Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946[1], is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, operation and extent**

1. - (1) This Order may be cited as the Liberia (United Nations Sanctions) Order 2004 and shall come into force on 13th February 2004.

(2) If the Security Council of the United Nations takes any decision which has the effect of cancelling or suspending the operation of the resolution adopted by it on 22nd December 2003, in whole or in part, this Order shall cease to have effect or its operation shall be suspended, in whole or in part, as the case may be, in accordance with that decision; and particulars of that decision shall be published by the Secretary of State in a notice in the London, Edinburgh and Belfast Gazettes.

(3) This Order shall extend to the United Kingdom.

(4) Articles 3 and 4 shall apply to any person within the United Kingdom and to any person elsewhere who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person; or

(b) a body incorporated or constituted under the law of any part of the United Kingdom.

### **Interpretation**

2. In this Order the following expressions have, except where otherwise expressly provided, the meaning hereby respectively assigned to them, that is to say -

"body corporate" includes a Scottish partnership and, in relation to such a partnership, any reference to a director or other officer of a body corporate is a reference to a partner;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any ship, submersible vehicle or aircraft, includes the taking out of the United Kingdom of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"restricted goods" means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003[2];

"ship" has the meaning it bears in section 313 of the Merchant Shipping Act 1995[3];

"shipment" (and cognate expressions) and "stores" shall have the meanings they bear in the Customs and Excise Management Act 1979[4];

"vehicle" means a land transport vehicle.



## RESTRICTED GOODS

### **Supply of restricted goods**

3. - (1) Any person who, except under the authority of a licence granted by the Secretary of State under this article or article 4 -

- (a) supplies or delivers;
- (b) agrees to supply or deliver; or
- (c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Liberia shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Liberia.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Secretary of State under this article.

### **Exportation of restricted goods to Liberia**

4. Except under the authority of a licence granted by the Secretary of State under this article, restricted goods are prohibited to be exported from the United Kingdom to any destination in Liberia or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Liberia.

### **Use of ships, aircraft and vehicles: restricted goods**

5. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Secretary of State under this article, no ship or aircraft to which this article applies, and no vehicle within the United Kingdom, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Liberia to any destination therein.

(2) This article applies to ships registered in the United Kingdom, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person; or
- (b) a body incorporated or constituted under the law of any part of the United Kingdom.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

- (a) in the case of a ship registered in the United Kingdom or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Liberia to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the United Kingdom of the goods concerned to Liberia was authorised by a licence granted by the Secretary of State under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

#### GENERAL

##### **Customs powers to demand evidence of destination which goods reach**

6. Any exporter or any shipper of restricted goods which have been exported from the United Kingdom shall, if so required by the Commissioners of Customs and Excise, furnish within such time as they may allow proof to their satisfaction that the goods have reached either -

(a) a destination to which they are authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

##### **Offences in connection with application for licences, conditions attaching to licences, etc**

7. - (1) If for the purpose of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Secretary of State under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order.

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Secretary of State after the doing of the act authorised by the licence.

### **Declaration as to goods: powers of search**

8. - (1) Any person who is about to leave the United Kingdom shall, if he is required to do so by an officer of Customs and Excise -

(a) declare whether or not he has with him any restricted goods which are destined for Liberia or for delivery, directly or indirectly, to or to the order of any person in Liberia; and

(b) produce such goods as aforesaid which he has with him.

Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(2) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article shall be guilty of an offence under this Order.

(3) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

### **Investigation, etc. of suspected ships**

9. - (1) Where any authorised officer has reason to suspect that any ship to which article 5 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 5, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps:

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the United Kingdom, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in subparagraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 12(3), where -

(a) a master refuses or fails to comply with a request made under paragraph (2)(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) In this article "authorised officer" means an officer as is referred to in section 284(1) of the Merchant Shipping Act 1995.

#### **Investigation, etc. of suspected aircraft**

**10.** - (1) Where any authorised officer or authorised person has reason to suspect that any aircraft to which article 5 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the United Kingdom, any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the United Kingdom until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 12(3), where an authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and upon that aircraft;

(b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised officer" means any officer of the Customs and Excise;

"authorised person" means any person authorised by the Secretary of State for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected vehicles**

**11.** - (1) Where any authorised officer or authorised person has reason to suspect that any vehicle in the United Kingdom has been or is being or is about to be used in contravention of article 5 -

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify; and

(c) any authorised officer or authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the United Kingdom until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 12(3), where any authorised officer or authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised officer" means any officer of the Customs and Excise;

"authorised person" means any person authorised by the Secretary of State for the purpose of this article either generally or in a particular case.

#### **Provisions supplementary to articles 9 to 11**

**12.** - (1) No information furnished or document produced by any person in pursuance of a request made under article 9,10 or 11 shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under article 9,10 or 11 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of:

- (i) the Crown in respect of the Government of the United Kingdom;
- (ii) the Government of the Isle of Man;
- (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
- (iv) the States of Jersey; or

(v) the Government of any territory listed in Schedule 1;

(c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the United Kingdom, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matter that is in force in any of the Channel Islands, the Isle of Man or any territory listed in Schedule 1 to this Order.

(2) Any power conferred by article 9, 10 or 11 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say

(a) a master of a ship who disobeys any direction given under article 9(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who:

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 9, 10 or 11 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 9, 10 or 11.

(4) Nothing in articles 9 to 12 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

### **Obtaining of evidence and information**

**13.** The provisions of Schedule 2 shall have effect in order to facilitate the obtaining, by or on behalf of the Secretary of State or the Commissioners of Customs and Excise -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the United Kingdom; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in any of the Channel Islands or the Isle of Man or any territory listed in Schedule 1; and

(b) of evidence of the commission of -

(i) in the United Kingdom, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of those matters, an offence under the law of any of the Channel Islands or the Isle of Man or any territory listed in Schedule 1.

### **Investigations by the Commissioners of Customs and Excise**

**14.** Where the Commissioners of Customs and Excise investigate or propose to investigate any matter with a view to determining -

(a) whether there are grounds for believing that an offence under this Order has been committed; or

(b) whether a person should be prosecuted for such an offence,

the matter shall be treated as an assigned matter within the meaning of section 1(1) of the Customs and Excise Management Act 1979.

### **Penalties and proceedings**

**15.** - (1) Any person guilty of an offence under article 3 or 5(3) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(2) Any person guilty of an offence under article 12(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 2 shall be liable -



(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both.

(3) Any person guilty of an offence under article 7(1) or (2) or article 8(3) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to a fine not exceeding the statutory maximum.

(4) Any person guilty of an offence under article 12(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 2, shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.

(5) Any person guilty of an offence under article 6 or 8(2) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980[5], a summary offence under this Order may be tried by a magistrates' court in England and Wales if an information is laid at any time within three years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(8) Notwithstanding anything in section 136 of the Criminal Procedure (Scotland) Act 1995[6], summary proceedings in Scotland for an offence under this Order may be commenced at any time within 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings came to his knowledge; and subsection (3) of that section applies for the purpose of this paragraph as it applies for the purpose of that section:

Provided that such proceedings shall not be commenced after the expiration of three years from the commission of the offence.

(9) Notwithstanding anything in article 19 of the Magistrates' Courts (Northern Ireland) Order 1981[7], summary proceedings in Northern Ireland for an offence under this Order may be instituted at any time within three years after the commission of the offence and within 12

months after the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to his knowledge.

(10) For the purposes of this article -

(a) a certificate signed by or on behalf of the prosecutor or the Lord Advocate (as the case may be) as to the date on which such evidence as is referred to in paragraphs (7), (8) and (9) came to his knowledge shall be conclusive evidence of that fact; and

(b) a certificate purporting to be so signed shall be presumed to be so signed unless the contrary is proved.

(11) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the United Kingdom having jurisdiction in the place where that person is for the time being.

(12) In England and Wales, subsection (2) of section 24 of the Police and Criminal Evidence Act 1984[8] shall apply to the offences under this Order that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that subsection; and accordingly such offences shall be arrestable offences within the meaning of that Act.

(13) In Scotland, where a constable reasonably believes that a person has committed or is committing an offence under this Order, he may arrest that person without a warrant.

(14) In Northern Ireland, paragraph (2) of article 26 of the Police and Criminal Evidence (Northern Ireland) Order 1989[9] shall apply to the offences under this Order that are not arrestable offences by virtue of the term of imprisonment for which a person may be sentenced in respect of them, as if they were mentioned in that paragraph; and accordingly such offences shall be arrestable offences within the meaning of that Order.

(15) No proceedings for an offence under this Order, other than for a summary offence, shall be instituted in England, Wales or Northern Ireland except by the Secretary of State or with the consent of the Attorney General or, as the case may be, the Attorney General for Northern Ireland:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### **Exercise of the powers of the Secretary of State**

16. - (1) The Secretary of State may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Secretary of State shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

*A.K Galloway*  
Clerk of the Privy Council

## SCHEDULE 1

Article 12

### DISCLOSURE OF INFORMATION - LISTED TERRITORIES

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Gibraltar

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and Dependencies

South Georgia and the South Sandwich Islands

The Sovereign Base Area of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

## SCHEDULE 2

### Article 13

#### EVIDENCE AND INFORMATION

1. - (1) Without prejudice to any other provision of this Order, or any provision of any other law, the Secretary of State or the Commissioners of Customs and Excise may request any person in or resident in the United Kingdom to furnish to him or to them any information in his possession or control, or to produce to him or to them any document in his possession or control, which he or they may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any constable or person authorised by the Secretary of State or the Commissioners of Customs and Excise to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence under any enactment relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any constable or any officer of the Customs and Excise, together with any other persons named in the warrant and any other constables, to enter the premises specified in the information or, as the case may be, any premises upon which the

vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A constable or officer of the Customs and Excise lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may -

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to Scotland any reference to a justice of the peace includes a reference to a sheriff; and any reference to information on oath is a reference to evidence on oath.

3. A person authorised by the Secretary of State to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except:

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any territory listed in Schedule 1 to this Order;

(c) on the authority of the Secretary of State, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Liberia decided upon by the Security Council of the United Nations; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the United Kingdom, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence against any enactment relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in any of the Channel Islands, the Isle of Man or any territory listed in Schedule 1.

5. Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) furnishes any information or produces any document which to his knowledge is false in a material particular; or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, implements the prohibition of the sale or supply of arms and related materiel to Liberia pursuant to decisions of the Security Council of the United Nations in resolution 1521 of 22nd December 2003. It replaces The Liberia (United Nations Sanctions) Order 2001 (S.I. 2001/947) which ceased to have effect by virtue of the cancellation of the relevant parts of United Nations Security Council resolution 1343 of 7th March 2001.

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#### Notes:

[1] 1946 c. 45.

[2] S.I. 2003/2764.

[3] 1995 c. 21.

[4] 1979 c. 2.

[5] 1980 c. 43.

[6] 1995 c. 46.

[7] S.I. 1981/1675 (N.I.26).

[8] 1984 c. 60.

[9] S.I. 1989/1341 (N.I. 12).

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STATUTORY INSTRUMENTS

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2004 No. 349

**OVERSEAS TERRITORIES**

The Sudan (Restrictive Measures) (Overseas Territories) Order 2004

|                               |                           |
|-------------------------------|---------------------------|
| <i>Made</i>                   | <i>11th February 2004</i> |
| <i>Laid before Parliament</i> | <i>12th February 2004</i> |
| <i>Coming into force</i>      | <i>13th February 2004</i> |

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833[1], the British Settlements Acts 1887 and 1945[2], and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: -

**Citation, commencement, extent and application**

1. - (1) This Order may be cited as the Sudan (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 13th February 2004.

(2)

(a) This Order shall extend to the territories listed in Schedule 1.

(b) Article 15 of this Order shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(c) In the application of this Order to any of the said territories the expression "the Territory" in this Order means that territory.

(3) Articles 3, 4 and 5 shall apply to any person within the Territory and any person elsewhere who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory; or



(b) a body incorporated or constituted under the law of the Territory.

### **Interpretation**

2. In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say -

"assistance" means any form of assistance, including technical assistance, services, financing and financial assistance;

"commander", in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes shipment as stores;

"exportation" in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Territory of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"Governor" means the Governor or other officer administering the Government of the Territory;

"master", in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

"operator", in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or vehicle;

"owner", in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

"restricted goods" means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003[3] made under the Import, Export and Customs Powers (Defence) Act 1939[4];

"ship" includes every description of vessel used in navigation;

"shipment" includes loading into an aircraft;

"stores" means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

"vehicle" means a land transport vehicle.

## RESTRICTED GOODS, TECHNICAL ASSISTANCE AND TRAINING

### **Supply of restricted goods**

3. - (1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4 -

(a) supplies or delivers;

(b) agrees to supply or deliver; or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Sudan shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Sudan.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

### **Exportation of restricted goods to Sudan**

4. - (1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Sudan or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Sudan.

(2) Any restricted goods which are exported or attempted to be exported shall be liable to forfeiture.

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) and of an offence under article 3(1), he shall not be guilty of the offence under paragraph (3).

### **Provision of assistance, advice or training related to military activities**

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person in Sudan any:

- (a) assistance;
- (b) advice; or
- (c) training,

related to military activities shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person in Sudan.

**Use of ships, aircraft and vehicles: restricted goods**

6. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under this article, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Sudan to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or

(b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

(a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Sudan to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Sudan was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

## GENERAL

### **Customs powers to demand evidence of destination which goods reach**

7. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either -

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

### **Offences in connection with applications for licences, conditions attaching to licences, etc.**

8. - (1) If for the purposes of obtaining any licence under this Order any person makes any statement, or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

### **Declaration as to goods: powers of search**

9. - (1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor -

(a) declare whether or not he has with him any restricted goods which are destined for Sudan or for delivery, directly or indirectly, to or to the order of any person in Sudan; and

(b) produce any such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid:

Provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

#### **Investigation, etc. of suspected ships**

**10.** - (1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps -

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 13(3), where -

(a) a master refuses or fails to comply with a request made under paragraph (2)(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means -

(a) any commissioned naval or military officer;

(b) any British consular officer;

(c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected aircraft**

**11.** - (1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the Territory, any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the

operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 13(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and upon that aircraft;

(b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected vehicles**

12. - (1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 6 -

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify; and

(c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 13(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article -

"authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

### **Provisions supplementary to articles 10 to 12**

**13.** - (1) No information furnished or document produced by any person in pursuance of a request made under article 10, 11 or 12 shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced:

Provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under article 10, 11 or 12 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

- (i) the Crown in respect of the Government of the United Kingdom;
- (ii) the Government of the Isle of Man;
- (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
- (iv) the States of Jersey; or
- (v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any person in the service of the Government of any other country for the purpose of assisting that Government in securing compliance with or detecting evasion of measures in relation to Sudan decided upon by the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -



(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 10, 11 or 12 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say

(a) a master of a ship who disobeys any direction given under article 10(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who -

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 10, 11 or 12 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 10, 11 or 12.

(4) Nothing in articles 10 to 13 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

#### **Obtaining of evidence and information**

**14.** The provisions of Schedule 3 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the Territory; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and

(b) of evidence of the commission of -

(i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

### **Penalties and proceedings**

**15.** - (1) Any person guilty of an offence under article 3, 4, 5 or 6(3) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 13(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 3 shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 8(1) or (2) or article 9(4) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both;

(b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 13(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 7 or 9(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any

neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### **Exercise of powers of the Governor**

16. - (1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 3 to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

#### **Miscellaneous**

17. - (1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

*A.K. Galloway*  
Clerk of the Privy Council

## SCHEDULE 1

Article 1(2)(a)

### TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena and Dependencies

South Georgia and South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

## SCHEDULE 2

Article 1(2)(b)

### APPLICATION OF ARTICLE 15 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1. - (1) Any person who commits an offence under article 3, 4, 5 or 6(3), or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction -

(a) if tried on Information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 8(1) or (2), 9(4), or 13(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 13(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 7 or 9(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

5. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

6. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

7. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

8. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### SCHEDULE 3

#### Article 14

### EVIDENCE AND INFORMATION

1. - (1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion

of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the Sovereign Base Areas of Akrotiri and Dhekelia any reference to a justice of the peace includes a reference to a judge or associate judge

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy of an extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized:

Provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this

sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any person in the service of the Government of any other country for the purpose of assisting that Government in securing compliance with or detecting evasion of measures in relation to Sudan decided upon by the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it;

(b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,



shall be guilty of an offence under this Order.

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order applies to each of the territories specified in Schedule 1. It gives effect to a Common Position adopted by the Council of the European Union on 9th January 2004 which prohibits (a) the delivery or supply of arms and related matériel to Sudan, from Member States' territories, by their nationals, or using their flagged vessels and aircraft; (b) the provision of technical assistance, brokering services and other services related to military activities and to the provision, manufacture, maintenance and use of arms and related matériel to any person, entity or body in, or for use in, Sudan; and (c) the provision of financing or financial assistance related to military activities to any person, entity or body, in or for use in, Sudan.

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#### Notes:

[1] 1833 c. 85.

[2] 1887 c. 54 and 1945 c. 7.

[3] S.I. 2003/2764.

[4] 1939 c. 69.

2004 No. 1979

**OVERSEAS TERRITORIES**

**The Burma (Restrictive Measures) (Overseas Territories) Order  
2004**

*Made* - - - - - 27th July 2004  
*Laid before Parliament* 28th July 2004  
*Coming into force* - - - 29th July 2004

At the Court at Buckingham Palace, the 27th day of July 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(1), the British Settlements Acts 1887 and 1945(2), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**INTRODUCTORY**

**Citation, commencement, extent and application**

**1.**—(1) This Order may be cited as the Burma (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 29th July 2004.

- (a) This Order shall extend to the territories listed in Schedule 1.
- (b) Article 19 shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.
- (c) In the application of this Order to any of the said territories the expression “the Territory” in this Order means that territory.

(2) Articles 3,4,5,7,8 and 9 shall apply to any person within the Territory and to any person elsewhere who is:

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

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(1) 1833 c. 85.

(2) 1887 c. 54 and 1945 c. 7.

## Interpretation

2.—(1) In this Order, the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say –

“assistance” means any form of assistance including technical assistance, services, financing and financial assistance;

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of the aircraft by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the aircraft;

“document” includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“export” includes shipment as stores;

“exportation” in relation to any ship, submersible vehicle or aircraft, includes the taking out of the Territory of the ship, submersible vehicle or aircraft notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“funds, financial assets or economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit;

“Governor” means the Governor or other officer administering the Government of the Territory;

“listed person” means any member of the Government of Burma, or any natural or legal person, entity or body associated with them, as is listed in the Annex (as modified from time to time) to Council Common Position 2004/423/CFSP, adopted by the Council of the European Union on 26 April 2004;

“master”, in relation to a ship, includes any person (other than a pilot) for the time being in charge of the ship;

“operator”, in relation to an aircraft or vehicle, means the person for the time being having the management of the aircraft or the vehicle;

“owner”, in relation to a ship, where the owner of a ship is not the operator, means the operator and any person to whom it is chartered;

“relevant institution” means –

- (a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory by way of business; and
- (c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“restricted goods” means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(3) made under the Export Control Act 2002(4) and equipment that might be used for internal repression as listed in Schedule 3;

“ship” includes every description of vessel used in navigation;

“shipment” includes loading into an aircraft;

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(3) S.I. 2003/2764.

(4) 2002 c. 28.

“stores” means goods for use in a ship or aircraft and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a ship or aircraft as merchandise for sale by retail to persons carried therein;

“Supreme Court” means the court of the Territory having unlimited jurisdiction in civil proceedings;

“vehicle” means land transport vehicle.

(2) For the purpose of the definition of “relevant institution” in paragraph (1) –

(a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(5); and

(b) a person is not regarded as accepting deposits by way of business if –

(i) he does not hold himself out as accepting deposits on a day to day basis, and

(ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(4) For the purpose of identifying a “listed person” referred to in paragraph (1), the Governor shall cause a notice containing the names and other particulars of such listed persons to be published in the Gazette of the Territory as necessary from time to time.

## RESTRICTED GOODS, ASSISTANCE AND TRAINING

### Supply of restricted goods

3. Any person who, except under the authority of a licence granted by the Governor under this article or article 4,

(a) supplies or delivers,

(b) agrees to supply or deliver, or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person or place in Burma shall be guilty of an offence under this Order unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person or place in Burma.

### Exportation of restricted goods to Burma

4.—(1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Burma or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Burma.

(2) Any restricted goods which are exported or attempted to be exported shall be liable to forfeiture.

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) and of an offence under article 3, he shall not be guilty of the offence under paragraph (3).

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(5) 2000 c. 8.

### **Provision of assistance, advice or training**

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person, entity or body in, or for use in, Burma any assistance, advice or training related to military activities or to the provision, manufacture, maintenance or use of any restricted goods shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person, entity or body in, or for use in, Burma.

### **Use of ships, aircraft and vehicles: restricted goods**

6.—(1) Without prejudice to the generality of article 3, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Burma to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is —

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then —

- (a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or
- (c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Burma to any destination therein.

(4) Nothing in paragraph (1) shall apply when the supply or delivery or exportation from the Territory of the goods concerned to Burma was authorised by a licence granted by the Governor under article 3 or 4.

(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

## **FUNDS, FINANCIAL ASSETS OR ECONOMIC RESOURCES**

### **Making funds, financial assets or economic resources available to any listed person**

7. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds, financial assets or economic resources available to or for the benefit of any listed person shall be guilty of an offence under this Order.

### **Freezing of funds, financial assets or economic resources**

8.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds, financial assets or economic resources are held is or may be a listed person, the Governor may by notice direct that those funds, financial assets or economic resources are not to be made available to any person, except under the authority of a licence granted by the Governor under article 7.

(2) A direction given under paragraph (1) shall specify either —

(a) the period for which it is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 7 in respect of the funds, financial assets or economic resources in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds, financial assets or economic resources in question ("the recipient"), and shall require the recipient to send a copy of the notice without delay to the person whose funds, financial assets or economic resources they are, or on whose behalf they are held ("the owner");

(6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds, financial assets or economic resources are held may apply to the Supreme Court for the direction to be set aside; and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds, financial assets or economic resources are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

#### **Facilitation of activities prohibited under article 7 or 8(9)**

9. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 7 or 8(9) is guilty of an offence under this Order.

#### **Failure to disclose knowledge or suspicion of measures**

10.—(1) A relevant institution is guilty of offence if:

(a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time:

(i) is a listed person; or

(ii) has committed an offence under article 7, 8(9) or 12(2); and

(b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.

(2) Where a relevant institution discloses to the Governor:

(a) its knowledge or suspicion that a person is a listed person or a person who has committed an offence under article 7, 8(9) or 12(2), or

(b) any information or other matter on which that knowledge or suspicion is based,

the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

## GENERAL

### **Customs powers to demand evidence of destination which goods reach**

11. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by an officer authorised for the purpose by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached a destination to which their exportation was not prohibited by this Order, and, if he fails to do so, he shall be guilty of an offence under this Order unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

### **Offences in connection with applications for licences, conditions attaching to licences, etc**

12.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

### **Declaration as to goods: power of search**

13.—(1) Any person who is about to leave the Territory shall, if he is required to do so by any authorised person:

- (a) declare whether or not he has with him any restricted goods which are destined for a person or place in Burma or for delivery, directly or indirectly, to or to the order of any person in Burma; and
- (b) produce any such goods as aforesaid which he has with him.

(2) Any authorised person, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid, provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular or recklessly makes any declaration which is false in a material particular shall be guilty of an offence under this Order.

(5) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(6) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

### **Investigation, etc. of suspected ships**

14.—(1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article:

- (a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

- (b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and
  - (c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).
- (2) The further action referred to in paragraph (1)(c) is either:
- (a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or
  - (b) to request the master of the ship to take any one or more of the following steps:
    - (i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;
    - (ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;
    - (iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and
    - (iv) to take her to any other destination that may be specified by the officer in agreement with the master.
- (3) Without prejudice to the provisions of article 17(3), where:
- (a) a master refuses or fails to comply with a request made under paragraph (2) (b), or
  - (b) an authorised officer otherwise has reason to suspect that a request that has been so made may not be complied with,

any such officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means:

- (a) any commissioned naval or military officer;
- (b) any British consular officer;
- (c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected aircraft**

15.—(1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article:

- (a) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force; and



- (c) if the aircraft is then in the Territory any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (a)) further request the charterer, operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 17(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose:

- (a) enter, or authorise entry, upon any land and upon that aircraft;
- (b) detain, or authorise the detention of, that aircraft and any of its cargo; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Investigation, etc. of suspected vehicles**

16.—(1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of article 6:

- (a) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;
- (b) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force; and
- (c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (a)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 17(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose:

- (a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;
- (b) detain, or authorise the detention of, that vehicle and any goods contained in it; and
- (c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

#### **Provisions supplementary to articles 14 to 16**

17.—(1) No information furnished or document produced by any person in pursuance of a request made under article 14, 15 or 16 shall be disclosed except:

- (a) with the consent of the person by whom the information was furnished or the document was produced, provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by

any person who is entitled to that information or the possession of that document in his own right;

- (b) to any person who would have been empowered under article 14, 15 or 16 to request that it be furnished or produced to any person holding or acting in any office under or in the service of:
  - (i) the Crown in respect of the Government of the United Kingdom;
  - (ii) the Government of the Isle of Man;
  - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;
  - (iv) the States of Jersey; or
  - (v) the Government of any British overseas territory; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings:
  - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or
  - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 14, 15 or 16 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say:

- (a) a master of a ship who disobeys any direction given under article 14(2)(a);
- (b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who:
  - (i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 14, 15 or 16 by any person empowered to make it, or
  - (ii) furnishes any document or information which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request;
- (c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any person (or any person acting under the authority of any such person) in the exercise of his powers under article 14, 15 or 16.

(4) Nothing in articles 14 to 17 shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

#### **Obtaining of evidence and information**

**18.** The provisions of Schedule 4 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor:

- (a) of evidence or information for the purpose of securing compliance with or detecting evasion of:
  - (i) this Order in the Territory; or
  - (ii) any law making provision with respect to the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and
- (b) of evidence of the commission of –

- (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
- (ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

### **Penalties and Proceedings**

19.—(1) Any person guilty of an offence under article 3, 4(3), 5, 6(3), 7, 8(9) or 9 shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 17(3)(b)(ii) or paragraph 5(b) or (d) of Schedule 4 shall be liable –

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 12(1) or (2) or article 13(4) shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
- (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 8(10), 10, 17(3)(a), (b)(i) or (c), or paragraph 5(a) or (c) of Schedule 4 shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 11 or 13(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### **Exercise of powers of the Governor**

20.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any

person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

#### **Miscellaneous**

21.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

27th July 2004

*A. K. Galloway*  
Clerk to the Privy Council

### **SCHEDULE 1**

Article 1(2)(a)

#### **TERRITORIES TO WHICH THIS ORDER EXTENDS**

Anguilla

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St. Helena and Dependencies

South Georgia and the South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus

Turks and Caicos Islands

Virgin Islands

### **SCHEDULE 2**

Article 1(2)(b)

#### **APPLICATION OF ARTICLE 19 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS**

1.—(1) Any person who commits an offence under article 3, 4, 5, 6(3), 7, 8(9) or 9, or paragraph 5(b) or (d) of Schedule 4, shall be liable on conviction:

- (a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 12(1) or (2), 13(3), or 17(3)(b)(ii) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under article 17(3)(a), (b)(i) or (c), or paragraph (5)(a) or (c) of Schedule 4, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 8(10) or 10 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £5,000 or its equivalent, or to both.

5. Any person who commits an offence under article 11 or 13(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

6. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

7. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

8. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

9. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### SCHEDULE 3

Article 2(1)

#### EQUIPMENT THAT MIGHT BE USED FOR INTERNAL REPRESSION

10. Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.

11. Specially designed fingerprint equipment.

12. Power controlled searchlights.

13. Construction equipment provided with ballistic protection.

14. Hunting knives.

15. Specially designed production equipment to make shotguns.

16. Ammunition hand-loading equipment.

17. Communications intercept devices.
18. Solid-state optical detectors.
19. Image-intensifier tubes.
20. Telescopic weapon sights.
21. Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor; except:
  - (a) signal pistols;
  - (b) air- and cartridge-powered guns designed as industrial tools or humane animal stunners.
22. Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.
23. Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.
24. Body armour, other than those manufactured to military standards or specifications, and specially designed components therefor.
25. All-wheel-drive utility vehicles capable of off-road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.
26. Water cannon and specially designed or modified components therefor.
27. Vehicles equipped with a water cannon.
28. Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.
29. Accoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.
30. Leg-irons, gang-chains, shackles and electric-shock belts, specially designed for restraining human beings; except:
  - handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.
31. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.
32. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shocks batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.
33. Electronic equipment capable of detecting concealed explosives and specially designed components therefor; except:
  - TV or X-ray inspection equipment.
34. Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.
35. Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except:

- those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflators, electric-surge arresters or fire sprinkler actuators).

36. Equipment and devices designed for explosive ordnance disposal; except:

- (a) bomb blankets;
- (b) containers designed for folding objects known to be, or suspected of being improvised explosive devices.

37. Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

38. Software specially designed and technology required for all listed items.

39. Linear cutting explosive charges.

40. Explosives and related substances as follows:

- amatol,
- nitrocellulose (containing more than 12,5 % nitrogen),
- nitroglycerol,
- pentaerythritol tetranitrate (PETN),
- picryl chloride,
- tinitrophenylmethylnitramine (tetryl),
- 2,4,6-trinitrotoluene (TNT)

41. Software specially designed and technology required for all listed items.

## SCHEDULE 4

Article 18

### EVIDENCE AND INFORMATION

42.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

43.—(1) If any judge, justice of the peace or magistrate is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs, has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified, or
- (b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft.

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things:

- (a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may –

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

44. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

45. No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except –

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized: provided that a person



who has obtained information or is in the possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this subparagraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced, or to any person holding or acting in any office under or in the service of –
  - (i) the Crown in respect of the Government of the United Kingdom,
  - (ii) the Government of the Isle of Man,
  - (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
  - (iv) the States of Jersey, or
  - (v) the Government of any British overseas territory; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings –
  - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs, or
  - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

**46. Any person who –**

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document.

shall be guilty of an offence under this Order.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order applies to each of the British overseas territories listed in Schedule 1. It imposes restrictive measures in respect of Burma and the continuing serious violations of human rights in that country and the failure of its military authorities to enter into substantive discussions with the democratic movement concerning a process leading to national reconciliation, respect for human rights and democracy. These measures include the prohibition of the delivery or supply of arms and related material and equipment that might be used for internal repression to Burma, and the prohibition of making available funds, financial assets or economic resources to listed persons and the freezing of their funds, financial assets or economic resources. It gives effect to measures adopted by the European Union in Council Common Position 2004/423/CFSP.

2004 No. 1980

**OVERSEAS TERRITORIES**

**The Sudan (Restrictive Measures) (Overseas Territories)  
(Amendment) Order 2004**

*Made* - - - - - 27th July 2004  
*Laid before Parliament* 28th July 2004  
*Coming into force* - - - 29th July 2004

At the Court at Buckingham Palace, the 27th day of July 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation and commencement**

1.—(1) This Order may be cited as the Sudan (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004 and shall come into force on 29th July 2004.

(2) In this Order “the Order” means the Sudan (Restrictive Measures) (Overseas Territories) Order 2004(c).

**Amendment of the Order**

2. In Article 2 the definition of “restricted goods” shall be replaced by the following definition:

““restricted goods” means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(d) made under the Export Control Act 2002(e).”

3. Article 5 of the Order shall be amended by:

- (a) replacing the words “person in Sudan” wherever that term appears, with the words “person, entity or body in, or for use in, Sudan”; and

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(a) 1833 c. 85.  
(b) 1887 c. 54 and 1945 c. 7.  
(c) SI 2004/349  
(d) SI 2003/2764  
(e) 2002 c.28.

- (b) inserting after the term "military activities" the words "or to the provision, manufacture, maintenance or use of restricted goods".

*A K Galloway*  
Clerk of the Privy Council

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Sudan (Restrictive Measures) (Overseas Territories) Order 2004 to give effect more precisely to the Common Position adopted by the Council of the European Union on 9th January 2004. The amendment makes it clear that it is prohibited to provide assistance, advice or training related to the provision, manufacture, maintenance and use of arms and related matériel and that the prohibition also applies where advice, assistance or training is provided to any person, entity or body in, or for use in, Sudan. The opportunity has also been taken to amend the reference in the definition of restricted goods to correctly refer to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 being made under the Export Control Act 2002.

2004 No. 1983

UNITED NATIONS

The Iraq (United Nations Sanctions) (Overseas Territories)  
(Amendment) Order 2004

*Made* - - - - - 27th July 2004  
*Laid before Parliament* 28th July 2004  
*Coming into force* - - - 29th July 2004

At the Court at Buckingham Palace, the 27th day of July 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the United Nations Act 1946(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement, interpretation and extent**

1.—(1) This Order may be cited as the Iraq (United Nations Sanctions) (Overseas Territories) (Amendment) Order 2004 and shall come into force on 29th July 2004.

(2) In this Order, “the principal Order” means the Iraq (United Nations Sanctions) (Overseas Territories) Order 2003(b).

(3) This Order shall extend to the territories listed in Schedule 1 to the principal Order.

**Amendment of article 4 of principal Order**

2. In article 4 of the principal Order, the definition of “restricted goods” shall be replaced by the following definition:

““restricted goods” means the goods specified in Part 1 of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(c) made under the Export Control Act 2002(d);”

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(a) 1946 c. 45.  
(b) S.I. 2003/1516.  
(c) S.I. 2003/2764.  
(d) 2002 c. 28.

**New article 10a of principal Order**

3. After article 10 of the principal Order, there shall be added a new article 10a as follows:

**“Exception**

**10a.** The privileges and immunities provided in articles 9 and 10 shall not apply with respect to any legal proceedings, nor to any resulting final judgement, arising out of a contractual obligation entered into by Iraq after 30th June 2004.”

*A. K. Galloway*  
Clerk of the Privy Council

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made under the United Nations Act 1946, amends the Iraq (United Nations Sanctions) (Overseas Territories) Order 2003 to give effect to resolution 1546 adopted by the Security Council of the United Nations on 8th June 2004, and to update the definition of “restricted goods”.

2004 No. 3039

**OVERSEAS TERRITORIES**

**The International Criminal Tribunal for the former Yugoslavia  
(Restrictive Measures) (Overseas Territories) Order 2004**

*Made* - - - - - 17th November 2004

*Laid before Parliament* 18th November 2004

*Coming into force* - - - 19th November 2004

At the Court at Buckingham Palace, the 17th day of November 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**INTRODUCTORY**

**Citation, commencement, extent and application**

1.—(1) This Order may be cited as the International Criminal Tribunal for the former Yugoslavia (Restrictive Measures) (Overseas Territories) Order 2004 and shall come into force on 19th November 2004.

- (a) This Order shall extend to the territories listed in Schedule 1.
- (b) Article 9 shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.
- (c) In the application of this Order to any of the said territories the expression “the Territory” in this Order means that territory.

(2) Articles 3, 4 and 5 shall apply to any person within the Territory and to any person elsewhere who is:

- (a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or
- (b) a body incorporated or constituted under the law of the Territory.

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(a) 1833 c. 85.

(b) 1887 c. 54 and 1945 c. 7.

## Interpretation

2.—(1) In this Order, the following expressions have, except where otherwise expressly provided, the meanings hereby respectively assigned to them, that is to say –

“document” includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

“funds, financial assets or economic resources” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travellers’ cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit;

“Governor” means the Governor or other officer administering the Government of the Territory;

“ICTY” means the International Criminal Tribunal for the former Yugoslavia established by UN Security Council resolutions 808 (1993) and 827 (1993);

“listed person” means any person indicted by the ICTY and listed in the Annex (as modified from time to time) to Council Common Position 2004/694/CFSP, adopted by the Council of the European Union on 11 October 2004;

“relevant institution” means –

- (a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;
- (b) any person who may lawfully accept deposits in or from within the Territory by way of business; and
- (c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

“ship” includes every description of vessel used in navigation;

“Supreme Court” means the court of the Territory having unlimited jurisdiction in civil proceedings;

“vehicle” means land transport vehicle.

(2) For the purpose of the definition of “relevant institution” in paragraph (1) –

- (a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(a); and
- (b) a person is not regarded as accepting deposits by way of business if –
  - (i) he does not hold himself out as accepting deposits on a day to day basis, and
  - (ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(3) In determining for the purposes of paragraph (2)(b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(4) For the purpose of identifying a “listed person” referred to in paragraph (1), the Governor shall cause a notice containing the names and other particulars of such listed persons to be published in the Gazette of the Territory as necessary from time to time.

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(a) 2000 c. 8.



## FUNDS, FINANCIAL ASSETS OR ECONOMIC RESOURCES

### **Making funds, financial assets or economic resources available to any listed person**

3. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds, financial assets or economic resources available to or for the benefit of any listed person shall be guilty of an offence under this Order.

### **Freezing of funds, financial assets or economic resources**

4.—(1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds, financial assets or economic resources are held is or may be a listed person, the Governor may by notice direct that those funds, financial assets or economic resources are not to be made available to any person, except under the authority of a licence granted by the Governor under article 3.

(2) A direction given under paragraph (1) shall specify either –

- (a) the period for which it is to have effect; or
- (b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 3 in respect of the funds, financial assets or economic resources in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds, financial assets or economic resources in question (“the recipient”), and shall require the recipient to send a copy of the notice without delay to the person whose funds, financial assets or economic resources they are, or on whose behalf they are held (“the owner”).

(6) A recipient shall be treated as complying with that requirement if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds, financial assets or economic resources are held may apply to the Supreme Court for the direction to be set aside; and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds, financial assets or economic resources are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with such a requirement as is mentioned in paragraph (5) is guilty of an offence under this Order.

### **Facilitation of activities prohibited under article 3 or 4(9)**

5. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 3 or 4(9) is guilty of an offence under this Order.

### **Failure to disclose knowledge or suspicion of measures**

6.—(1) A relevant institution is guilty of an offence if:

- (a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time:
    - (i) is a listed person; or
    - (ii) has committed an offence under article 3, 4(9) or 7(2); and
  - (b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.
- (2) Where a relevant institution discloses to the Governor:
- (a) its knowledge or suspicion that a person is a listed person or a person who has committed an offence under article 3, 4(9) or 7(2), or
  - (b) any information or other matter on which that knowledge or suspicion is based,
- the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

## GENERAL

### **Offences in connection with applications for licences, conditions attaching to licences, etc**

7.—(1) If for the purposes of obtaining any licence under this Order any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order:

Provided that no person shall be guilty of an offence under this paragraph where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, by the Governor after the doing of the act authorised by the licence.

### **Obtaining of evidence and information**

8. The provisions of Schedule 3 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor:

- (a) of evidence or information for the purpose of securing compliance with or detecting evasion of:
  - (i) this Order in the Territory; or
  - (ii) any law making provision with respect to the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and
- (b) of evidence of the commission of –
  - (i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or
  - (ii) with respect to any of those matters, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

### **Penalties and Proceedings**

9.—(1) Any person guilty of an offence under article 3, 4(9) or 5 shall be liable:

- (a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine or to both; or

- (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (2) Any person guilty of an offence under paragraph 5(b) or (d) of Schedule 3 shall be liable –
  - (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
  - (b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.
- (3) Any person guilty of an offence under article 7(1) or (2) shall be liable:
  - (a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both; or
  - (b) on summary conviction to a fine not exceeding £5,000 or its equivalent.
- (4) Any person guilty of an offence under article 4(10), 6 or paragraph 5(a) or (c) of Schedule 3 shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding £5,000 or its equivalent or to both.
- (5) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (6) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.
- (7) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.
- (8) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### **Exercise of powers of the Governor**

10.—(1) The Governor may to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by the authority that granted them.

### **Miscellaneous**

11.—(1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law

substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

*A.K. Galloway*  
Clerk of the Privy Council

## SCHEDULE 1

Article 1(1)(a)

### TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla  
British Antarctic Territory  
British Indian Ocean Territory  
Cayman Islands  
Falkland Islands  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St. Helena and Dependencies  
South Georgia and the South Sandwich Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus  
Turks and Caicos Islands  
Virgin Islands

## SCHEDULE 2

Article 1(1)(b)

### APPLICATION OF ARTICLE 9 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA IN THE ISLAND OF CYPRUS

1.—(1) Any person who commits an offence under article 3, 4(9) or 5, or paragraph 5(b) or (d) of Schedule 3, shall be liable on conviction:

- (a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine, or to both;
- (b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under article 7(1) or (2) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine, or to both.

3. Any person who commits an offence under paragraph (5)(a) or (c) of Schedule 3, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under article 4(10) or 6 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding three months, or to a fine not exceeding £5,000 or its equivalent, or to both.

5. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

6. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

7. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

8. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions:

Provided that this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### SCHEDULE 3

Article 8

## EVIDENCE AND INFORMATION

1.—(1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in the foregoing sub-paragraph shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted of failing to furnish information or produce a document when requested so to do under this paragraph, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2.—(1) If any judge, justice of the peace or magistrate is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case:

- (a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs, has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified, or

- (b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things:

- (a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;
- (b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;
- (c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or
- (d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may –

- (a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and
- (b) seize anything he finds in a search referred to in paragraph (a), if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph:

Provided that no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

**3.** A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

**4.** No information furnished or document produced (including any copy of an extract made of any document produced) by a person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except –

- (a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized: provided that a person who has obtained information or is in the possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;
- (b) to any person who would have been empowered under this Schedule to request that it be furnished or produced, or to any person holding or acting in any office under or in the service of –
  - (i) the Crown in respect of the Government of the United Kingdom,

- (ii) the Government of the Isle of Man,
- (iii) the States of Guernsey or Alderney or the Chief Pleas of Sark,
- (iv) the States of Jersey, or
- (v) the Government of any British overseas territory; or
- (c) with a view to the institution of, or otherwise for the purposes of, any proceedings –
  - (i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs, or
  - (ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who –

- (a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or
- (b) furnishes any information or produces any document which to his knowledge is false in a material particular or recklessly furnishes any document or information which is false in a material particular to such a person in response to such a request; or
- (c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or
- (d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order applies to each of the British overseas territories listed in Schedule 1. It imposes restrictive measures in respect of certain persons indicted by the International Criminal Tribunal for the former Yugoslavia who remain at large. These measures prohibit making available funds, financial assets or economic resources to listed persons and the freezing of their funds, financial assets or economic resources. It gives effect to measures adopted by the European Union in Council Common Position 2004/694/CFSP.



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STATUTORY INSTRUMENTS

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2004 No.3040

**CHILDREN AND YOUNG PERSONS**

The Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2004

*Made 17th November 2004*

At the Court at Buckingham Palace, the 17th day of November 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 2 and 13 of the Child Abduction and Custody Act 1985[1], is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2004.
2. The Child Abduction and Custody (Parties to Conventions) (Amendment) Order 2003[2] is revoked.
3. In the Child Abduction and Custody (Parties to Conventions) Order 1986[3], for Schedules 1 and 2 there shall be substituted Schedules 1 and 2 set out in the Schedule to this Order.

*A.K. Galloway*  
Clerk of the Privy Council

SCHEDULE

Article 3

Schedules 1 and 2 substituted in the Child Abduction and Custody (Parties to Conventions) Order 1986

" SCHEDULE 1

Article 2

CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION,  
THE HAGUE, 25TH OCTOBER 1980

| <i>Contracting States to the Convention</i> | <i>Territories specified in Declarations under Article 39 or 40 of the Convention</i> | <i>Date of Coming into Force of Convention as between the United Kingdom and the State or Territory</i> |
|---|---|---|
| Argentina                                   | -   | 1st June 1991   |
| Australia                                   | Australian States and mainland Territories  | 1st January 1987  |
| Austria                                     | -   | 1st October 1988  |
| The Bahamas                                 | -   | 1st January 1994  |
| Belarus                                     | -   | 1st September 2003  |
| Belgium                                     | -   | 1st May 1999  |
| Belize                                      | -   | 1st October 1989  |
| Bosnia and Herzegovina                      | -   | 7th April 1992  |
| Brazil                                      | -   | 1st March 2005  |
| Burkina Faso                                | -   | 1st August 1992   |
| Canada                                      | Ontario   | 1st August 1986   |
|   | New Brunswick   | 1st August 1986   |
|   | British Columbia  | 1st August 1986   |
|   | Manitoba  | 1st August 1986   |
|   | Nova Scotia   | 1st August 1986   |
|   | Newfoundland  | 1st August 1986   |
|   | Prince Edward Island  | 1st August 1986   |
|   | Quebec  | 1st August 1986   |
|   | Yukon Territory   | 1st August 1986   |
|   | Saskatchewan  | 1st November 1986   |
|   | Alberta   | 1st February 1987   |
|   | Northwest Territories   | 1st April 1988  |
| Chile                                       | -   | 1st May 1994  |
| China                                       | Hong Kong Special Administrative Region   | 1st September 1997  |
|   | Macau Special Administrative Region   | 1st March 1999  |
| Colombia                                    | -   | 1st March 1996  |
| Croatia                                     | -   | 1st December 1991   |
| Cyprus                                      | -   | 1st February 1995   |
| Czech Republic                              | -   | 1st March 1998  |
| Denmark                                     | -   | 1st July 1991   |
| Ecuador                                     | -   | 1st April 1992  |
| Estonia                                     | -   | 1st September 2003  |
| Fiji  | -   | 1st September 2003  |

|                          |   |                    |
|--------------------------|---|--------------------|
| Finland                  | - | 1st August 1994    |
| France                   | - | 1st August 1986    |
| Georgia                  | - | 1st October 1997   |
| Germany                  | - | 1st December 1990  |
| Greece                   | - | 1st June 1993      |
| Honduras                 | - | 1st March 1994     |
| Hungary                  | - | 1st September 1986 |
| Iceland                  | - | 1st November 1996  |
| Ireland                  | - | 1st October 1991   |
| Israel                   | - | 1st December 1991  |
| Italy                    | - | 1st May 1995       |
| Latvia                   | - | 1st September 2003 |
| Lithuania                | - | 1st March 2005     |
| Luxembourg               | - | 1st January 1987   |
| Macedonia                | - | 1st December 1991  |
| Malta                    | - | 1st March 2002     |
| Mauritius                | - | 1st June 1993      |
| Mexico                   | - | 1st September 1991 |
| Monaco                   | - | 1st February 1993  |
| Netherlands              | - | 1st September 1990 |
| New Zealand              | - | 1st August 1991    |
| Norway                   | - | 1st April 1989     |
| Panama                   | - | 1st May 1994       |
| Peru                     | - | 1st September 2003 |
| Poland                   | - | 1st November 1992  |
| Portugal                 | - | 1st August 1986    |
| Romania                  | - | 1st February 1993  |
| St Kitts and Nevis       | - | 1st August 1994    |
| Serbia and Montenegro    | - | 27th April 1992    |
| Slovakia                 | - | 1st February 2001  |
| Slovenia                 | - | 1st June 1994      |
| South Africa             | - | 1st October 1997   |
| Spain                    | - | 1st September 1987 |
| Sweden                   | - | 1st June 1989      |
| Switzerland              | - | 1st August 1986    |
| Turkey                   | - | 1st August 2001    |
| Turkmenistan             | - | 1st March 1998     |
| United States of America | - | 1st July 1988      |
| Uruguay                  | - | 1st September 2003 |
| Uzbekistan               | - | 1st September 2003 |
| Venezuela                | - | 1st January 1997   |
| Zimbabwe                 | - | 1st July 1995"     |

"SCHEDULE 2

Article 3

EUROPEAN CONVENTION ON RECOGNITION AND ENFORCEMENT OF DECISIONS  
CONCERNING CUSTODY OF CHILDREN AND ON THE RESTORATION OF CUSTODY  
OF CHILDREN, LUXEMBOURG, 20th MAY 1980

| <i>Contracting States to the Convention</i> | <i>Territories specified in Declarations under Article 24 or 25 of the Convention</i> | <i>Date of Coming into Force of Convention as between the United Kingdom and the State or Territory</i> |
|---|---|---|
| Austria                                     | -   | 1st August 1986   |
| Belgium                                     | -   | 1st August 1986   |
| Cyprus                                      | -   | 1st October 1986  |
| Czech Republic                              | -   | 1st July 2000   |
| Denmark                                     | -   | 1st August 1991   |
| Finland                                     | -   | 1st August 1994   |
| France                                      | -   | 1st August 1986   |
| Germany                                     | -   | 1st February 1991   |
| Greece                                      | -   | 1st July 1993   |
| Iceland                                     | -   | 1st November 1996   |
| Ireland                                     | -   | 1st October 1991  |
| Italy                                       | -   | 1st June 1995   |
| Latvia                                      | -   | 1st August 2002   |
| Liechtenstein                               | -   | 1st August 1997   |
| Lithuania                                   | -   | 1st March 2005  |
| Luxembourg                                  | -   | 1st August 1986   |
| Malta                                       | -   | 1st February 2000   |
| Netherlands                                 | -   | 1st September 1990  |
| Norway                                      | -   | 1st May 1989  |
| Poland                                      | -   | 1st March 1996  |
| Portugal                                    | -   | 1st August 1986   |
| Spain                                       | -   | 1st August 1986   |
| Sweden                                      | -   | 1st July 1989   |
| Switzerland                                 | -   | 1st August 1986   |
| Turkey                                      | -   | 1st June 2000"  |

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Child Abduction and Custody (Parties to Convention) Order 1986 to add Brazil and Lithuania to the list of Contracting States to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on 25th October 1980 (Cm. 33); and to add

Lithuania to the list of Contracting States to the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children, signed at Luxembourg on 20th May 1980 (Cm.191).

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Notes:

[1] 1985 c.60.

[2] S.I. 2003/1518.

[3] S.I. 1986/1159.

2004 No. 3333

**OVERSEAS TERRITORIES**

**The Burma (Restrictive Measures) (Overseas Territories)  
(Amendment) Order 2004**

|                               |           |                           |
|-------------------------------|-----------|---------------------------|
| <i>Made</i>                   | - - - - - | <i>16th December 2004</i> |
| <i>Laid before Parliament</i> |           | <i>10th January 2005</i>  |
| <i>Coming into force</i>      | - -       | <i>11th January 2005</i>  |

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Burma (Restrictive Measures) (Overseas Territories) (Amendment) Order 2004 and shall come into force on 11th January 2005.

(2) In this Order, "the principal Order" means the Burma (Restrictive Measures) (Overseas Territories) Order 2004(c).

(3) This Order shall extend to the territories listed in Schedule 1 to the principal Order.

**Amendments to principal Order**

2.—(1) Article 1(2) of the principal Order is amended by replacing "Articles 3, 4, 5, 7, 8 and 9" in the first line with "Articles 3, 4, 5, 7, 8, 8a and 9".

(2) Article 2(1) of the principal Order is amended by:

(a) inserting, in the appropriate place in alphabetical order, the following definitions:

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(a) 1833 c. 85.  
(b) 1887 c. 54 and 1945 c.7.  
(c) S.I. 2004/1979.

“the European Community” means the customs territory of the European Community as defined in article 3(3) of Council Regulation (EEC) No 2913/92 of 12th November 1992(a);

“Gazette” means the official gazette of a Territory or any other form in which official information is normally made available in that Territory;

“listed Burmese state-owned enterprise” means any enterprise as is listed in Annex IV (as modified from time to time) to “the Regulation”;

“the Regulation” means Council Regulation (EC) No. 798/2004 of 26 April 2004(b) concerning certain restrictive measures in respect of Burma, as amended from time to time.

(3) Article 2(4) of the principal Order is amended by inserting after the words “For the purposes of identifying”, the words “a “listed Burmese state-owned enterprise” or” and by inserting after the words “the names and other particulars of such”, the words “listed Burmese state-owned enterprises and”.

(4) After article 2(4) of the principal Order, this following new subsection is inserted:

“(5) Except where this Order provides otherwise, expressions used in the Regulation which are also used in this Order have the same meaning in this Order as they have in the Regulation.”.

(5) After article 2 of the principal Order, the following new article is inserted:

#### **“European Community matters**

2a. The Governor shall make available to persons in the Territory, in such manner as he may think fit the text of the Regulation, together with the text of any amending Council Regulations, whether those Regulations were made before or after the coming into force of this Order.”.

(6) The heading above article 7 of the principal Order is amended by replacing “OR ECONOMIC RESOURCES” with “, ECONOMIC RESOURCES OR INVESTMENT”.

(7) After article 8 of the principal Order, the following new article is inserted:

#### **“Prohibition on investment in Burmese state-owned enterprises**

8a.—(1) Subject to the provisions of this Order, Article 8a of the Regulation shall have effect in the Territory, as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory, so as to prohibit:

- (a) the granting of any financial loan or credit to the listed Burmese state-owned enterprises, or the acquisition of bonds, certificates of deposit, warrants or debentures issued by those enterprises; and
- (b) the acquisition or extension of a participation in the listed Burmese state-owned enterprises, including the acquisition in full of such enterprises and the acquisition of shares and securities of a participating nature.

(2) Any person who commits a breach of any prohibition in paragraph (1) is guilty of an offence.

(3) Paragraph (1) shall be without prejudice to the execution of trade contracts for the supply of goods or services on usual commercial payment conditions and the usual supplementary agreements in connection with the execution of these contracts such as export credit insurances, as provided by Article 8a(3) of the Regulation.

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(a) OJ No L 302, 19.10.92, p1 as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No L 236, 23.9.2003, p33).

(b) OJ No L 125, 28.4.2004, p. 4, as amended by Council Regulation (EC) No 1853/2004 of 25 October 2004 (OJ No L 323, 26.10.2004, p.11) and as amended from time to time.

- (4) The provisions of paragraph 1(a) shall be without prejudice to the execution of an obligation arising from contracts or agreements concluded before 25 October 2004, as provided by Article 8a(4) of the Regulation.
- (5) The prohibition in paragraph 1(b) shall not prevent the extension of a participation in a listed Burmese state-owned enterprise, if such extension is compulsory under an agreement concluded with the listed Burmese state-owned enterprise concerned before 25 October 2004, provided that the Governor, the United Kingdom Treasury and the European Commission shall be informed prior to any such transaction.”
- (8) The heading above article 9 of the principal Order is amended by replacing “article 7 or 8(9)” with “article 7, 8a or 8(9)”.
- (9) Article 9 of the principal Order is amended by replacing “article 7 or 8(9)” with “article 7, 8a(2) or 8(9)”.
- (10) The first line of article 10 of the principal Order is amended by inserting “an” immediately before “offence”.
- (11) Article 10(1)(a)(i) of the principal Order is amended by inserting “or a listed Burmese state-owned enterprise” immediately after “listed person”.
- (12) Article 10(1)(a)(ii) of the principal Order is amended by replacing “article 7, 8(9) or 12(2)” with “article 7, 8a(2), 8(9) or 12(2)”.
- (13) Article 10(2)(a) of the principal Order is amended by inserting in the first line the words “or a listed Burmese state-owned enterprise” after “a listed person” and by replacing “article 7, 8(9) or 12(2)” with “article 7, 8a(2), 8(9) or 12(2)”.
- (14) Article 19(1) of the principal Order is amended by inserting “8a(2),” after “7,”.
- (15) Sub-paragraph 1(1) of Schedule 2 to the principal Order is amended by inserting “8a(2),” after “7,” in the second line.
- (16) The paragraphs in Schedule 3 to the principal Order are renumbered so as to commence at the number “1” rather than “10”.
- (17) The paragraphs in Schedule 4 to the principal Order are renumbered so as to commence at the number “1” rather than “42”.
- (18) Sub-paragraph 1(3) (as so renumbered) of Schedule 4 to the principal Order is replaced with the following:
- “(3) Where a person is convicted of an offence under paragraph 5 of this Schedule of failing to furnish or produce a document when requested so to do, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or provide the document.”.
- (19) Paragraph 4 (as so renumbered) of Schedule 4 to the principal Order is amended by replacing the words “any copy of an extract” in the second line with the words “any copy or extract”.

*A.K. Galloway*  
Clerk of the Privy Council



## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Burma (Restrictive Measures) (Overseas Territories) Order (SI 2004/1979) (the principal Order) to give effect to further restrictive measures in respect of Burma agreed by the European Union in Common Position 2004/740/CFSP (25 October 2004). Council Regulation (EC) No. 798/2004 of 26 April 2004 (the Regulation), as amended by Council Regulation (EC) No 1853/2004 of 25 October 2004, implements these measures in EU Member States and this Order extends them to the British overseas territories listed in Schedule 1 to the principal Order. The measures consist of a ban, with certain exemptions, on new investment in listed Burmese state-owned enterprises.

This Order also makes minor amendments to the principal Order to correct various errors.

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AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**  
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*No. 2*

*13th May 2005*

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The following are published in this Gazette -

**Appointment of Acting Attorney General;**

**Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004, (SI 2004/3101), Commencement in South Georgia and the South Sandwich Islands;**

**Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004, (2004 No. 3101);**

**Trade in Goods, (Control) (Overseas Territories) Order 2004, (SI 2004/3102), Commencement in South Georgia and the South Sandwich Islands;**

**Trade in Goods (Control) (Overseas Territories) Order 2004, (2004 No. 3102);**

**Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004 (SI 2004/3103), Commencement in South Georgia and the South Sandwich Islands;**

**Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004, (2004 No. 3103).**



**Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004  
(SI 2004/3103)**

**Commencement in South Georgia and the South Sandwich Islands**

Pursuant to paragraph 1 of Schedule 2 to this Order I **APPOINT** the date of publication of the Order in the Gazette as the date on which it shall be extended to South Georgia and the South Sandwich Islands.

Pursuant to paragraph 13 of Schedule 2 to this Order the address for delivery of notices under the Order is to the Commissioner, Government House, Stanley, Falkland Islands.

Pursuant to section 9 of the Export Control Act 2002 ("the Act") in its application to South Georgia and the South Sandwich Islands under article 4 of and Schedule 3 to this Order, I notify that copies of guidance given or published by the Secretary of State for Trade and Industry under section 9 of the Act as it applies in the United Kingdom may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Alternatively it may be downloaded free of charge from the DTI Export Control Organisation website at [www.dti.gov.uk/export.control/publications.htm](http://www.dti.gov.uk/export.control/publications.htm). All such guidance shall be modified so that references to the UK will be read as references to South Georgia and the South Sandwich Islands and references to the Secretary of State will be read as references to the Commissioner.

Dated this third day of May 2005

H. Hall,  
*Acting Commissioner*

2004 No. 3103

**OVERSEAS TERRITORIES**

**Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004**

Made - - - - 16th December 2004

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 16(5) of the Export Control Act 2002(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: —

**Citation**

1. This Order may be cited as the Trade in Controlled Goods (Embargoed Destinations) (Overseas Territories) Order 2004.

**Extent and interpretation**

2.—(1) This Order shall extend to the territories listed in Schedule 1.

(2) In the application of this Order to any of the said territories —

- (a) the expression “the Territory” means that territory;
- (b) any reference to “the Governor” means the Governor or other officer administering the Government of that Territory; and
- (c) any reference to the official gazette of a Territory includes a reference to any form in which official information is normally made available in that Territory.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in Schedule 2 or, as applicable, in Schedule 5.

**Extension of Order to territories**

3. The Trade in Controlled Goods (Embargoed Destinations) Order 2004(b) (the “UK Order”), as modified in Schedule 2, extends to the territories listed in Schedule 1.

---

(a) 2002 c. 28.

(b) S.I. 2004/318 as amended by S.I. 2004/1049 and 2004/2741.

### **Guidance about the exercise of functions under this Order**

4. Section 9 of the Export Control Act 2002 (guidance about the exercise of functions under control orders), as modified in Schedule 3, extends to the territories listed in Schedule 1.

### **Modification of Schedule 4 (Embargoed Destinations)**

5.—(1) Where any modification is made to the Schedule to the UK Order, whether before or after the coming into force of this Order in the territory, the Governor shall, by order published in the official gazette of the Territory, make the like modification to Schedule 4.

(2) An order under paragraph (1) may make transitional provisions in connection with any modification made by such order.

### **Application to the Sovereign Base Areas of Akrotiri and Dhekelia of provisions relating to penalties for offences and proceedings**

6. Schedule 5 shall have effect for the application of articles 8, 9 and 10 of the UK Order, as modified in Schedule 2, to the Sovereign Base Areas of Akrotiri and Dhekelia.

### **Exercise of powers of the Governor**

7. The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate, or authorise the delegation of, any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

*A.K. Galloway*  
Clerk of the Privy Council

## **SCHEDULE 1**

Article 2(1)

### **TERRITORIES TO WHICH THE ORDER EXTENDS**

Anguilla  
Bermuda  
Cayman Islands  
Falkland Islands  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St Helena and Dependencies  
South Georgia and the South Sandwich Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia  
Turks and Caicos Islands  
Virgin Islands

PROVISIONS OF THE TRADE IN CONTROLLED GOODS  
(EMBARGOED DESTINATIONS) ORDER 2004 AS EXTENDED TO  
THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1

**Commencement**

1. This Order shall come into force in each Territory listed in Schedule 1 on such day as the Governor may by order, published in the official gazette of the Territory, appoint.

**Interpretation**

2.—(1) In this Order: —

“the Act” means the Export Control Act 2002(a);

“controlled goods” means goods used and unused, specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(b) as extended to certain territories by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(c), the supply and delivery of which are prohibited by this Order. For the avoidance of doubt “controlled goods” does not include software and technology;

“country” includes territory;

“customs authorities” means the authorities which, under the law of the Territory, have responsibility for the control of imports and exports;

“embargoed destination” means a country listed in Schedule 4;

“goods in transit” means any controlled goods imported into the Territory for transit or transshipment; and

“United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of the Territory, and, for the purposes of this definition, a United Kingdom national is an individual who is ordinarily resident in the Territory and is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a person who under the British Nationality Act 1981(d) is a British subject or a British protected person within the meaning of that Act.

(2) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day after that event.

CONTROLS ON TRADE IN CONTROLLED GOODS

**Supply and delivery of controlled goods**

3.—(1) Subject to the provisions of this Order, no person shall directly or indirectly —

(a) supply or deliver;

(b) agree to supply or deliver; or

(c) do any act calculated to promote the supply or delivery of,

any controlled goods to any person or place in an embargoed destination.

---

(a) 2002 c. 28.

(b) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(c) S.I. 2004/3101.

(d) 1981 c. 61.



(2) Subject to the provisions of this Order, no United Kingdom person shall directly or indirectly —

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any controlled goods to any person or place in an embargoed destination.

(3) Sub-paragraph (1) applies to any act, or any part of any act, done in the Territory.

(4) Sub-paragraph (2) applies to any act, or any part of any act, done outside the Territory.

(5) Sub-paragraphs (1) and (2) do not apply to any controlled goods that are present in the Territory unless they are goods in transit.

(6) For the purposes of sub-paragraphs (1) and (2), controlled goods that are goods in transit shall be considered to be located in a place outside the Territory.

(7) Nothing in sub-paragraph (1) or (2) shall be taken to prohibit any activities authorised by a licence granted by the Governor under this Order or any other order made under the Act, provided that all the conditions attaching to the licence are complied with.

(8) Nothing in sub-paragraph (1)(b) or (c) or (2)(b) or (c) shall apply where the supply or delivery of the controlled goods to the person or place concerned is authorised by a licence granted by the Governor under this Order or any other order made under the Act.

## LICENCES

### Granting and revocation of licences etc.

4.—(1) The Governor may grant licences authorising any act that would otherwise be prohibited under this Order.

(2) Any licence granted by the Governor in pursuance of this Order may be —

- (a) either general or individual;
- (b) limited so as to expire on a specified date unless renewed; and
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised under that licence.

(3) Any licence granted under this Order shall be in writing and may be amended, suspended or revoked by the Governor at any time and in such circumstances and on such terms as he thinks fit by serving a notice to that effect on the holder of the licence.

### Registration with the Governor

5.—(1) Not later than 30 days after any person first does any act under the authority of any general licence granted by the Governor that does not provide otherwise, that person shall give to the Governor written notice of his name and the address at which copies of the records referred to in paragraph 6(1) may be inspected by any person authorised by the Governor or the customs authorities under paragraph 6(4).

(2) A person who has given to the Governor written notice of particulars under sub-paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Governor written notice of the changed particulars.

### Record keeping and inspection

6.—(1) Any person who does any act under the authority of any general licence under this Order shall keep registers or records in accordance with this paragraph.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information to be identified —

- (a) a description of the controlled goods that have been supplied or delivered, or for which arrangements for their supply or delivery have been made;
- (b) the date or the period of time over which the goods were supplied or delivered or activities relating to the supply or delivery of controlled goods were carried out;
- (c) the quantity of the controlled goods;
- (d) the name and address of the end-user of the controlled goods;
- (e) the name and address of the supplier of the controlled goods; and
- (f) any further information required to be kept by the Governor.

(3) The registers or records referred to in sub-paragraph (1) shall be kept for at least 4 years from the end of the calendar year in which the authorised act took place.

(4) The person referred to in sub-paragraph (1) shall permit any such records to be inspected and copied by any person authorised by the Governor or the customs authorities.

(5) Any person authorised by the Governor or the customs authorities shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter for the purpose of sub-paragraph (4) the premises, the address of which has been most recently notified to the Governor under paragraph 5.

(6) Where the registers or records required to be maintained under this paragraph are kept in a form which is not legible the person required under sub-paragraph (1) to maintain such records shall at the request of the person authorised by the Governor or the customs authorities, as the case may be, reproduce such registers or records in a legible form.

#### **Licence refusals etc. and appeals**

7.—(1) In the event that the Governor decides not to grant a licence under this Order to any person who has applied for a licence, that person shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Governor decides to suspend a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Governor decides to revoke a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(4) Any person who has had a licence application refused under paragraph 4 or who has had a licence suspended or revoked under that paragraph shall have 28 calendar days from the date of the written notification in which to submit an appeal in writing to the Governor.

(5) Any appeal submitted under sub-paragraph (4) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(6) Pending determination of any appeal submitted under sub-paragraph (4), any decision taken by the Governor shall continue to have effect.

### **GENERAL**

#### **Offences and penalties**

8.—(1) Any person who contravenes a prohibition or restriction in paragraph 3 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or the equivalent.

(2) Any person who knowingly contravenes any prohibition or restriction in paragraph 3 shall be guilty of an offence and may be arrested.

(3) A person guilty of an offence under sub-paragraph (2) shall be liable —

- (a) on summary conviction to a fine not exceeding £5,000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both.

(4) No person shall be guilty of an offence under sub-paragraph (1) if he is able to show that he did not know, and had no reason to suppose, that the goods were destined for an embargoed destination.

(5) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(7) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction where that person is for the time being.

(8) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

#### **Misleading applications for licences etc.**

9.—(1) Where for the purpose of obtaining a licence under this Order any person either —

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular;

he shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

- (a) on summary conviction to a fine not exceeding £5,000 or the equivalent; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or to both,

and any licence which may have been granted by the Governor in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

#### **Failure to comply with licence conditions**

10.—(1) Subject to sub-paragraph (3), any person who —

- (a) has done any act under the authority of a licence granted by the Governor under this Order, and
- (b) fails to comply with —
  - (i) any conditions attaching to that licence;
  - (ii) any obligation under paragraph 5; or

- (iii) any obligation under paragraph 6,  
shall be guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) shall be liable —
- (a) on summary conviction to a fine of not exceeding £5,000 or the equivalent; or
  - (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or both.
- (3) No person shall be guilty of an offence under sub-paragraph (1) where —
- (a) the licence condition in question had been previously modified by the Governor; and
  - (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
  - (c) the condition with which he failed to comply was modified by the Governor after the doing of the act authorised by the licence.

### **Application of customs and excise laws**

11.—(1) It shall be the duty of the customs authorities to take such action as they consider appropriate to secure the enforcement of paragraphs 3, 9 and 10(1)(b)(i), or any obligation arising under paragraph 6 insofar as the obligation relates to the powers of the customs authorities.

(2) The provisions of the law of the Territory relating to proceedings for offences, mitigation of penalties, proof and other matters in respect of the import and export of goods apply in relation to offences and penalties under this Order, and proceedings for such offences, as they apply in relation to offences and penalties and proceedings for offences under those provisions.

(3) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the customs authorities by virtue of sub-paragraph (1) shall not be offences in respect of which under any law of the Territory relating to customs and excise proceedings may be taken only by, or by order of, the customs authorities.

### **Use and disclosure of information**

12.—(1) This paragraph applies to information which is held by —

- (a) the Governor, or
- (b) the customs authorities,

in connection with the operation of controls imposed by this Order on activities which facilitate or are otherwise connected with the supply or delivery of controlled goods.

(2) Information to which this paragraph applies may be used for the purposes of, or for any purposes connected with —

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Act;
- (b) giving effect to any European Community or other international obligation of the United Kingdom;
- (c) facilitating the exercise by an authority or international organisation outside the Territory of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act; and

may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this paragraph unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this paragraph “information” is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this paragraph shall be taken to affect any power to disclose information that exists apart from this paragraph.

(6) The information that may be disclosed by virtue of this paragraph includes information obtained before the commencement of this Order.

#### Service of Notices

13. Any notice to be given by any person under this Order may be given by an agent of that person and shall be sent by post or delivered to the Governor at an address to be specified in the official gazette of the Territory.

## SCHEDULE 3

Article 4

### SECTION 9 OF THE EXPORT CONTROL ACT 2002 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1

Section 9 of the Export Control Act 2002 extends to each of the territories listed in Schedule 1, modified as follows:

“9.—(1) This section applies to licensing powers and other functions conferred on any person by the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004 in the territories to which that Order extends.

(2) The Governor shall publish in such manner as he may think fit any guidance given and published (or treated as given and published) by the Secretary of State under this section as it applies in the United Kingdom relevant to the exercise of the powers and other functions to which this section applies in the Territory, with such exceptions and modifications as appear to the Governor to be appropriate.

(3) Any person exercising a licensing power or other function to which this section applies shall have regard to any guidance which relates to that power or other function.

(4) In the application of this section to any of the said territories, “the Territory” means that territory and “the Governor” means the Governor or other officer administering the Government of that territory.”.

## SCHEDULE 4

Article 5

### EMBARGOED DESTINATIONS

Armenia

Azerbaijan

Bosnia and Herzegovina

Burma (Myanmar)

Democratic Republic of the Congo

Iran

Ivory Coast (Côte d'Ivoire)

Sudan

## SCHEDULE 5

Article 6

### APPLICATION TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA OF PROVISIONS RELATING TO PENALTIES FOR OFFENCES AND PROCEEDINGS

1. Any person who commits an offence under paragraph 8(1) of Schedule 2 shall be guilty of a misdemeanour and liable on conviction to a fine not exceeding £5,000 or the equivalent.
2. Any person who commits an offence under paragraph 8(2) of Schedule 2 shall be liable on conviction —
  - (1) if tried on information before the Senior Judge's Court, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both;
  - (2) if tried before the Judge's Court, to a fine not exceeding £5,000 or the equivalent, or to imprisonment for a term not exceeding six months, or to both.
3. Any person who commits an offence under paragraph 9(1) or 10(1) of Schedule 2 shall be guilty of a misdemeanour and liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.
4. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly
5. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.
6. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction where that person is for the time being.
7. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

#### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the Export Control Act 2002 (the Act), extends with modifications the Trade in Controlled Goods (Embargoed Destinations) Order 2004 (S.I. 2004/318 as amended by S.I. 2004/1049 and 2004/2741) (the UK Order) to the territories listed in Schedule 1. It prohibits trade in certain goods between any overseas country and the embargoed destinations listed in Schedule 4. In this Order, these goods are referred to as "controlled goods", and are found in part 1 of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764, as amended by S.I. 2004/1049, 2004/2561 and 2004/2741) as extended to the overseas territories by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004 (SI

(6) Nothing in sub-paragraph (1), (2) or (4) shall be taken to prohibit the transfer of any software or technology in the public domain.

(7) Sub-paragraphs (1), (2) and (4) do not prohibit the transfer of any software or technology in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

#### **Non-electronic transfer of all software and technology and end-use controls**

9.—(1) Subject to the provisions of this Order, and where sub-paragraph (2) applies, no person ('the person concerned') shall transfer by any non-electronic means any software or technology to

- (a) a person or place not within the Territory or the European Community; or
- (b) a person or place within the Territory or any Member State if he knows at the time of transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in the Territory or any Member State to which it is to be transferred.

(2) This sub-paragraph applies where —

- (a) the person concerned has been informed by the Governor or the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the person concerned is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(3) Subject to the provisions of this Order, articles 3 and 4 of the Regulation shall have effect in the Territory so as to prohibit the transfer by any non-electronic means of dual-use software and technology to any person or place not within the territory or the European Community as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory.

(4) Subject to the provisions of this Order, no person shall transfer by any non-electronic means any software or technology to a person or place within the Territory where —

- (a) he has been informed by the Governor or the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used otherwise than within the Territory or the European Community.

(5) Subject to the provisions of this Order and where sub-paragraph (6) applies, no United Kingdom person shall transfer by any non-electronic means any software or technology from any place not within the Territory or the European Community to —

- (a) a person or place not within the Territory or the European Community; or
- (b) a person or place within the Territory or any Member State if he knows at the time of transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in the Territory or the Member State to which it is to be transferred.

(6) This sub-paragraph applies where —

- (a) the United Kingdom person has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the United Kingdom person is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(7) For the purposes of sub-paragraph (4) a person has reason to believe that software or technology may be used otherwise than within the Territory or the European Community if he knows that it may be or is intended to be so used or if he has been informed by the Governor or the Secretary of State that it may be or is intended to be so used.

(8) Nothing in sub-paragraph (1), (3), (4) or (5) shall be taken to prohibit the transfer of any software or technology in the public domain.

(9) Sub-paragraphs (1), (3), (4) and (5) do not prohibit the transfer of any software or technology in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

### PART III

#### CONTROL ON THE PROVISIONS OF TECHNICAL ASSISTANCE

##### **End-use control on technical assistance**

10.—(1) Subject to sub-paragraphs (3) and (4), no person shall directly or indirectly provide to a person or place not within the Territory or the European Community any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which —

(a) he has been informed by the Governor is or may be intended, in its entirety or in part, for any relevant use; or

(b) he is aware is intended, in its entirety or in part, for any relevant use.

(2) Subject to sub-paragraphs (3) and (4), no United Kingdom person shall directly or indirectly provide from a place not within the Territory or the European Community to any person or place not within the Territory or the European Community any technical assistance related to the supply, delivery, manufacture, maintenance or use of anything which —

(a) he has been informed by the Governor is or may be intended, in its entirety or in part, for any relevant use; or

(b) he is aware is intended, in its entirety or in part, for any relevant use.

(3) For the purposes of sub-paragraphs (1) and (2) —

(a) a person directly provides technical assistance if in particular he provides technical assistance or agrees to do so; and

(b) a person indirectly provides technical assistance if in particular he makes arrangements under which another person provides technical assistance or agrees to do so.

(4) Sub-paragraphs (1) and (2) do not prohibit the provision of any technical assistance in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

### PART IV

#### EXCEPTIONS TO THE CONTROLS IN PARTS I, II AND III

##### **Aircraft, vessels, firearms and ammunition and goods transit**

11.—(1) Nothing in paragraph 4 shall be taken to prohibit the exportation of any aircraft the immediately preceding importation of which was on a scheduled journey and which is intended for further scheduled journeys.

(2) Nothing in paragraph 3 shall be taken to prohibit the exportation of any aircraft which is being exported (except to Iran or a country or destination specified in Schedule 3 to the UK Order) after temporary importation into the Territory provided there has been no change of ownership or



registration since such importation and that no goods of a description specified in Schedule 1 to the UK Order have been incorporated into the aircraft since such importation other than by way of replacement for a component essential for the departure of the aircraft.

(3) Nothing in paragraph 4 shall be taken to prohibit the exportation of any aircraft on a scheduled journey.

(4) Nothing in paragraph 3 or 4 shall be taken to prohibit the exportation of any aircraft which is departing temporarily from the Territory on trials.

(5) Nothing in paragraph 3 or 4 shall be taken to prohibit the exportation of any vessel which is departing temporarily from the Territory on trials.

(6) Nothing in paragraph 3 shall be taken to prohibit the exportation of any vessel registered or constructed outside the Territory which is being exported (except to Iran or a country or destination specified in Schedule 3 to the UK Order) after temporary importation into the Territory provided that no goods of a description specified in Schedule 1 to the UK Order have been incorporated into the vessel since such importation other than by way of replacement for a component essential for the departure of the vessel.

(7) Nothing in paragraph 4 shall be taken to prohibit the exportation of any vessel proceeding on a normal commercial journey.

(8) [omitted]

(9) Nothing in paragraph 3 shall be taken to prohibit the exportation of any firearm authorised to be possessed or, as the case may be, purchased or acquired by a valid certificate, licence or other authority under the law of the Territory, related ammunition and sight using non-electronic image enhancement for use therewith —

- (a) to any destination in a Member State by the holder of a certificate, licence or other authority in respect of that firearm granted under the law of the Territory, or
- (b) to any other destination other than to Iran or a country or destination specified in Schedule 3 to the UK Order,

provided that the firearm, related ammunition and sight using non-electronic image enhancement form part of the personal effects of the holder of the authority and, in a case to which sub-paragraph (b) applies, the authority is produced by the holder, or his duly authorised agent, with the firearm and ammunition to the customs authorities at the place of exportation.

(10) Subject to paragraph 5 and sub-paragraph (11) below, nothing in paragraph 3, 4(1), 4(2), 4(3)(a), (b), (c)(ii) or (5) shall be taken to prohibit the exportation of any goods which are goods in transit provided that the conditions in sub-paragraph (12) below are met.

(11) Sub-paragraph (10) does not apply to —

- (a) anti-personnel landmines;
- (b) any goods falling within paragraph c. or g. of entry PL5001 in Part I of Schedule 1 to the UK Order;
- (c) components specially designed for goods falling within sub-paragraph (a);
- (d) equipment, software or technology falling within entry ML18, ML21 or ML22 in Part 1 of Schedule 1 to the UK Order specifically related to goods falling within sub-paragraph (a) or (b);
- (e) any goods being exported to Iran or North Korea; or
- (f) any goods of a description specified in Schedule 1 to the UK Order being exported to any country or destination specified in Schedule 3 to the UK Order.

(12) The conditions are that —

- (a) the goods remain on board a vessel or aircraft for the entire period that they remain in the Territory or are goods on a through bill of lading or through air waybill and in any event are exported within 30 days of their importation;
- (b) the destination of those goods following exportation from the Territory has been determined in the country from which they were originally exported prior to their original

exportation in connection with the transaction which has given rise to transit or transshipment and has not been changed prior to their exportation from the Territory, or the goods are being returned to that country; and

- (c) the goods in question were exported from that country in accordance with any laws or regulations relating to the exportation of goods applying therein at the time of exportation of those goods.

## PART V LICENCES

### Licences

12.—(1) The Governor may grant licences.

(2) [omitted]

(3) [omitted]

(4) Any licence granted or issued by the Governor in pursuance of this Order may be —

- (a) either general or individual;
- (b) limited so as to expire on a specified date unless renewed; and
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised under that licence.

(5) Any licence granted under this Order may be amended, suspended or revoked by the Governor at any time and in such circumstances and on such terms as he thinks fit by serving notice to that effect on the holder of the licence.

### Registration with the Governor

13.—(1) Not later than 30 days after any person first does any act under the authority of —

- (a) any general licence granted by the Governor that does not provide otherwise,
- (b) any individual licence granted under paragraph 4 or 5 by the Governor that does not provide otherwise,

the person in question shall give to the Governor written notice of his name and the address at which copies of the records referred to in paragraph 14(1) may be inspected by any person authorised by the Governor or the customs authorities under paragraph 14(4).

(2) A person who has given to the Governor written notice of particulars under sub-paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Governor written notice of the changed particulars.

### Record keeping and inspection

14.—(1) Any person acting under the authority of any general licence granted under this Order shall keep detailed registers or records.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information, where appropriate, to be identified —

- (a) a description of the goods that have been exported or the software or technology that has been transferred;
- (b) the date of the exportation or transfer;
- (c) the quantity of the goods;
- (d) the name and address of the person referred to in sub-paragraph (1);
- (e) the name and address of any consignee of the goods;

- (f) in so far as it is known to the person referred to in sub-paragraph (1) the name and address of the end-user of the goods, software or technology; and
- (g) any further information required to be kept by the competent authority who has authorised the exportation or transfer.

(3) [omitted]

(4) The register or records referred to in sub-paragraph (1) shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place, and the person referred to in sub-paragraph (1) shall permit any such registers or records to be inspected and copied by any person authorised by the Governor or the customs authorities.

(5) [omitted]

(6) Any person authorised by the Governor or the customs authorities shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter for the purpose of sub-paragraph (4) the premises of the address which has most recently been notified to the Governor under paragraph 13.

(7) Where the registers or records required to be maintained under this paragraph are kept in a form which is not legible the exporter or transferor shall, at the request of the person authorised by the Governor or the customs authorities, reproduce such registers or records in a legible form.

(8) [omitted]

(9) Any person who exports or transfers to any Member State any goods, software or technology listed in Part 2 of category 5 in Annex I to the Regulation but not listed in Annex IV to the Regulation shall maintain registers or records in relation to each such exportation or transfer that contain such of the information specified in Part II of Schedule 4 to the UK Order as he can reasonably be expected to obtain and such other of that information as comes into his possession. These registers or records shall be kept for at least 3 years from the end of the calendar year in which the authorised act took place, and he shall permit any such registers or records to be inspected and copied by any person authorised by the Governor or the customs authorities. Sub-paragraphs (6) and (7), and the provision in sub-paragraph (4) relating to inspection and copying, shall apply to the production of such documents or records as they apply in respect of registers or records referred to in sub-paragraph (4) or (as the case may be) in respect of entry into premises for the purpose of sub-paragraph (4).

#### **Licence refusals etc. and appeals**

15.—(1) In the event that the Governor decides not to grant a licence under this Order to any person who has applied for a licence, he shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Governor decides to suspend a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Governor decides to revoke a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(4) Any person who has a licence application refused under this Order or who has a licence suspended or revoked under paragraph 12 shall have 28 calendar days from the date of the written notification in which to submit an appeal in writing to the Governor.

(5) Any appeal submitted under sub-paragraph (4) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(6) Pending determination of any appeal submitted under sub-paragraph (4), any decision taken by the Governor shall continue to have effect.

## PART VI GENERAL

### Offences and penalties

16.—(1) Any person who contravenes a prohibition or restriction in —

- (a) paragraph 6, 7(1), 7(3)(a), 7(3)(b) or 7(3)(c)(ii); or
- (b) article 3(1), 4(2) or 4(3) of the Regulation,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5000 or the equivalent.

(2) Any person who contravenes a prohibition or restriction in —

- (a) paragraph 4(3)(c)(i), 4(4) or 5;
- (b) paragraph 7(3)(c)(i), 7(4), 8(2), 8(4), 9(1), 10(1) or 10(2);
- (c) paragraph 8(1) or 9(4); or
- (d) article 4(1) of the Regulation,

shall be guilty of an offence and may be arrested.

(3) A person guilty of an offence under sub-paragraph (2) shall be liable: —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment, to a fine of any amount or to imprisonment for a term not exceeding two years, or to both.

(4) Any person knowingly concerned in the exportation of any good or the transfer of software or technology, or in the attempted exportation of any good or the attempted transfer of software or technology, with intent to evade any prohibition or restriction in —

- (a) paragraph 6, 7(1), 7(3), 7(4), 8(2), 8(4), 9(1) or 9(5);
- (b) paragraph 8(1) or 9(4); or
- (c) article 3(1), 4(1), 4(2) or 4(3) of the Regulation,

shall be guilty of an offence.

(5) Any person knowingly concerned in the provision, or attempted provision, of technical assistance related to the supply, delivery, manufacture, maintenance or use of anything, with intent to evade any prohibition or restriction in paragraph 10, shall be guilty of an offence.

(6) A person guilty of an offence under sub-paragraph (4) or (5) shall be liable: —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both.

(7) Any person who fails to comply with the requirement in article 4(4) of the Regulation shall be guilty of an offence and liable: —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent;
- (b) on conviction on indictment, to a fine of any amount or to imprisonment for a term not exceeding two years, or to both.

(8) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(9) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(10) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction where that person is for the time being.

(11) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

#### **Misleading applications for licences**

17.—(1) Where for the purpose of obtaining any licence under this Order any person either —

- (a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or
- (b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or to both,

and any licence which may have been granted by the Governor in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

#### **Failure to comply with licence conditions**

18.—(1) Subject to the provisions of sub-paragraph (3), any person who —

- (a) has done any act under the authority of a licence granted by the Governor under this Order; and
- (b) fails to comply with any conditions attaching to that licence,

shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

- (a) on summary conviction to a fine not exceeding £5000 or the equivalent; or
- (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or to both.

(3) No person shall be guilty of an offence under sub-paragraph (1) where —

- (a) the condition in question had been previously modified by the Governor;
- (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
- (c) the condition with which he failed to comply was modified after the doing of the act authorised by the licence.

#### **Customs powers to require evidence of destination**

19.—(1) Any person who exports or ships any goods subject to controls by the Act shall, if so required by the customs authorities, provide within such time as they may determine evidence of

the destination to which the goods were delivered and, if he fails to do so, he shall be guilty of an offence.

(2) Any person guilty of an offence under sub-paragraph (1) shall be liable on summary conviction to a fine not exceeding £5000 or the equivalent.

### **Customs powers**

20. Goods which are brought to any place in the Territory for the purpose of being exported may be detained by the customs authorities as if they were liable to forfeiture, if and so long as they have reason to believe that the Governor (after, if necessary, having had the impending exportation brought to his attention) might inform the exporter as provided in article 4(1), (2) or (3) of the Regulation or paragraph 5.

### **Application of customs and excise laws**

21.—(1) It shall be the duty of the customs authorities to take such action as they consider appropriate to secure the enforcement of the provisions of this Order described in sub-paragraph (3).

(2) [omitted]

(3) The provisions referred to in sub-paragraph (1) are paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 17, 18 and 19 but excluding paragraphs 8(1) and 9(4). Paragraph 14 shall be enforced only insofar as the obligation relates to the powers of the customs authorities.

(4) The provisions of the laws of the Territory relating to customs and excise relating to proceedings for offences, mitigation of penalties, proof and other matters apply in relation to offences and penalties created by this Order and proceedings for such offences as they apply in relation to offences and penalties and proceedings for offences under those laws.

(5) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the customs authorities by virtue of sub-paragraph (3) shall not be offences for which, under any provision of the laws of the Territory, proceedings may only be instituted by those authorities.

(6) In any case where a person would, apart from this sub-paragraph, be guilty of —

- (a) an offence under the provisions of the laws of the Territory relating to the import or export of goods; and
- (b) a corresponding offence under this Order,

he shall not be guilty of the offence mentioned in sub-paragraph (a) of this sub-paragraph.

(7) Sub-paragraph (6) does not apply in respect of prohibitions or restrictions on the exportation of firearms falling within any description of weapons subject under the law of the Territory to a general prohibition on their possession, purchase, acquisition, manufacture, sale or transfer without the permission of the Governor.

### **Use and disclosure of information**

22.—(1) This paragraph applies to information which is held by —

- (a) the Governor, or
- (b) the customs authorities,

in connection with the operation of controls imposed by this Order on the exportation of goods, the transfer of technology or participation in the provision of services connected with the development, production or use of goods or technology.

(2) Information to which this paragraph applies may be used for the purposes of, or for any purposes connected with —

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Act;

- (b) giving effect to any European Community or other international obligation of the United Kingdom;
- (c) facilitating the exercise by an authority or international organisation outside the Territory of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act; and

may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this paragraph unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this paragraph "information" is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this paragraph shall be taken to affect any power to disclose information that exists apart from this paragraph.

(6) The information that may be disclosed by virtue of this paragraph includes information obtained before the commencement of this Order.

#### **Service of notices**

23. Any notice to be given to the Governor by a person under this Order may be given by an agent of his, and shall be sent by post or delivered to the Governor at an address specified in the official gazette of the Territory.

#### **Repeals and revocations**

24. [omitted]

#### **Transitional arrangements**

25.—(1) Licences issued by the Governor of a territory to which this Order applies before the date of the coming into force of this Order in that Territory ("the relevant date") permitting anything to be done or omitted to be done for which, apart from this paragraph, a licence under this Order would be required on or after the relevant date shall continue to have effect for the period for which they were issued, and any such licence shall be deemed to have been issued under this Order.

(2) The provisions of the law of the Territory in force before the relevant date shall continue to apply in relation to any export for which such a licence was required before that date which has occurred before that date and to any export which takes place on or after the relevant date in respect of which such a licence has been issued before that date.

## **SCHEDULE 3**

Article 4

### **SECTION 9 OF EXPORT CONTROL ACT 2002 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1**

Section 9 of the Export Control Act 2002 extends to each of the territories listed in Schedule 1, modified as follows:

"9.—(1) This section applies to licensing powers and other functions conferred on any person by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004 in the territories to which that Order extends.

(2) The Governor shall publish in such manner as he may think fit any guidance given and published (or treated as given and published) by the Secretary of State under this section as it applies in the United Kingdom relevant to the exercise of the powers and other

functions to which this section applies in the Territory, with such exceptions and modifications as appear to the Governor to be appropriate.

(3) Any person exercising a licensing power or other function to which this section applies shall have regard to any guidance which relates to that power or other function.

(4) In application of this section to any of the said territories the expression "the Territory" means that territory and "the Governor" means the Governor or other person administering the Government of that territory."

## SCHEDULE 4

Article 5

### APPLICATION TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA OF PROVISIONS RELATING TO PENALTIES FOR OFFENCES AND PROCEEDINGS

1. Any person who commits an offence under paragraph 16(1) or 19(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

2. Any person who commits an offence under paragraph 16(2) of Schedule 2 shall be liable on conviction—

(1) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both;

(2) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

3. Any person who commits an offence under paragraph 16(4) or (5) of Schedule 2 shall be liable on conviction—

(1) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding ten years, or to a fine of any amount, or to both;

(2) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

4. Any person who commits an offence under paragraph 16(7), 17(1) or 18(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.

5. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

6. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the territory after committing the offence.

7. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the territory having jurisdiction where that person is for the time being.

8. No proceedings for an offence under this Order shall be instituted in the territory except by or with the consent of the principal public officer of the territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.



## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the Export Control Act 2002, extends with modifications the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764 amended by S.I. 2004/1050, 2004/2561 and 2004/2741) (the UK Order) to the territories listed in Schedule 1. The Order establishes a new framework for the control of strategic goods, software and technology. This Order brings together controls on the export or transfer of military and dual-use goods, software and technology, controls on goods, software and technology related to weapons of mass destruction (WMD) and the provision of WMD-related technical assistance. The controls in this Order apply to persons in the territories listed in Schedule 1 and in respect of certain provisions, to United Kingdom persons ordinarily resident in those territories anywhere in the world.

This Order gives effect in the territories to Council Regulation (EC) No. 1334/2000 of 22 June 2000 (O.J. No. L 159, 30.06.2000 p.1.) setting up a regime for the control of exports of dual-use items and technology (the Regulation), as if the territories were part of the European Community. Military and para-military goods, software and technology whose export or transfer is controlled are specified in Schedule 1 to the UK Order. Dual-use goods, software and technology, the export or transfer of which are controlled, in addition to those set out in the Annexes to the Regulation, are specified in Schedule 2 to the UK Order.

This Order imposes WMD end-use controls on "any relevant use" in connection with WMD. A relevant use is any use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons.

The Order also introduces controls on:

(a) the transfer by electronic means of listed military technology in Schedule 1 to the UK Order. Electronic transfer includes transfers by fax, e-mail or telephone;

(b) the transfer by any means of technology intended for use in connection with WMD or a related missile programme. This supplements the end-use controls on the physical export of goods, software and technology and the electronic transfer of technology contained in the Regulation. This control will apply to anyone in the territories or any United Kingdom person ordinarily resident in a territory wherever located who communicates technology which the provider knows, or has been informed by a competent authority, is or might be intended for use outside the European Community and the territories in connection with WMD or missiles capable of delivering WMD; and

(c) the provision of technical assistance in relation to WMD. This control will apply to anyone in the territories or any United Kingdom person ordinarily resident in a territory wherever located who provides or facilitates the provision of technical assistance outside the territories where he knows, or is informed by a competent authority, that it is or may be intended for use in connection with WMD or missiles capable of delivering WMD. This control, together with the WMD transfer controls, implements the European Joint Action of 22 June 2000 concerning the control of technical assistance related to certain military end-uses (2000/401/CFSP).

The UK Order, as extended to the territories, is divided into six parts:

Part I deals with controls on the export of military goods, dual-use goods and goods in transit with a WMD end-use;

Part II deals with controls on the electronic transfer of military and dual-use technology and the transfer of technology with a WMD end-use by both electronic and non-electronic means;

Part III deals with controls on the provision of WMD technical assistance;

Part IV sets out exceptions to the controls in Parts I, II and III;

Part V provides for the granting of licences, record keeping and appeals. Paragraph 15 sets out the procedure for appealing against any decision of the Governor to refuse, suspend or revoke any licence issued under the Order. Appeals must be made within 28 days of the date of the written notification recording the Governor's decision; and

Part VI sets out the penalties and means of enforcement for breach of the controls in the Regulation and Parts I, II and III. In paragraph 16 the maximum penalty for the intentional breach of controls on exports, transfer of technology and technical assistance is set at ten years, the maximum penalty permitted under section 7(1) of the Export Control Act 2002.

Schedule 3 extends with modifications the provisions of section 9 of the Export Control Act 2002 to the territories listed in Schedule 1.

Schedule 4 provides for offences, enforcement and penalties for breach of the controls in Schedule 2 in respect of the Sovereign Base Areas of Akrotiri and Dhekelia.

**Trade in Goods (Control) (Overseas Territories) Order 2004 (SI 2004/3102)**

**Commencement in South Georgia and the South Sandwich Islands**

Pursuant to paragraph 1 of Schedule 2 to this Order I **APPOINT** the date of publication of the Order in the Gazette as the date on which it shall be extended to South Georgia and the South Sandwich Islands.

Pursuant to paragraph 14 of Schedule 2 to this Order the address for delivery of notices under the Order is to the Commissioner, Government House, Stanley, Falkland Islands.

Pursuant to section 9 of the Export Control Act 2002 ("the Act") in its application to South Georgia and the South Sandwich Islands under article 4 of and Schedule 3 to this Order I notify that copies of guidance given or published by the Secretary of State for Trade and Industry under section 9 of the Act as it applies in the United Kingdom may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Alternatively it may be downloaded free of charge from the DTI Export Control Organisation website at [www.dti.gov.uk/export.control/publications.htm](http://www.dti.gov.uk/export.control/publications.htm). All such guidance shall be modified so that references to the UK will be read as references to South Georgia and the South Sandwich Islands and references to the Secretary of State will be read as references to the Commissioner.

Dated this third day of May 2005

H. Hall,  
*Acting Commissioner*

**2004 No. 3102**

**OVERSEAS TERRITORIES**

**Trade in Goods (Control) (Overseas Territories) Order 2004**

*Made*

*16th December 2004*

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 16(5) of the Export Control Act 2002(a) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: —

**Citation**

1. This Order may be cited as the Trade in Goods (Control) (Overseas Territories) Order 2004.

**Extent and interpretation**

- 2.—(1) This Order shall extend to the territories listed in Schedule 1.
- (2) In the application of this Order to any of the said territories —
  - (a) the expression “the Territory” means that territory;
  - (b) any reference to “the Governor” means the Governor or other officer administering the Government of that territory; and
  - (c) any reference to the official gazette of a Territory includes a reference to any form in which official information is normally made available in that Territory.
- (3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in Schedule 2 or, as applicable, in Schedule 5.

**Extension of Order to territories**

3. The Trade in Goods (Control) Order 2003(b) (the “UK Order”), as modified in Schedule 2, extends to the territories listed in Schedule 1.

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(a) 2002 c.28.  
(b) S.I. 2003/2765.

### **Guidance about the exercise of functions under this Order**

4. Section 9 of the Export Control Act 2002 (guidance about the exercise of functions under control orders), as modified in Schedule 3, extends to the territories listed in Schedule 1.

### **Modification of Schedule 4 (Restricted Goods)**

5.—(1) Where any modification is made to the Schedule to the UK Order, whether before or after the coming into force of this Order in the Territory, the Governor shall, by order published in the official gazette of the Territory, make the like modification to Schedule 4.

(2) An order under paragraph (1) may make transitional provisions in connection with any modification made by the order.

### **Application to the Sovereign Base Areas of Akrotiri and Dhekelia of provisions relating to penalties for offences and proceedings**

6. Schedule 5 shall have effect for the application of articles 9, 10 and 11 of the UK Order, as modified in Schedule 2, to the Sovereign Base Areas of Akrotiri and Dhekelia.

### **Exercise of powers of the Governor**

7. The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate, or authorise the delegation of, any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

*A. K. Galloway*  
Clerk of the Privy Council

## **SCHEDULE 1**

Article 2(1)

### **TERRITORIES TO WHICH THE ORDER EXTENDS**

Anguilla

Bermuda

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and Dependencies

South Georgia and the South Sandwich Islands

The Sovereign Base Areas of Akrotiri and Dhekelia

Turks and Caicos Islands

Virgin Islands

**PROVISIONS OF THE TRADE IN GOODS (CONTROL) ORDER  
2003 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED  
IN SCHEDULE 1**

**Commencement and application**

1.—(1) This Order shall be extended to each Territory listed in Schedule 1 on such day as the Governor may by order, published in the official gazette of the Territory, appoint.

(2) Paragraphs 3(1) and 4 apply to any person within a Territory and paragraph 3(2) applies to any person elsewhere who is a United Kingdom person.

**Interpretation**

2.—(1) In this Order: —

“to acquire” in relation to “controlled goods”, means to buy, hire, borrow or to accept them as a gift, and cognate expressions shall be construed accordingly;

“the Act” means the Export Control Act 2002(a);

“controlled goods” means goods used and unused, for the time being listed in Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(b) as extended to the Territory by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control)(Overseas Territories) Order 2004(c), the transfer, acquisition or disposal of which are prohibited by this Order, but does not include goods which are “restricted goods”. For the avoidance of doubt, “controlled goods” does not include software and technology;

“country” includes territory;

“customs authorities” means the authorities which, under the law of the Territory, have responsibility for the control of imports and exports;

“to dispose of” in relation to “controlled goods”, means to sell, let on hire, lend or to give them as a gift, and cognate expressions shall be construed accordingly;

“goods in transit” means any controlled goods imported into the Territory for transit or transshipment;

“restricted goods” means goods, both used and unused, specified in Schedule 4 which would otherwise be “controlled goods”, the supply and delivery of which are prohibited by this Order;

“a third country” means any country that is not the Territory;

“transfer” means to move “controlled goods” over which one has rights of disposal from one third country to another third country;

“the UK Order” means the Trade in Goods (Control) Order 2003(d); and

“United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of the Territory, and, for the purposes of this definition, a United Kingdom national is an individual who is ordinarily resident in the Territory and is a British citizen, a British overseas territories citizen, a British Overseas citizen, a British National

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(a) 2002 c. 28.

(b) S.I. 2003/2764, as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(c) S.I. 2004/3101.

(d) S.I. 2003/2765.

(Overseas), a person who under the British Nationality Act 1981(a) is a British subject, or a British protected person within the meaning of that Act.

(2) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day after that event.

### **Supply and delivery of restricted goods**

3.—(1) Subject to the provisions of this Order, no person shall directly or indirectly —

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any restricted goods, where that person knows or has reason to believe that his action or actions will, or may, result in the removal of those goods from one third country to another third country.

(2) Subject to the provisions of this Order, no United Kingdom person shall directly or indirectly —

- (a) supply or deliver;
- (b) agree to supply or deliver; or
- (c) do any act calculated to promote the supply or delivery of,

any restricted goods, where that person knows or has reason to believe that his action or actions will, or may, result in the removal of those goods from one third country to another third country.

(3) Sub-paragraph (1) applies to any act, or any part of any act, done in the Territory.

(4) Sub-paragraph (2) applies to any act, or any part of any act, done outside the Territory.

(5) Sub-paragraphs (1) and (2) do not apply to any restricted goods that are present in the Territory unless they are goods in transit.

(6) For the purpose of sub-paragraphs (1) and (2), restricted goods that are goods in transit shall be considered to be located in a third country.

(7) Nothing in sub-paragraph (1) or (2) shall be taken to prohibit any activities authorised by a licence in writing granted under this Order or under any other order made under the Act, provided that all the conditions attaching to the licence are complied with.

(8) Nothing in sub-paragraph (1)(b) or (c) or (2)(b) or (c) shall apply where the supply or delivery of the restricted goods to the person or place concerned is authorised by a licence in writing granted under this Order or under any other order made under the Act.

### **Transfer, acquisition or disposal of controlled goods**

4.—(1) Subject to the provisions of this Order, no person shall —

- (a) arrange the transfer of controlled goods from one third country to another third country; or
- (b) acquire or dispose, or agree to acquire or dispose, of any controlled goods, where that person knows or has reason to believe that such an acquisition or disposal will or may result in the removal of those goods from one third country to another third country.

(2) Subject to the provisions of this Order, no person shall —

- (a) arrange or negotiate; or
- (b) agree to arrange or negotiate,

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(a) 1981 c. 61.

a contract for the acquisition or disposal of any controlled goods, where that person knows or has reason to believe that such a contract will or may result in the removal of those goods from one third country to another third country.

(3) Subject to the provisions of this Order, no person shall in return for a fee, commission or other consideration —

- (a) do any act; or
- (b) agree to do any act,

calculated to promote the arrangement or negotiation of a contract for the acquisition or disposal of controlled goods, where that person knows or has reason to believe that such a contract will or may result in the removal of those goods from one third country to another third country.

(4) Sub-paragraphs (1), (2) and (3) apply to any act, or any part of any act, done in the Territory.

(5) Sub-paragraphs (1), (2) and (3) shall not apply to any person whose sole involvement in relation to the transfer, acquisition or disposal of any controlled goods is to provide or agree to provide —

- (a) transportation services,
- (b) financing or financial services,
- (c) insurance or reinsurance services, or
- (d) general advertising or promotion services.

(6) Sub-paragraphs (1), (2) and (3) do not apply to controlled goods that are present in the Territory unless they are goods in transit.

(7) For the purposes of sub-paragraphs (1), (2) and (3), controlled goods that are goods in transit shall be considered to be located in a third country.

(8) Nothing in sub-paragraph (1), (2) or (3) shall be taken to prohibit any activities authorised by a licence in writing granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

## LICENCES

### Granting and revocation of licences etc

5.—(1) The Governor may grant licences authorising any act that would otherwise be prohibited under this Order.

(2) Any licence granted by the Governor in pursuance of this Order may be —

- (a) either general or individual;
- (b) limited so as to expire on a specified date unless renewed; and
- (c) subject to, or without, conditions and any such condition may require any act or omission before or after the doing of the act authorised under that licence.

(3) Any licence granted under this Order shall be in writing and may be amended, suspended or revoked by the Governor at any time and in such circumstances and on such terms as he thinks fit by serving a notice to that effect on the holder of the licence.

### Registration with the Governor

6.—(1) Not later than 30 days after any person first does any act under the authority of any general licence granted by the Governor that does not provide otherwise, that person shall give to the Governor written notice of his name and the address at which copies of the records referred to in paragraph 7(1) may be inspected by any person authorised by the Governor or the customs authorities under paragraph 7(4).



(2) A person who has given to the Governor written notice of particulars under sub-paragraph (1) shall, not later than 30 days after any change in those particulars, give to the Governor written notice of the changed particulars.

### **Record keeping and inspection**

7.—(1) Any person who does any act under the authority of any general licence under this Order shall keep registers or records in accordance with this paragraph.

(2) The registers or records shall contain sufficient detail as may be necessary to allow the following information to be identified —

- (a) a description of the restricted or controlled goods that have been supplied, delivered, transferred, acquired or disposed of, or for which arrangements or negotiations for their acquisition or disposal have been made or entered into;
- (b) the date or the period of time over which the relevant activities relating to the supply, delivery, transfer, acquisition or disposal of the restricted or controlled goods were carried out;
- (c) the quantity of the restricted or controlled goods;
- (d) the name and address of the end-user of the restricted or controlled goods;
- (e) the name and address of the supplier of the restricted or controlled goods; and
- (f) any further information required to be kept by the Governor.

(3) The registers or records referred to in sub-paragraph (1) shall be kept for at least 4 years from the end of the calendar year in which the authorised act took place.

(4) The person referred to in sub-paragraph (1) shall permit any such records to be inspected and copied by any person authorised by the Governor or the customs authorities.

(5) Any person authorised by the Governor or the customs authorities shall have the right, on producing, if required to do so, a duly authenticated document showing his authority, at any reasonable hour to enter for the purpose of sub-paragraph (4) the premises, the address of which has been most recently notified to the Governor under paragraph 6.

(6) Where the registers or records required to be maintained under this paragraph are kept in a form which is not legible the person required under sub-paragraph (1) to maintain such records shall at the request of the person authorised by the Governor or the customs authorities, as the case may be, reproduce such registers or records in a legible form.

### **Licence refusals etc. and appeals**

8.—(1) In the event that the Governor decides not to grant a licence under this Order to any person who has applied for a licence, that person shall be provided with a written notification setting out the reason or reasons for the decision.

(2) In the event that the Governor decides to suspend a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the terms of the suspension and the reason or reasons for the decision.

(3) In the event that the Governor decides to revoke a licence that has been granted under this Order, the licence holder shall be provided with a written notification setting out the reason or reasons for the decision.

(4) Any person who has had a licence application refused under paragraph 5 or who has had a licence suspended or revoked under that paragraph shall have 28 calendar days from the date of the written notification in which to submit an appeal in writing to the Governor.

(5) Any appeal submitted under sub-paragraph (4) shall specify the grounds on which that appeal is made and may provide further information or arguments in support of the appeal.

(6) Pending determination of any appeal submitted under sub-paragraph (4), any decision taken by the Governor shall continue to have effect.

## GENERAL

### Offences and penalties

9.—(1) Any person who contravenes a prohibition in paragraph 3 or 4 shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or the equivalent.

(2) Any person knowingly concerned in the supply, delivery, transfer, acquisition or disposal of any restricted or controlled goods with intent to evade any prohibition or restriction in paragraph 3(1) or 4 shall be guilty of an offence.

(3) Any person knowingly concerned in the supply or delivery of any restricted goods with intent to evade any prohibition or restriction in paragraph 3(2) shall be guilty of an offence.

(4) A person guilty of an offence under sub-paragraph (2) or (3) shall be liable —

(a) on summary conviction to a fine not exceeding £5,000 or the equivalent or to imprisonment for a term not exceeding six months, or to both; or

(b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both.

(5) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(6) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(7) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction where that person is for the time being.

(8) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

### Misleading applications for licences etc.

10.—(1) Where for the purpose of obtaining a licence under this Order any person either —

(a) makes any statement or furnishes any document or information which to his knowledge is false in a material particular; or

(b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

he shall be guilty of an offence.

(2) A person guilty of an offence under sub-paragraph (1) shall be liable —

(a) on summary conviction to a fine not exceeding £5,000 or the equivalent; or

(b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or to both,

and any licence which may have been granted by the Governor in connection with the application for which the false statement was made or the false document or information was furnished shall be void as from the time it was granted.

### **Failure to comply with licence conditions**

- 11.—(1) Subject to sub-paragraph (3), any person who —
- (a) has done any act under the authority of a licence granted by the Governor under this Order, and
  - (b) fails to comply with —
    - (i) any conditions attaching to that licence;
    - (ii) any obligation under paragraph 6; or
    - (iii) any obligation under paragraph 7,
- shall be guilty of an offence.
- (2) A person guilty of an offence under sub-paragraph (1) shall be liable —
- (a) on summary conviction to a fine not exceeding £5,000 or the equivalent; or
  - (b) on conviction on indictment, to a fine of any amount, or to imprisonment for a term not exceeding two years, or to both.
- (3) No person shall be guilty of an offence under sub-paragraph (1) where —
- (a) the licence condition in question had been previously modified by the Governor; and
  - (b) the alleged failure to comply would not have been a failure had the licence not been so modified; and
  - (c) the condition with which he failed to comply was modified by the Governor after the doing of the act authorised by the licence.

### **Application of customs and excise law**

12.—(1) It shall be the duty of the customs authorities to take such action as they consider appropriate to secure the enforcement of paragraphs 3, 4, 10 and 11 and any obligation arising under paragraph 7 insofar as the obligation relates to the powers of the customs authorities.

(2) The provisions of the law of the Territory relating to proceedings for offences, mitigation of penalties, proof and other matters in respect of the control of imports and exports apply in relation to offences and penalties under this Order, and proceedings for such offences, as they apply in relation to offences and penalties and proceedings for offences under those provisions.

(3) For the purposes of this Order, offences other than those in respect of which a duty is imposed upon the customs authorities by virtue of sub-paragraph (1) shall not be offences in respect of which, under any law of the Territory relating to the control of imports and exports, proceedings may be taken only by, or by order of, the customs authorities.

### **Use and disclosure of information**

13.—(1) This paragraph applies to information which is held by —

- (a) the Governor; or
- (b) the customs authorities,

in connection with the operation of controls imposed by this Order, on activities which facilitate or are otherwise connected with the supply or delivery of restricted goods or the transfer, acquisition or disposal of controlled goods.

(2) Information to which this paragraph applies may be used for the purposes of, or for any purposes connected with —

- (a) the exercise of functions in relation to any control imposed by this Order or by any other order made under the Act;
- (b) giving effect to any European Community or other international obligation of the United Kingdom;

- (c) facilitating the exercise by an authority or international organisation outside the Territory of functions which correspond to functions conferred by or in connection with any activity subject to control by this Order or any other order made under the Act; and

may be disclosed to any person for use for these purposes.

(3) No disclosure of information shall be made by virtue of this paragraph unless the making of the disclosure is proportionate to the object of the disclosure.

(4) For the purposes of this paragraph, "information" is any information that relates to a particular business or other activity carried on by a person.

(5) Nothing in this paragraph shall be taken to affect any power to disclose information that exists apart from this paragraph.

(6) The information that may be disclosed by virtue of this paragraph includes information obtained before the commencement of this Order.

#### **Service of notices**

14. Any notice to be given by any person under this Order may be given by an agent of that person and shall be sent by post or delivered to the Governor at an address specified in the official gazette of the Territory.

### **SCHEDULE 3**

Article 4

#### **SECTION 9 OF THE EXPORT CONTROL ACT 2002 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1**

Section 9 of the Export Control Act 2002 extends to each of the territories listed in Schedule 1, modified as follows:

"9.—(1) This section applies to licensing powers and other functions conferred on any person by the Trade in Goods (Control) (Overseas Territories) Order 2004 in the territories to which that Order extends.

(2) The Governor shall publish in such manner as he may think fit any guidance given and published (or treated as given and published) by the Secretary of State under this section as it applies in the United Kingdom relevant to the exercise of the powers and other functions to which this section applies in the Territory, with such exceptions and modifications as appear to the Governor to be appropriate.

(3) Any person exercising a licensing power or other function to which this section applies shall have regard to any guidance which relates to that power or other function.

(4) In the application of this section to any of the said territories, "the Territory" means that territory and "the Governor" means the Governor or other officer administering the Government of that territory."

### **SCHEDULE 4**

Article 5

#### **RESTRICTED GOODS**

The following are restricted goods for the purposes of this Order:

### **Certain Security and Para-Military Police Equipment**

1. Any good falling within paragraph c. or g. of PL5001 in Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(a) as extended to the Territory by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(b).

### **Certain Missiles**

2. Missiles capable of a range of 300km or more, and specially designed components therefor.

## **SCHEDULE 5**

Article 6

### **APPLICATION TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA OF PROVISIONS RELATING TO PENALTIES FOR OFFENCES AND PROCEEDINGS**

1. Any person who commits an offence under paragraph 9(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or the equivalent.

2. Any person who commits an offence under paragraph 9(2) or (3) of Schedule 2 shall be liable on conviction –

(1) if tried on information before the Senior Judge's Court, to a fine of any amount, or to imprisonment for a term not exceeding ten years, or to both;

(2) if tried before the Judge's Court, to a fine not exceeding £5,000 or the equivalent, or to imprisonment for a term not exceeding six months, or to both.

3. Any person who commits an offence under paragraph 10(1) or 11(1) of Schedule 2 is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount.

4. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly

5. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

6. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction where that person is for the time being.

7. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this sub-paragraph shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings has not been obtained.

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(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(b) S.I. 2004/3101.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under the Export Control Act 2002 (2002 c. 28) (the Act), extends with modifications the Trade in Goods (Control) Order 2003 (S.I. 2003/2765) (the UK Order) to the territories listed in Schedule 1. It controls the trade between one overseas country and another of military and para-military goods and specified missiles for the time being listed in Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 (S.I. 2003/2764, as amended by S.I. 2004/1050, 2004/2561 and 2004/2741) as extended to those overseas territories by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004 (S.I. 2004/3101). In this Order these goods are referred to as "controlled goods". Further controls are imposed on "restricted goods" as listed in Schedule 4. The controls in this Order do not apply to software or technology or to activities connected to trade in controlled goods that are situated in a territory (with the exception of goods in transit via the territory).

In relation to restricted goods, paragraph 3 of Schedule 2 prohibits any person within a territory, or a United Kingdom person (as defined in the Order) elsewhere, from supplying or delivering, or doing any act calculated to promote the supply or delivery of, restricted goods without a licence from the Governor (or a licence granted under any other order made under the Act).

In relation to controlled goods, paragraph 4 of Schedule 2 prohibits any person in a territory from transferring, acquiring or disposing, or arranging or negotiating a contract for the acquisition or disposal, of controlled goods without a licence from the Governor (or a licence granted under any other order made under the Act). In addition, the provisions on controlled goods prohibit any person in a territory in return for a fee, commission or other consideration from doing any act or agreeing to do any act, without a licence, which would promote the arrangement or negotiation of a contract for the acquisition or disposal of controlled goods where that person knows or has reason to believe that the goods will be moved from one third country to another third country.

Schedule 2 exempts persons whose sole involvement in the movement of controlled goods from one overseas country to another is to provide transport, finance, insurance or general advertising or promotion services.

The remaining paragraphs in Schedule 2 do the following:

Paragraphs 5-7 provide for the issuing of licences by the Governor, registration, record keeping and inspection and licence refusals and appeals;

Paragraphs 8-12 provide for offences, enforcement and penalties for the breach of the controls;

Paragraph 13 sets out the purposes for which information obtained by the Governor, or the customs authorities, can be disclosed; and

Paragraph 14 states the address where notices to be given by any person under this Order are to be sent.

Schedule 3 extends with modifications the provisions of section 9 of the Export Control Act 2002 to the territories listed in Schedule 1.

Schedule 4 to this Order sets out the goods which are restricted under this Order and article 5 provides for the Governor to make modifications to Schedule 4 in the event of modifications to the Schedule to the UK Order.

Schedule 5 provides for offences, enforcement and penalties for the breach of the controls in respect of the Sovereign Base Areas of Akrotiri and Dhekelia.

**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**APPOINTMENT OF ACTING ATTORNEY GENERAL**

**IN EXERCISE** of my powers under section 7 of the South Georgia and the South Sandwich Islands Order 1985 and all other powers me enabling I **HOWARD JOHN STREDDER PEARCE** Commander of the Royal Victorian Order Commissioner for South Georgia and the South Sandwich Islands **HEREBY** appoint **MELANIE LOUISE BEST CHILTON** to discharge the functions and duties of the post of Attorney General of South Georgia and the South Sandwich Islands during the absence from the Falkland Islands of the substantive holder of the post of Attorney General **DAVID GEOFFREY LANG** from 19 March 2005 until his return.

Given under my hand and the Public Seal at Stanley on the 24<sup>th</sup> day of March 2005

H. J. S. Pearce C.V.O.,  
*Commissioner*

**Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control)  
(Overseas Territories) Order 2004 (SI 2004/3101)**

**Commencement in South Georgia and the South Sandwich Islands**

Pursuant to paragraph 1 of Schedule 2 to this Order I **APPOINT** the date of publication of the Order in the Gazette as the date on which it shall be extended to South Georgia and the South Sandwich Islands.

Pursuant to paragraph 23 of Schedule 2 to this Order the address for delivery of notices under the Order is to the Commissioner, Government House, Stanley, Falkland Islands.

Pursuant to article 6 of this Order I notify that copies of Schedules 1, 2 and 3, and Part 1 of Schedule 4, to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003 ("the 2003 Order") (SI 2003/2764 as amended by SI 2004/1050, SI 2004/2561 and SI 2004/2741) are available on request from the Attorney General's Chambers, Cable Cottage, Thatcher Drive, Stanley, Falkland Islands. Alternatively, they may be downloaded free of charge from the HMSO internet website at [www.hmso.gov.uk](http://www.hmso.gov.uk).

Pursuant to section 9 of the Export Control Act 2002 ("the Act") in its application to South Georgia and the South Sandwich Islands under article 4 of and Schedule 3 to this Order I notify that copies of guidance given or published by the Secretary of State for Trade and Industry under section 9 of the Act as it applies in the United Kingdom may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Alternatively it may be downloaded free of charge from the DTI Export Control Organisation internet website at [www.dti.gov.uk/export.control/publications.htm](http://www.dti.gov.uk/export.control/publications.htm). All such guidance shall be modified so that references to the UK will be read as references to South Georgia and the South Sandwich Islands and references to the Secretary of State will be read as references to the Commissioner.

Pursuant to article 7 of this Order the documents therein stated may be obtained on application from the Attorney General's Chambers, Thatcher Drive, Stanley, Falkland Islands. Interested persons are advised that all EC Regulations in force, and all amendments to them are published on the internet on the Eur-Lex website at [www.europa.eu.int/eur-lex/en/search/search\\_lif.html](http://www.europa.eu.int/eur-lex/en/search/search_lif.html) and may be downloaded free of charge from that site.

Dated this third day of May 2005

H. Hall,  
*Acting Commissioner*



2004 No. 3101

**OVERSEAS TERRITORIES**

Export of Goods, Transfer of Technology and Provision of  
Technical Assistance (Control) (Overseas Territories) Order  
2004

Made - - - - - 16th December 2004

At the Court at Buckingham Palace, the 16th day of December 2004

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 16(5) of the Export Control Act 2002(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: —

**Citation**

1. This Order may be cited as the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004.

**Extent and interpretation**

2.—(1) This Order shall extend to the territories listed in Schedule 1.

(2) In the application of this Order to any of the said territories —

- (a) "the Territory" means that territory;
- (b) any reference to "the Governor" means the Governor or other officer administering the Government of that territory; and
- (c) any reference to the official gazette of a Territory includes a reference to any form in which official information is normally made available in that Territory.

(3) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to the sums expressed in sterling in Schedule 2 or, as applicable, in Schedule 4.

### **Extension of Order to territories**

3. The Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(a) (the "UK Order"), as modified in Schedule 2, extends to the territories listed in Schedule 1.

### **Guidance about the exercise of functions under this Order**

4. Section 9 of the Export Control Act 2002 (guidance about the exercise of functions under control orders), as modified in Schedule 3, extends to the territories listed in Schedule 1.

### **Application to the Sovereign Base Areas of Akrotiri and Dhekelia of provisions relating to penalties for offences and proceedings**

5. Schedule 4 shall have effect for the application of articles 16, 17, 18 and 19 of the UK Order, as modified in Schedule 2, to the Sovereign Base Areas of Akrotiri and Dhekelia.

### **Duty to make available Schedules**

6. The Governor shall make available to persons in the Territory, in such manner as he may think fit, the provisions of Schedules 1, 2 and 3, and Part 1 of Schedule 4, to the UK Order as from time to time in force in the law of the United Kingdom.

### **European Community matters**

7.—(1) The Governor shall make available to persons in the Territory, in such manner as he may think fit —

- (a) the text of Council Regulation (EC) No. 1334/2000 of 22nd June 2000(b), together with the text of any amending Council Regulations, whether those Regulations were made before or after the coming into force of this Order in the Territory;
- (b) a list of those countries which are for the time being Member States of the European Community; and
- (c) a list of the competent authorities empowered by each member state to authorise exports under Council Regulation (EC) No. 1334/2000 of 22nd June 2000.

(2) A certificate given by or on behalf of the Governor in pursuance of sub-paragraph (1)(a), (b) or (c), or as to whether a place is within or outside the European Community, shall be conclusive evidence of the matters stated therein for the purposes of this Order, and a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

### **Exercise of powers of the Governor**

8. The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate, or authorise the delegation of, any of his powers under this Order to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

*A.K. Galloway*  
Clerk of the Privy Council

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(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.  
(b) OJ No L 159, 30.06.2000, p1.

## SCHEDULE 1

Article 2(1)

### TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla  
Bermuda  
Cayman Islands  
Falklands Islands  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St Helena and Dependencies  
South Georgia and the South Sandwich Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia  
Turks and Caicos Islands  
Virgin Islands

## SCHEDULE 2

Article 3

### PROVISIONS OF THE EXPORT OF GOODS, TRANSFER OF TECHNOLOGY AND PROVISION OF TECHNICAL ASSISTANCE (CONTROL) ORDER 2003 AS EXTENDED TO THE OVERSEAS TERRITORIES LISTED IN SCHEDULE 1

#### **Commencement**

1. This Order shall be extended to each Territory listed in Schedule 1 on such day as the Governor may by order, published in the official gazette of the Territory, appoint.

#### **Interpretation**

2.—(1) In this Order the following expressions have the meanings given to them below, save where an expression is also defined in a Schedule where it has, for the purposes of that Schedule, that meaning —

“the Act” means the Export Control Act 2002(a);

“aircraft” means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

“competent authority” means in respect of any territory to which this Order applies, the Governor, in respect of the United Kingdom, the Secretary of State, and, in respect of any other Member State, any authority empowered by that Member State to grant “exportation” or “transfer” authorisation under “the Regulation”;

“country” includes territory;

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(a) 2002 c. 28.

“customs authorities” means the authorities which, under the law of the territory, have responsibility for the control of imports and exports;

“dual-use” in relation to “goods” or “technology”, means “goods” or “technology” which can be used for both civil and military purposes, and includes any “goods” or “technology” which can be used for both non-explosive uses and assisting in any way in the manufacture of nuclear weapons or other nuclear explosive devices;

“the European Community” means the customs territory of the European Community as defined in article 3(3) of Council Regulation (EEC) No 2913/92 of 12th November 1992(a);

“exportation” includes “shipment” as “stores” and, unless the context otherwise requires, means exportation from the Territory to any destination outside the Territory, except “export” in relation to the exportation from the Territory of “dual-use” “goods”, “software” and “technology” which has the same meaning that it would have in article 2(b) of “the Regulation” if the Territory were a Member State of the European Community;

“exporter” and other cognate expressions shall be construed accordingly;

“goods” means tangible goods, both used and unused and includes any goods on which “software” or “technology” is recorded;

“goods in transit” means any “goods” imported into the Territory (which for this purpose shall be treated as a Member State of the European Community) for “transit or transshipment”;

“importation” and “exportation” in relation to a “vessel”, “vehicle”, submersible vehicle or “aircraft” include the taking into or out of the Territory of the “vessel”, “vehicle”, submersible vehicle or “aircraft”, notwithstanding that the “vessel”, “vehicle”, submersible vehicle or “aircraft” is conveying “goods” or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

“microprogramme” means a sequence of elementary instructions, maintained in a special storage, the execution of which is initiated by the introduction of its reference instruction into an instruction register;

“normal commercial journey” means a journey providing transport services in the ordinary course of business;

“programme” means a sequence of instructions to carry out a process in, or convertible into, a form executable by an electronic computer;

“in the public domain” means available without restriction upon further dissemination (no account being taken of restrictions arising solely from copyright);

“the Regulation” means Council Regulation (EC) No. 1334/2000 of 22nd June 2000(b) as amended from time to time (whether the amendments were made before or after the coming into force of this Order in the Territory);

“any relevant use” means use in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological or nuclear weapons or other nuclear explosive devices, or the development, production, maintenance or storage of missiles capable of delivering such weapons;

“scheduled journey” means one of a series of journeys which are undertaken between the same two places and which together amount to a systematic service operated in such manner that its benefits are available to members of the public from time to time seeking to take advantage of it;

“shipment” (and cognate expressions) and “stores” have the same meanings as in the laws of the Territory relating to customs and excise;

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(a) OJ No L 302, 19.10.92, p1 as last amended by the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No L 236, 23.9.2003, p33).

(b) OJ No L159, 30.06.2000, p1.

“software” means one or more “programmes” or “microprogrammes” fixed in any tangible medium of expression;

“surface effect vehicle” means any air cushion “vehicle” (whether side wall or skirted) and any “vehicle” using the wing-in-ground effect for positive lift;

“technical assistance” means any technical support related to repairs, development, manufacture, assembly, testing, “use”, maintenance or any other technical service;

“technology” means information (including but not limited to information comprised in software and documents such as blueprints, manuals, diagrams and designs) that is capable of use in connection with the development, production or use of any goods;

“transfer”, in relation to any “software” or “technology”, means the “transfer by any electronic means” or “transfer by non-electronic means” (or any combination of electronic and non-electronic means) from a person or place within the Territory;

“transferor” and other cognate expressions shall be construed accordingly (except that where the transfer is to a destination outside “the European Community”, “transferor” has the same meaning as “exporter” in the definition in article 2(c) of “the Regulation” to the extent that that definition applies);

“transfer by any electronic means”, in relation to any “software” or “technology”, means a transmission of “software” or “technology” by facsimile, telephone or other electronic media (except that oral transmission of “technology” by telephone is included only where the “technology” is contained in a document the relevant part of which is read out over the telephone, or is described over the telephone in such a way as to achieve substantially the same result as if it had been so read);

“transfer by any non-electronic means”, in relation to any “software” or “technology”, means a disclosure of “software” or “technology” by any means (or combination of means), including oral communication, other than as the “exportation” of “goods” or the “transfer by any electronic means”;

“transit or transshipment” means transit through the Territory or transshipment with a view to re-exportation of the “goods” in question or transshipment of those “goods” for use as “stores”;

“United Kingdom person” means a United Kingdom national or a body incorporated or constituted under the law of the Territory; and for the purposes of this definition, a United Kingdom national is an individual who is ordinarily resident in the Territory and is a British citizen, a British overseas territories citizen, a British National (Overseas), a British Overseas citizen, a person who under the British Nationality Act 1981(a) is a British subject or a British protected person within the meaning of that Act;

“vehicle” includes a railway carriage; and

“vessel” includes any ship, “surface effect vehicle”, vessel of small waterplane area or hydrofoil and the hull or part of the hull of a vessel.

(2) Any reference in this Order to time after an event is a reference to a period of that length of time beginning on the day after that event.

(3) Except where this Order otherwise provides, expressions used in the Regulation which are also used in this Order have the same meaning in this Order as they have in the Regulation.

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(a) 1981 c.61.

PART I  
CONTROL ON THE EXPORT OF GOODS

**Export of military and certain other goods**

3.—(1) Subject to the provisions of this Order, goods of a description specified in Schedule 1 to the UK Order are prohibited to be exported to any destination.

(2) Sub-paragraph (1) does not prohibit the exportation of any goods in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

(3) Subject to the provisions of this Order, or any contrary provisions in a licence, a licence granted by the Governor in relation to any goods specified in Schedule 1 to the UK Order shall also authorise the exportation or transfer of the minimum technology required for the installation, operation, maintenance and repair of the goods to the same destination as the goods.

**Export of dual-use goods and end-use control**

4.—(1) Subject to the provisions of this Order, goods of a description specified in Schedule 2 to the UK Order are prohibited to be exported to the destinations specified in that Schedule as being prohibited destinations in relation to those goods.

(2) Subject to the provisions of this Order, articles 3 and 4 of the Regulation shall have effect in the Territory so as to prohibit the exportation of dual-use goods to any destination outside the European Community as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory.

(3) Subject to the provisions of this Order —

- (a) goods specified in Annex I but not in Annex IV to the Regulation;
- (b) goods of a description specified in Schedule 2 to the UK Order; or
- (c) goods not specified in Annex I to the Regulation or Schedule 2 to the UK Order but for the exportation of which from the Territory or the European Community an authorisation is, or in accordance with sub-paragraph (2) would be, required pursuant to:
  - (i) article 4(1) of the Regulation; or
  - (ii) article 4(2), (3) or (4) of the Regulation,

are prohibited to be exported to any destination in any Member State where the exporter knows at the time of exportation that the final destination of such goods is outside the Territory or the European Community and no processing or working is to be performed on those goods in any Member State to which they are to be exported.

(4) Subject to the provisions of this Order, dual-use goods not listed in Annex I to the Regulation, which the exporter has grounds for suspecting are or may be intended, in their entirety or in part, for any relevant use, are prohibited to be exported to any destination outside the Territory or the European Community, unless the exporter has made all reasonable enquiries as to their proposed use and is satisfied that they will not be so used.

(5) Subject to the provisions of this Order, goods of a description specified in Annex I to the Regulation, which are goods in transit, are prohibited to be exported to any destination.

(6) Subject to the provisions of this Order, sub-paragraphs (1), (2), (3), (4) and (5) do not prohibit the exportation of any goods in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

**End-use control and goods in transit**

5.—(1) Subject to the provisions of this Order, goods which are goods in transit are prohibited to be exported to any destination where —

- (a) the exporter (or, if the exporter is not within the Territory, any agent of the exporter within the Territory concerned in the exportation or intended exportation) has been informed by a competent authority that such goods are or may be intended, in their entirety or in part, for any relevant use; or
  - (b) the exporter is aware that such goods are intended, in their entirety or in part, for any relevant use; or
  - (c) the exporter has grounds for suspecting that such goods are or may be intended, in their entirety or in part, for any relevant use, unless the exporter has made all reasonable enquires as to their proposed use and is satisfied that they will not be so used.
- (2) Subject to the provisions of this Order, sub-paragraph (1) does not prohibit the exportation of any goods in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

## PART II

### CONTROLS ON THE TRANSFER OF TECHNOLOGY

#### **Electronic transfer of controlled military and certain other technology**

6.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means to a person or place outside the Territory any software or technology of a description specified in Schedule 1 to the UK Order.

(2) Subject to the provisions of this Order, sub-paragraph (1) does not prohibit the transfer of any software or technology of a description specified in Schedule 1 to the UK Order in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

#### **Electronic transfer of controlled dual-use technology and software and end-use controls**

7.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means any dual-use software or technology of a description specified in Schedule 2 to the UK Order, where the transfer is to a person or place in any destination specified in that Schedule as being a prohibited destination in relation to that software or technology.

(2) Subject to the provisions of this Order, articles 3 and 4 of the Regulation shall have effect in the Territory so as to prohibit the transfer by electronic means of any dual-use technology or software to a person or place outside the European Community as if the Territory were a Member State of the European Community and the Regulation were a law of the Territory.

(3) Subject to the provisions of this Order, no person shall transfer by any electronic means to a person or place in any Member State any dual-use software or technology that is either —

- (a) specified in Annex I but not in Annex IV to the Regulation;
- (b) specified in Schedule 2 to the UK Order; or
- (c) not specified in Annex I to the Regulation or Schedule 2 to the UK Order but for the transfer of which from the Territory or the European Community an authorisation is, or in accordance with sub-paragraph (2) would be, required pursuant to —
  - (i) article 4(1) of the Regulation; or
  - (ii) article 4(2), (3) or (4) of the Regulation,

if he knows at the time of the transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in any Member State to which it is to be transferred.

(4) Subject to the provisions of this Order, no person shall transfer by any electronic means any dual-use software or technology not listed in Annex I to the Regulation to a person or place not within the Territory or the European Community where he has grounds for suspecting that such software or technology is or may be intended, in its entirety or in part, for any relevant use, unless he has made all reasonable enquiries as to its proposed use and is satisfied that it will not be so used.

(5) Subject to the provisions of this Order, sub-paragraphs (1), (2), (3) and (4) do not prohibit the transfer of any dual-use software or technology in relation to which a licence in writing has been granted under this Order or under any other order made under the Act, provided that all conditions attaching to the licence are complied with.

### **Electronic transfer of all software and technology and end-use controls**

8.—(1) Subject to the provisions of this Order, no person shall transfer by any electronic means any software or technology to a person or place within the Territory, where —

- (a) he has been informed by the Governor or the Secretary of State that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used otherwise than within the Territory or the European Community.

(2) Subject to the provisions of this Order and where sub-paragraph (3) applies, no United Kingdom person shall transfer by any electronic means any software or technology from any place not within the Territory or the European Community to —

- (a) a person or place not within the Territory or the European Community; or
- (b) a person or place within the Territory or any Member State if he knows at the time of transfer that such software or technology is intended for use otherwise than within the Territory or the European Community and no processing or working is to be performed on that software or technology in the Territory or in any Member State to which it is to be transferred.

(3) This sub-paragraph applies where —

- (a) the United Kingdom person has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) the United Kingdom person is aware that such software or technology is intended, in its entirety or in part, for any relevant use.

(4) Subject to the provisions of this Order, no United Kingdom person shall transfer by any electronic means any software or technology from any place not within the Territory or the European Community to a person or place within the Territory or the European Community where —

- (a) he has been informed by a competent authority that such software or technology is or may be intended, in its entirety or in part, for any relevant use; or
- (b) he is aware that such software or technology is intended, in its entirety or in part, for any relevant use,

if he has reason to believe that such software or technology may be used otherwise than within the Territory or the European Community.

(5) For the purposes of sub-paragraphs (1) and (4) a person has reason to believe that software or technology may be used otherwise than within the Territory or the European Community if he knows that it may be or is intended to be so used or if he has been informed by the Governor or the Secretary of State that it may be or is intended to be so used.



2004/3101). The controls in this Order do not apply to software and technology or to activities connected to trade in controlled goods that are situated in a territory to which it applies (with the exception of goods in transit via the territory).

In relation to controlled goods, paragraph 3 of Schedule 2 prohibits any person within a listed territory, or a United Kingdom person (as defined in the Order) elsewhere, from supplying or delivering, agreeing to supply or deliver, or doing any act calculated to promote the supply or delivery of, controlled goods to any embargoed destination listed in Schedule 4, without a licence from the Governor (or a licence granted under any other order made under the Act).

The remaining paragraphs in Schedule 2 do the following:

Paragraphs 4-7 provide for the issuing and revocation of licences granted by the Governor, registration, record keeping and inspection and licence refusals and appeals;

Paragraphs 8-11 provide for offences, enforcement and penalties for the breach of the controls;

Paragraph 12 sets out the purposes for which information obtained by the Governor or customs authorities of a territory can be disclosed; and

Paragraph 13 states the address where notices are to be sent.

Schedule 3 extends with modifications the provisions of section 9 of the Export Control Act 2002 to the territories listed in Schedule 1.

Schedule 4 sets out the embargoed destinations under this Order, and article 5 provides for the Governor to make modifications to Schedule 4 in the event of modifications to the Schedule to the UK Order.

Schedule 5 provides for offences, enforcement and penalties for the breach of the controls in Schedule 2 in respect of the Sovereign Base Areas of Akrotiri and Dhekelia.

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**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 3*

*13th May 2005*

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The following are published in this Gazette -

**The Ivory Coast (Restrictive Measures) (Overseas Territories) Order 2005,  
(2005 No. 242);**

**The Chemical Weapons (Overseas Territories) Order 2005, (2005 No. 854);**



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STATUTORY INSTRUMENTS

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2005 No. 242

**OVERSEAS TERRITORIES**

The Ivory Coast (Restrictive Measures) (Overseas Territories) Order 2005

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|-------------------------------|---------------------------|
| <i>Made</i>                   | <i>9th February 2005</i>  |
| <i>Laid before Parliament</i> | <i>10th February 2005</i> |
| <i>Coming into force</i>      | <i>11th February 2005</i> |

At the Court at Buckingham Palace, the 9th day of February 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by section 112 of the Saint Helena Act 1833(a), the British Settlements Acts 1887 and 1945(b), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: -

**Citation, commencement, extent and application**

1. - (1) This Order may be cited as the Ivory Coast (Restrictive Measures) (Overseas Territories) Order 2005 and shall come into force on 11th February 2005.

(2) This Order shall extend to the territories listed in Schedule 1.

(3) Article 19 shall apply to the Sovereign Base Areas of Akrotiri and Dhekelia as set out in Schedule 2.

(4) In the application of this Order to any of the said territories, the expression "the Territory" in this Order means that territory, and references to the official gazette of a Territory include a reference to any form in which official information is normally made available in that Territory.

(5) Articles 3, 4, 5, 7, 8 and 9 shall apply to any person within the Territory and any person elsewhere who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas) or a British protected person and is ordinarily resident in the Territory; or

(b) a body incorporated or constituted under the law of the Territory.

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(a) 1833 c.85.

(b) 1887 c.54 and 1945 c.7.

2. - (1) In this Order the following expressions have the meanings hereby respectively assigned to them, that is to say -

"aircraft" means a fixed wing, swivel wing, rotary wing, tilt rotor or tilt wing airborne vehicle or helicopter;

"assistance" means any form of assistance including technical assistance, services, financing and financial assistance;

"commander", in relation to an "aircraft", means the member of the flight crew designated as commander of the "aircraft" by the operator thereof, or, failing such a person, the person who is for the time being the pilot in command of the "aircraft";

"designated person" means an individual, designated by the Committee established pursuant to paragraph 14 of resolution 1572 (2004) adopted by the Security Council of the United Nations on 15 November 2004, as constituting a threat to the peace and national reconciliation process in Côte d'Ivoire for the purposes of that resolution;

"document" includes information recorded in any form, and in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form;

"export" includes "shipment" as "stores";

"exportation" in relation to any "ship", submersible vehicle or "aircraft", includes the taking out of the Territory of the "ship", submersible vehicle or "aircraft" notwithstanding that it is conveying goods or passengers and whether or not it is moving under its own power; and cognate expressions shall be construed accordingly;

"funds" means financial assets, economic benefits and economic resources of any kind, including (but not limited to) gold coin, gold bullion, cash, cheques, claims on money, drafts, money orders and other payment instruments, deposits with financial institutions or other entities, balances on accounts, debts and debt obligations; securities and debt instruments (including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures, debenture stock and derivatives contracts); interest, dividends or other income on or value accruing from or generated by assets; credit, rights of set-off, guarantees, performance bonds or other financial commitments; letters of credit, bills of lading, bills of sale; documents evidencing an interest in funds or financial resources, and any other instrument of export financing;;

"Governor" means the Governor or other officer administering the Government of the Territory;

"Ivory Coast" means the Republic of Côte d'Ivoire;

"master", in relation to a "ship", includes any person (other than a pilot) for the time being in charge of the "ship";

"operator", in relation to an "aircraft" or "vehicle", means the person for the time being having the management of the "aircraft" or "vehicle";

"owner", in relation to a "ship", where the owner is not the "operator", means the "operator" and any person to whom it is chartered;

"relevant institution" means -

(a) the person or body responsible for carrying out in the Territory the functions of a monetary authority;

(b) any person who may lawfully accept deposits in or from within the Territory by way of business; and

(c) any society established lawfully in the Territory whose principal purpose is the making of loans secured on residential property where such loans are funded substantially by its members;

"restricted goods" means the goods specified in Part I of Schedule 1 to the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(a) made under the Export Control Act 2002(b), as extended to the territories listed in Schedule 1 thereto by the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) (Overseas Territories) Order 2004(c), and equipment that might be used for internal repression as listed in Schedule 3;

"ship" includes every description of vessel used in navigation;

"shipment" includes loading into an "aircraft";

"stores" means goods for use in a "ship" or "aircraft" and includes fuel and spare parts and other articles of equipment, whether or not for immediate fitting, but excludes any goods for use in a "ship" or "aircraft" as merchandise for sale by retail to persons carried therein; and

"vehicle" means a land transport vehicle.

(2) For the purpose of the definition of "relevant institution" in paragraph (1) -

(a) the activity of accepting deposits has the meaning given in any relevant order made under section 22 of the Financial Services and Markets Act 2000(d); and

(b) a person is not regarded as accepting deposits by way of business if -

(i) he does not hold himself out as accepting deposits on a day to day basis, and

(ii) any deposits which he accepts are accepted only on particular occasions, whether or not involving the issue of any securities.

(c) In determining for the purposes of sub-paragraph (b)(ii) whether deposits are accepted only on particular occasions, regard is to be had to the frequency of those occasions and to any characteristics distinguishing them from each other.

(3) For the purposes of identifying "designated persons" referred to in paragraph (1), the Governor shall cause a notice containing the names and other particulars of such designated persons to be published in the official gazette of the Territory as necessary from time to time.

#### RESTRICTED GOODS, ASSISTANCE AND TRAINING

##### **Supply of restricted goods**

3. - (1) Any person who, except under the authority of a licence granted by the Governor under this article or article 4 -

(a) supplies or delivers;

(b) agrees to supply or deliver; or

(c) does any act calculated to promote the supply or delivery of,

restricted goods to any person in Ivory Coast shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the goods in question were to be supplied or delivered to a person in Ivory Coast.

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(a) S.I. 2003/2764 as amended by S.I. 2004/1050, 2004/2561 and 2004/2741.

(b) 2002 c.28.

(c) S.I. 2004/3101.

(d) 2002 c.8.

(2) Nothing in paragraph (1)(b) or (c) shall apply where the supply or delivery of the goods to the person concerned is authorised by a licence granted by the Governor under this article.

**Exportation of restricted goods to Ivory Coast**

4. - (1) Except under the authority of a licence granted by the Governor under this article, restricted goods are prohibited to be exported from the Territory to any destination in Ivory Coast or to any destination for the purpose of delivery, directly or indirectly, to or to the order of any person in Ivory Coast.

(2) Any restricted goods which are exported or attempted to be exported shall be liable to forfeiture.

(3) Any person knowingly concerned in the exportation or attempted exportation of such goods shall be guilty of an offence under this Order.

(4) In any case where a person would, apart from this paragraph, be guilty of an offence under paragraph (3) above and of an offence under article 3(1), he shall not be guilty of the offence under paragraph (3) above.

**Provision of assistance, advice or training related to military activities and provision, manufacture, maintenance or use of restricted goods**

5. Any person who, except under the authority of a licence granted by the Governor under this article, directly or indirectly provides to any person, entity or body in, or for use in, Ivory Coast any assistance, advice or training related to military activities or to the provision, manufacture, maintenance or use of restricted goods shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the assistance, advice or training in question was to be provided to a person, entity or body in, or for use in, Ivory Coast.

**Use of ships, aircraft and vehicles: restricted goods**

6. - (1) Without prejudice to the generality of article 3, and except under the authority of a licence granted by the Governor under article 3 or 4, no ship or aircraft to which this article applies, and no vehicle within the Territory, shall be used for the carriage of restricted goods if the carriage is, or forms part of, carriage from any place outside Ivory Coast to any destination therein.

(2) This article applies to ships registered in the Territory, to aircraft so registered and to any other ship or aircraft that is for the time being chartered to any person who is -

(a) a British citizen, a British overseas territories citizen, a British Overseas citizen, a British subject, a British National (Overseas), or a British protected person and is ordinarily resident in the Territory; or

(b) a body incorporated or constituted under the law of the Territory.

(3) If any ship, aircraft or vehicle is used in contravention of paragraph (1) then -

(a) in the case of a ship registered in the Territory or any aircraft so registered, the owner and the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(b) in the case of any other ship or aircraft, the person to whom the ship or aircraft is for the time being chartered and, if he is such a person as is referred to in paragraph (2)(a) or (b), the master of the ship or, as the case may be, the operator and the commander of the aircraft; or

(c) in the case of a vehicle, the operator of the vehicle,

shall be guilty of an offence under this Order, unless he proves that he did not know and had no reason to suppose that the carriage of the goods in question was, or formed part of, carriage from any place outside Ivory Coast to any destination therein.

(4) Nothing in paragraph (1) shall apply where the supply or delivery or exportation from the Territory of the goods concerned to Ivory Coast was authorised by a licence granted by the Governor under article 3 or 4.



(5) Nothing in this article shall be construed so as to prejudice any other provision of law prohibiting or restricting the use of ships, aircraft or vehicles.

## MAKING FUNDS AVAILABLE AND FREEZING OF FUNDS

### **Making funds available to designated persons**

7. Any person who, except under the authority of a licence granted by the Governor under this article, makes any funds available to or for the benefit of any designated person or any person acting on behalf of a designated person shall be guilty of an offence under this Order.

### **Freezing of funds**

8. - (1) Where the Governor has reasonable grounds for suspecting that the person by, for or on behalf of whom any funds are held is or may be a designated person or a person acting on behalf of a designated person, the Governor may by notice direct that those funds are not to be made available to that person except under the authority of a licence granted by the Governor under article 7.

(2) A direction given under paragraph (1) shall specify either -

(a) the period for which it is to have effect; or

(b) that the direction is to have effect until it is revoked by notice under paragraph (3).

(3) The Governor may by notice revoke a direction given under paragraph (1) at any time.

(4) The expiry or revocation of a direction shall not affect the application of article 7 in respect of the funds in question.

(5) A notice under paragraph (1) or (3) shall be given in writing to the person holding the funds in question ("the recipient"), and shall require the recipient to send a copy of the notice without delay to the person whose funds they are, or on whose behalf they are held ("the owner").

(6) A recipient shall be treated as complying with the requirement under paragraph (5) if, without delay, he sends a copy of the notice to the owner at his last-known address or, if he does not have an address for the owner, he makes arrangements for a copy of the notice to be supplied to the owner at the first available opportunity.

(7) Where a direction has been given under paragraph (1), any person by, for or on behalf of whom those funds are held may apply to the Supreme Court for the direction to be set aside, and on such application the court may set aside the direction.

(8) A person who makes an application under paragraph (7) shall give a copy of the application and any witness statement or affidavit in support to the Governor (and to any other person by, for or on behalf of whom those funds are held), not later than seven days before the date fixed for the hearing of the application.

(9) Any person who contravenes a direction under paragraph (1) is guilty of an offence under this Order.

(10) A recipient who fails to comply with a requirement under paragraph (5) is guilty of an offence under this Order.

### **Facilitation of activities prohibited under article 7 or 8(9)**

9. Any person who knowingly and intentionally engages in any activities the object or effect of which is to enable or facilitate the commission (by that person or another) of an offence under article 7 or 8(9) is guilty of an offence under this Order.

### **Failure to disclose knowledge or suspicion of measures**

10. - (1) A relevant institution is guilty of an offence if -

(a) it knows or suspects that a person who is, or has been at any time since the coming into force of this Order, a customer of the institution, or is a person with whom the institution has had dealings in the course of its business since that time -

(i) is a designated person; or

(ii) has committed an offence under article 7, 8(9), 9 or 17(2); and

(b) it does not disclose to the Governor the information or other matter on which the knowledge or suspicion is based as soon as is reasonably practicable after that information or other matter comes to its attention.

(2) Where a relevant institution discloses to the Governor -

(a) its knowledge or suspicion that a person is a designated person, a person acting on behalf of a designated person, or a person who has committed an offence under article 7, 8(9), 9 or 17(2), or

(b) any information or other matter on which that knowledge or suspicion is based, the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.

## CUSTOMS POWERS AND INVESTIGATIONS

### **Customs powers to demand evidence of destination which goods reach**

11. Any exporter or any shipper of restricted goods which have been exported from the Territory shall, if so required by the Governor, furnish within such time as the Governor may allow proof to the Governor's satisfaction that the goods have reached either -

(a) a destination to which they were authorised to be exported by a licence granted under this Order; or

(b) a destination to which their exportation was not prohibited by this Order,

and, if he fails to do so, he shall be guilty of an offence under this Order, unless he proves that he did not consent to or connive at the goods reaching any destination other than such a destination as aforesaid.

### **Declaration as to goods: powers of search**

12. - (1) Any person who is about to leave the Territory shall, if he is required to do so by an officer authorised for the purpose by the Governor -

(a) declare whether or not he has with him any restricted goods which are destined for Ivory Coast or for delivery, directly or indirectly, to or to the order of any person in Ivory Coast; and

(b) produce any such goods as aforesaid which he has with him.

(2) Any such officer, and any person acting under his direction, may search that person for the purpose of ascertaining whether he has with him any such goods as aforesaid, provided that no person shall be searched in pursuance of this paragraph except by a person of the same sex.

(3) Any person who without reasonable excuse refuses to make a declaration, or fails to produce any goods, or refuses to allow himself to be searched in accordance with the foregoing provisions of this article, shall be guilty of an offence under this Order.

(4) Any person who under the provisions of this article makes a declaration which to his knowledge is false in a material particular, or recklessly makes any declaration which is false in a material particular, shall be guilty of an offence under this Order.

### **Investigation, etc. of suspected ships**

13. - (1) Where any authorised officer has reason to suspect that any ship to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the ship and search her and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the master of the ship to furnish such information relating to the ship and her cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) in the case of a ship that is reasonably suspected of being or of being about to be used in contravention of paragraph (1) of article 6, any authorised officer (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)), with a view to preventing the commission (or the continued commission) of any such contravention, or in order that enquiries into the matter may be pursued, may take the further action specified in paragraph (2).

(2) The further action referred to in paragraph (1)(c) is either -

(a) to direct the master of the ship to refrain, except with the consent of any authorised officer, from landing at any port specified by the officer any part of the ship's cargo that is so specified; or

(b) to request the master of the ship to take any one or more of the following steps -

(i) to cause the ship not to proceed with the voyage on which she is then engaged or about to engage until the master is notified by an authorised officer that the ship may so proceed;

(ii) if the ship is then in port in the Territory, to cause her to remain there until the master is notified by an authorised officer that the ship may depart;

(iii) if the ship is then in any other place, to take her to any such port specified by the officer and to cause her to remain there until the master is notified as mentioned in sub-paragraph (ii); and

(iv) to take her to any other destination that may be specified by the officer in agreement with the master.

(3) Without prejudice to the provisions of article 16(3), where -

(a) a master refuses or fails to comply with a request made under paragraph (2)(b); or

(b) an authorised officer otherwise has reason to suspect that such a request that has been so made may not be complied with,

any authorised officer may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose enter upon, or authorise entry upon, that ship and use, or authorise the use of, reasonable force.

(4) Before or on exercising any power conferred by this article, an authorised officer shall, if requested to do so, produce evidence of his authority.

(5) In this article "authorised officer" means -

(a) any commissioned naval or military officer;

(b) any British consular officer;

(c) any person authorised by the Governor for the purpose of this article either generally or in a particular case.

**Investigation, etc. of suspected aircraft**

**14.** - (1) Where any authorised person has reason to suspect that any aircraft to which article 6 applies has been or is being or is about to be used in contravention of paragraph (1) of that article -

(a) he may (either alone or accompanied and assisted by persons under his authority) board the aircraft and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the charterer, the operator and the commander of the aircraft or any of them to furnish such information relating to the aircraft and its cargo and produce for his inspection such documents so relating and such cargo as he may specify; and

(c) if the aircraft is then in the Territory, any authorised person may (either there and then or upon consideration of any information furnished or document or cargo produced in pursuance of a request made under sub-paragraph (b)) further request the charterer, the operator and the commander or any of them to cause the aircraft and any of its cargo to remain in the Territory until notified that the aircraft and its cargo may depart.

(2) Without prejudice to the provisions of article 16(3), where an authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and upon that aircraft;

(b) detain, or authorise the detention of, that aircraft and any of its cargo; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

**Investigation, etc. of suspected vehicles**

**15.** - (1) Where any authorised person has reason to suspect that any vehicle in the Territory has been or is being or is about to be used in contravention of paragraph (1) of article 6 -

(a) he may (either alone or accompanied and assisted by persons under his authority) enter the vehicle and search it and, for that purpose, may use or authorise the use of reasonable force;

(b) he may request the operator and the driver of the vehicle or either of them to furnish such information relating to the vehicle and any goods contained in it and produce for his inspection such documents so relating and such goods as he may specify;

(c) any authorised person may (either there and then or upon consideration of any information furnished or document or goods produced in pursuance of a request made under sub-paragraph (b)) further request the operator or the driver to cause the vehicle and any goods contained in it to remain in the Territory until notified that the vehicle may depart.

(2) Without prejudice to the provisions of article 16(3), where any authorised person has reason to suspect that any request that has been made under paragraph (1)(c) may not be complied with, he may take such steps as appear to him to be necessary to secure compliance with that request and, without prejudice to the generality of the foregoing, may for that purpose -

(a) enter, or authorise entry, upon any land and enter, or authorise entry of, that vehicle;

(b) detain, or authorise the detention of, that vehicle and any goods contained in it; and

(c) use, or authorise the use of, reasonable force.

(3) Before or on exercising any power conferred by this article, an authorised person shall, if requested to do so, produce evidence of his authority.

(4) In this article, "authorised person" means any person authorised by the Governor for the purpose of this article either generally or in a particular case.

**Provisions supplementary to articles 13 to 15**

**16.** - (1) No information furnished or document produced by any person in pursuance of a request made under article 13, 14 or 15 shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced, provided that a person who has obtained information or is in possession of a document only in his capacity as servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may instead be given by any person who is entitled to that information or to the possession of that document in his own right;

(b) to any person who would have been empowered under article 13, 14 or 15 to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the State of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Ivory Coast decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under any law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

(2) Any power conferred by article 13, 14 or 15 to request the furnishing of information or the production of a document or of cargo for inspection shall include a power to specify whether the information should be furnished orally or in writing and in what form and to specify the time by which and the place in which the information should be furnished or the document or cargo produced for inspection.

(3) Each of the following persons shall be guilty of an offence under this Order, that is to say -

(a) a master of a ship who disobeys any direction given under article 13(2)(a);

(b) a master of a ship or a charterer or an operator or a commander of an aircraft or an operator or a driver of a vehicle who -

(i) without reasonable excuse, refuses or fails within a reasonable time to comply with any request made under article 13, 14 or 15 by any person empowered to make it, or

(ii) furnishes any document or information which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request;

(c) a master or a member of a crew of a ship or a charterer or an operator or a commander or a member of a crew of an aircraft or an operator or a driver of a vehicle who wilfully obstructs any such person (or any person acting under the authority of any such person) in the exercise of his powers under article 13, 14 or 15.

(4) Nothing in articles 13 to 15 or this article shall be construed so as to prejudice any other provision of law conferring powers or imposing restrictions or enabling restrictions to be imposed with respect to ships, aircraft or vehicles.

#### GENERAL

#### **Offences in connection with applications for licences, conditions attaching to licences, etc.**

17. - (1) If, for the purposes of obtaining any licence under this Order, any person makes any statement or furnishes any document or information which to his knowledge is false in a material particular, or recklessly makes any statement or furnishes any document or information which is false in a material particular, he shall be guilty of an offence under this Order.

(2) Any person who has done any act under the authority of a licence granted by the Governor under this Order and who fails to comply with any conditions attaching to that licence shall be guilty of an offence under this Order.

(3) No person shall be guilty of an offence under paragraph (2) where he proves that the condition with which he failed to comply was modified, otherwise than with his consent, after the doing of the act authorised by the licence.

#### **Obtaining of evidence and information**

18. Schedule 4 shall have effect in order to facilitate the obtaining, by or on behalf of the Governor -

(a) of evidence and information for the purpose of securing compliance with or detecting evasion of -

(i) this Order in the Territory; or

(ii) any law making provision with respect to any of the matters regulated by this Order that is in force in the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory; and

(b) of evidence of the commission of -

(i) in the Territory, an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs; or

(ii) with respect to any of the matters regulated by this Order, an offence under the law of the United Kingdom, any of the Channel Islands or the Isle of Man or any British overseas territory.

#### **Penalties and proceedings**

19. - (1) Any person guilty of an offence under article 3(1), 4(3), 5, 6(3), 7, 8(9), 9 or 11 shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding seven years or to a fine of any amount or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(2) Any person guilty of an offence under article 16(3)(b)(ii) or paragraph 5(b) or 5(d) of Schedule 4 shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount or to both; or

(b) on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(3) Any person guilty of an offence under article 8(10), 10(1), 12(4), 17(1) or 17(2) shall be liable -

(a) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine of any amount or to both;

(b) on summary conviction to a fine not exceeding £5,000 or its equivalent.

(4) Any person guilty of an offence under article 16(3)(a), 16(3)(b)(i), 16(3)(c), or paragraph 5(a) or 5(c) of Schedule 4 shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £5,000 or its equivalent or to both.

(5) Any person guilty of an offence under article 12(3) shall be liable on summary conviction to a fine not exceeding £5,000 or its equivalent.

(6) Where any body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence, and shall be liable to be proceeded against and punished accordingly.

(7) Summary proceedings for an offence under this Order, being an offence alleged to have been committed outside the Territory, may be commenced at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

(8) Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

(9) No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions; but this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

#### **Exercise of powers of the Governor**

20. - (1) The Governor may, to such extent and subject to such restrictions and conditions as he may think proper, delegate or authorise the delegation of any of his powers under this Order (other than the power to give authority under Schedule 4 to apply for a search warrant) to any person, or class or description of persons, approved by him, and references in this Order to the Governor shall be construed accordingly.

(2) Any licences granted under this Order shall be in writing and may be either general or special, may be subject to or without conditions, may be limited so as to expire on a specified date unless renewed and may be varied or revoked by at any time by written notice given by the Governor to each recipient of the licence.

(3) A notice under paragraph (2) may be given by post, and shall be deemed to have been given to a person if it is

sent to him at his last known address.

(4) The Governor may by regulations specify in the currency of the Territory the amount which is to be taken as equivalent to sums expressed in sterling in this Order.

**Miscellaneous**

21. - (1) Any provision of this Order which prohibits the doing of a thing except under the authority of a licence granted by the Governor shall not have effect in relation to any such thing done anywhere other than the Territory provided that it is duly authorised.

(2) A thing is duly authorised for the purpose of paragraph (1) if it is done under the authority of a licence granted in accordance with any law in force in the place where it is done (being a law substantially corresponding to the relevant provisions of this Order) by the authority competent in that behalf under that law.

A.K. Galloway  
Clerk of the Privy Council

SCHEDULE 1

Article 1(2)

TERRITORIES TO WHICH THE ORDER EXTENDS

Anguilla  
British Antarctic Territory  
British Indian Ocean Territory  
Cayman Islands  
Falkland Islands  
Montserrat  
Pitcairn, Henderson, Ducie and Oeno Islands  
St. Helena and Dependencies  
South Georgia and South Sandwich Islands  
The Sovereign Base Areas of Akrotiri and Dhekelia  
Turks and Caicos Islands  
Virgin Islands

SCHEDULE 2

Article 1(3)

APPLICATION OF ARTICLE 19 TO THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA

1. Any person who commits an offence under article 3(1), 4(3), 5, 6(3), 7, 8(9), 9 or 11 shall be liable on conviction -

(a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding seven years, or to a fine of any amount, or to both;



(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

2. Any person who commits an offence under 16(3)(b)(ii), or paragraph 5(b) or 5(d) of Schedule 4, shall be liable on conviction -

(a) if tried on information before the Senior Judge's Court, to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both;

(b) if tried before the Judge's Court, to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

3. Any person who commits an offence under article 8(10), 10(1), 12(4), 17(1) or 17(2) is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding two years, or to a fine of any amount, or to both.

4. Any person who commits an offence under article 16(3)(a), 16(3)(b)(i) or 16(3)(c), or paragraph 5(a) or 5(c) of Schedule 4, is guilty of a misdemeanour and shall be liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding £5,000 or its equivalent, or to both.

5. Any person who commits an offence under article 12(3) is guilty of a misdemeanour and shall be liable on conviction to a fine not exceeding £5,000 or its equivalent.

6. Where a body corporate is guilty of an offence under this Order, and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

7. Proceedings for a misdemeanour under this Order, being an offence alleged to have been committed outside the Territory, may be instituted at any time not later than 12 months from the date on which the person charged first enters the Territory after committing the offence.

8. Proceedings against any person for an offence under this Order may be taken before the appropriate court in the Territory having jurisdiction in the place where that person is for the time being.

9. No proceedings for an offence under this Order shall be instituted in the Territory except by or with the consent of the principal public officer of the Territory having responsibility for criminal prosecutions, but this paragraph shall not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, or the remand in custody or on bail of any person charged with such an offence, notwithstanding that the necessary consent to the institution of proceedings for the offence has not been obtained.

### SCHEDULE 3

Article 2(1)

#### EQUIPMENT THAT MIGHT BE USED FOR INTERNAL REPRESSION

1. Helmets providing ballistic protection, anti-riot helmets, anti-riot shields and ballistic shields and specially designed components therefor.

2. Specially designed fingerprint equipment.

3. Power controlled searchlights.

4. Construction equipment provided with ballistic protection.

5. Hunting knives.
6. Specially designed production equipment to make shotguns.
7. Ammunition hand-loading equipment.
8. Communications intercept devices.
9. Solid-state optical detectors.
10. Image-intensifier tubes.
11. Telescopic weapon sights.
12. Smooth-bore weapons and related ammunition, other than those specially designed for military use, and specially designed components therefor, except:
  - (1) signal pistols;
  - (2) air- and cartridge-powered guns designed as industrial tools or humane animal stunners.
13. Simulators for training in the use of firearms and specially designed or modified components and accessories therefor.
14. Bombs and grenades, other than those specially designed for military use, and specially designed components therefor.
15. Body armour, other than those manufactured to military standards or specifications, and specially designed components therefor.
16. All-wheel-drive utility vehicles capable of off-road use that have been manufactured or fitted with ballistic protection, and profiled armour for such vehicles.
17. Water cannon and specially designed or modified components therefor.
18. Vehicles equipped with a water cannon.
19. Vehicles specially designed or modified to be electrified to repel boarders and components therefor specially designed or modified for that purpose.
20. Acoustic devices represented by the manufacturer or supplier as suitable for riot-control purposes, and specially designed components therefor.
21. Leg-irons, gang-chains, shackles and electric-shock belts, specially designed for restraining human beings; except:
  - (1) handcuffs for which the maximum overall dimension including chain does not exceed 240 mm when locked.
22. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an incapacitating substance (such as tear gas or pepper sprays), and specially designed components therefor.
23. Portable devices designed or modified for the purpose of riot control or self-protection by the administration of an electric shock (including electric-shocks batons, electric shock shields, stun guns and electric shock dart guns (tasers)) and components therefor specially designed or modified for that purpose.
24. Electronic equipment capable of detecting concealed explosives and specially designed components therefor;

except:

(1) TV or X-ray inspection equipment.

25. Electronic jamming equipment specially designed to prevent the detonation by radio remote control of improvised devices and specially designed components therefor.

26. Equipment and devices specially designed to initiate explosions by electrical or non-electrical means, including firing sets, detonators, igniters, boosters and detonating cord, and specially designed components therefor; except:

(1) those specially designed for a specific commercial use consisting of the actuation or operation by explosive means of other equipment or devices the function of which is not the creation of explosions (e.g., car air-bag inflaters, electric-surge arresters or fire sprinkler actuators).

27. Equipment and devices designed for explosive ordnance disposal; except:

(1) bomb blankets;

(2) containers designed for folding objects known to be, or suspected of being improvised explosive devices.

28. Night vision and thermal imaging equipment and image intensifier tubes or solid state sensors therefor.

29. Software specially designed and technology required for all listed items.

30. Linear cutting explosive charges.

31. Explosives and related substances as follows:

(1) amatol,

(2) nitrocellulose (containing more than 12,5 % nitrogen),

(3) nitroglycol,

(4) pentaerythritol tetranitrate (PETN),

(5) picryl chloride,

(6) tinitorphenylmethylnitramine (tetryl),

(7) 2,4,6-trinitrotoluene (TNT)

32. Software specially designed and technology required for all listed items.

#### SCHEDULE 4

Article 18

#### EVIDENCE AND INFORMATION

1. - (1) Without prejudice to any other provision of this Order, or any provision of any other law, the Governor may request any person in or resident in the Territory to furnish to him any information in his possession or control, or to produce to him any document in his possession or control, which he may require for the purpose of securing compliance with or detecting evasion of this Order; and any person to whom such a request is made shall comply with it within such time and in such manner as may be specified in the request.

(2) Nothing in sub-paragraph (1) shall be taken to require any person who has acted as counsel or solicitor for any person to furnish or produce any privileged information or document in his possession in that capacity.

(3) Where a person is convicted under paragraph 5(a) of this Schedule of failing to furnish information or produce a document when requested so to do, the court may make an order requiring him, within such period as may be specified in the order, to furnish the information or produce the document.

(4) The power conferred by this paragraph to request any person to produce documents shall include power to take copies of or extracts from any document so produced and to request that person, or, where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them.

(5) The furnishing of any information or the production of any document under this paragraph shall not be treated as a breach of any restriction imposed by statute or otherwise.

2. - (1) If any justice of the peace is satisfied by information on oath given by any police officer, constable or person authorised by the Governor to act for the purposes of this paragraph either generally or in a particular case -

(a) that there is reasonable ground for suspecting that an offence under this Order or, with respect to any of the matters regulated by this Order, an offence relating to customs has been or is being committed and that evidence of the commission of the offence is to be found on any premises specified in the information, or in any vehicle, ship or aircraft so specified; or

(b) that any documents which ought to have been produced under paragraph 1 and have not been produced are to be found on any such premises or in any such vehicle, ship or aircraft,

he may grant a search warrant authorising any police officer or constable, together with any other persons named in the warrant and any other police officers or constables, to enter the premises specified in the information or, as the case may be, any premises upon which the vehicle, ship or aircraft so specified may be, at any time within one month from the date of the warrant and to search the premises, or, as the case may be, the vehicle, ship or aircraft.

(2) Any authorised person who has entered any premises or any vehicle, ship or aircraft in accordance with sub-paragraph (1) may do any or all of the following things -

(a) inspect and search those premises or the vehicle, ship or aircraft for any material which he has reasonable grounds to believe may be evidence in relation to an offence referred to in this paragraph;

(b) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds for believing is evidence in relation to an offence referred to in this paragraph;

(c) seize anything on the premises or on the vehicle, ship or aircraft which he has reasonable grounds to believe are required to be produced in accordance with paragraph 1; or

(d) seize anything that is necessary to be seized in order to prevent it being concealed, lost, damaged, altered or destroyed.

(3) Any information required in accordance with sub-paragraph (2) which is contained in a computer and is accessible from the premises or from any vehicle, ship or aircraft must be produced in a form in which it can be taken away and in which it is visible and legible.

(4) A police officer or constable lawfully on the premises or on the vehicle, ship or aircraft by virtue of a warrant issued under sub-paragraph (1) may:

(a) search any person whom he has reasonable grounds to believe may be in the act of committing an offence referred to in this paragraph; and

(b) seize anything he finds in a search referred to in paragraph (a) if he has reasonable grounds for believing that it is evidence of an offence referred to in this paragraph;

but no person shall be searched in pursuance of this sub-paragraph except by a person of the same sex.

(5) Where, by virtue of this paragraph, a person is empowered to enter any premises, vehicle, ship or aircraft he may use such force as is reasonably necessary for that purpose.

(6) Any documents or articles of which possession is taken under this paragraph may be retained for a period of three months or, if within that period there are commenced any proceedings for such an offence as aforesaid to which they are relevant, until the conclusion of those proceedings.

(7) In the application of this paragraph to the Sovereign Base Areas of Akrotiri and Dhekelia any reference to a justice of the peace includes a reference to a judge or associate judge.

3. A person authorised by the Governor to exercise any power for the purposes of this Schedule shall, if requested to do so, produce evidence of his authority before exercising that power.

4. No information furnished or document produced (including any copy or extract made of any document produced) by any person in pursuance of a request made under this Schedule and no document seized under paragraph 2(2) shall be disclosed except -

(a) with the consent of the person by whom the information was furnished or the document was produced or the person from whom the document was seized, provided that a person who has obtained information or is in possession of a document only in his capacity as a servant or agent of another person may not give consent for the purposes of this sub-paragraph but such consent may be given by any person who is entitled to that information or to the possession of that document in his own right; or

(b) to any person who would have been empowered under this Schedule to request that it be furnished or produced or to any person holding or acting in any office under or in the service of -

(i) the Crown in respect of the Government of the United Kingdom;

(ii) the Government of the Isle of Man;

(iii) the States of Guernsey or Alderney or the Chief Pleas of Sark;

(iv) the States of Jersey; or

(v) the Government of any British overseas territory;

(c) on the authority of the Governor, to any organ of the United Nations or to any person in the service of the United Nations or of the Government of any other country for the purpose of assisting the United Nations or that Government in securing compliance with or detecting evasion of measures in relation to Ivory Coast decided upon by the Security Council of the United Nations or the Council of the European Union; or

(d) with a view to the institution of, or otherwise for the purposes of, any proceedings -

(i) in the Territory, for an offence under this Order or, with respect to any of the matters regulated by this Order, for an offence relating to customs; or

(ii) for any offence under the law making provision with respect to such matters that is in force in the United Kingdom, any of the Channel Islands, the Isle of Man or any British overseas territory.

5. Any person who -

(a) without reasonable excuse, refuses or fails within the time and in the manner specified (or, if no time has been specified, within a reasonable time) to comply with any request made under this Schedule by any person who is empowered to make it; or

(b) furnishes any information or produces any document which to his knowledge is false in a material particular, or recklessly furnishes any document or information which is false in a material particular, to such a person in response to such a request; or

(c) otherwise wilfully obstructs any person in the exercise of his powers under this Schedule; or

(d) with intent to evade the provisions of this Schedule, destroys, mutilates, defaces, secretes or removes any document,

shall be guilty of an offence under this Order.

#### **EXPLANATORY NOTE**

(This note is not part of the Order)

This Order applies to each of the territories specified in Schedule 1. This instrument gives effect to certain measures in resolution 1572 adopted by the Security Council of the United Nations on 15 November 2004, as implemented in the EU. UNSCR 1572 (2004) amongst other things imposes an arms embargo, with certain exemptions, on Ivory Coast with immediate effect; and provided for an assets freeze and travel ban against certain persons to come into effect on 15 December 2004. The targeted persons will be those designated by the Sanctions Committee as constituting a threat to the peace and national reconciliation process in Ivory Coast. These measures are implemented in the EU by Common Position CSFP/852/2004 adopted on 13 December 2004, which extends the arms embargo to equipment which might be used for internal repression and bans financial assistance related to military activities subject to the embargo. Aspects of the sanctions falling within Community competence will be implemented in two EC Regulations.

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STATUTORY INSTRUMENTS

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2005 No. 854

CHEMICAL WEAPONS

The Chemical Weapons (Overseas Territories) Order 2005

|                          |                        |
|--------------------------|------------------------|
| <i>Made</i>              | <i>22nd March 2005</i> |
| <i>Coming into force</i> | <i>22nd April 2005</i> |

At the Court at Buckingham Palace, the 22nd day of March 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 39(3) of the Chemical Weapons Act 1996(a) and section 57 of the Anti-terrorism, Crime and Security Act 2001(b), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows -

**Citation and commencement**

1. This Order may be cited as the Chemical Weapons (Overseas Territories) Order 2005 and shall come into force on 22nd April 2005.

**Extent and construction**

2. - (1) The provisions of the Chemical Weapons Act 1996, excepted, adapted and modified as in Schedule 1 to this Order, shall extend to the territories listed in Schedule 3 to this Order.

(2) The provisions of the Chemical Weapons Act 1996, as so excepted, adapted and modified, shall -

(a) in their application to the British Antarctic Territory and the British Indian Ocean Territory, be subject to the further exceptions, adaptations and modifications set out in Schedule 4 to this Order;

(b) in their application to Pitcairn, Henderson, Ducie and Oeno Islands, be subject to the further adaptations and modifications set out in Schedule 5 to this Order;

(c) in their application to Bermuda, be subject to the further adaptations and modifications set out in Schedule 6 to this Order;

(d) in their application to the Turks and Caicos Islands, be subject to the further adaptations and modifications set out in Schedule 7 to this Order;

(e) in their application to the Sovereign Base Areas of Akrotiri and Dhekelia, be subject to the further exceptions, adaptations and modifications set out in Schedule 8 to this Order.

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(a) 1996 c.6.

(b) 2001 c.24.

3. - (1) Sections 50 to 56 of the Anti-terrorism, Crime and Security Act 2001, excepted and modified as in Schedule 2 to this Order, shall extend to the territories listed in Schedule 3 to this Order.

(2) Sections 50 to 56 of the Anti-terrorism, Crime and Security Act 2001, as so excepted and modified, shall -

(a) in their application to the British Antarctic Territory and the British Indian Ocean Territory, be subject to the further modification set out in Schedule 4A to this Order;

(b) in their application to Pitcairn, Henderson, Ducie and Oeno Islands, be subject to the further modification set out in Schedule 5A to this Order;

(c) in their application to the Sovereign Base Areas of Akrotiri and Dhekelia, be subject to the further modification set out in Schedule 8A to this Order.

**Interpretation**

4. - (1) Except as otherwise provided, in the application of each Act to any of the territories to which it is extended, the expression "the Territory" means that territory.

(2) In each Act, "Governor" means the Governor or other officer administering the government of the Territory.

(3) In each Act, "justice of the peace" means a justice of the peace or a magistrate.

(4) In each Act, "Attorney General" means the Attorney General of the Territory or, in his absence, any other person for the time being discharging his functions.

A.K. Galloway  
Clerk of the Privy Council

SCHEDULE 1

Article 2

PROVISIONS OF THE CHEMICAL WEAPONS ACT 1996 AS EXCEPTED, ADAPTED AND  
MODIFIED AND EXTENDED TO THE TERRITORIES LISTED IN SCHEDULE 3

*Introduction*

**General interpretation**

1. - (1) Chemical weapons are -

(a) toxic chemicals and their precursors;

(b) munitions and other devices designed to cause death or harm through the toxic properties of toxic chemicals released by them;

(c) equipment designed for use in connection with munitions and devices falling within paragraph (b).

(2) Subsection (1) is subject to sections 2(2) and (3), 10(1) and 11(2) (by virtue of which an object is not a chemical weapon if the use or intended use is only for permitted purposes).

(3) Permitted purposes are -



- (a) peaceful purposes;
- (b) purposes related to protection against toxic chemicals;
- (c) legitimate military purposes;
- (d) purposes of enforcing the law.

(4) Legitimate military purposes are all military purposes except those which depend on the use of the toxic properties of chemicals as a method of warfare in circumstances where the main object is to cause death, permanent harm or temporary incapacity to humans or animals.

(5) A toxic chemical is a chemical which through its chemical action on life processes can cause death, permanent harm or temporary incapacity to humans or animals; and the origin, method of production and place of production are immaterial.

(6) A precursor is a chemical reactant which takes part at any stage in the production (by whatever method) of a toxic chemical.

(7) References to an object include references to a substance.

(8) The Convention is the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, signed at Paris on 13 to 15 January 1993(a).

(9) This section applies for the purposes of this Act.

#### *Chemical Weapons*

#### **Use etc of chemical weapons**

2. - (1) No person shall -

- (a) use a chemical weapon;
- (b) develop or produce a chemical weapon;
- (c) have a chemical weapon in his possession;
- (d) participate in the transfer of a chemical weapon;
- (e) engage in military preparations, or in preparations of a military nature, intending to use a chemical weapon.

(2) For the purposes of subsection (1)(a) an object is not a chemical weapon if the person uses the object for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(3) For the purposes of subsection (1)(b), (c), (d) or (e) an object is not a chemical weapon if the person does the act there mentioned with the intention that the object will be used only for permitted purposes; and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

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(a) Miscellaneous No.21 (1993) Cm.2331.

(4) For the purposes of subsection (1)(d) a person participates in the transfer of an object if -

(a) he acquires or disposes of the object or enters into a contract to acquire or dispose of it, or

(b) he makes arrangements under which another person acquires or disposes of the object or another person enters into a contract to acquire or dispose of it.

(5) For the purposes of subsection (4) -

(a) to acquire an object is to buy it, hire it, borrow it or accept it as a gift;

(b) to dispose of an object is to sell it, let it on hire, lend it or give it.

(6) In proceedings for an offence under subsection (1)(a), (c) or (d) relating to an object it is a defence for the accused to prove -

(a) that he neither knew nor suspected nor had reason to suspect that the object was a chemical weapon, or

(b) that he knew or suspected it to be a chemical weapon and as soon as reasonably practicable after he first so knew or suspected he took all reasonable steps to inform the Governor or a police officer of his knowledge or suspicion.

(7) Nothing in subsection (6) prejudices any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

(8) A person contravening this section is guilty of an offence and liable on conviction on indictment to imprisonment for life.

### **Application of section 2**

3. - (1) Section 2 applies to acts done in the Territory or elsewhere.

(2) So far as it applies to acts done outside the Territory, section 2 applies to United Kingdom nationals, and bodies incorporated under the law of the Territory.

(3) For the purposes of this section a United Kingdom national is an individual who is -

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,

(b) a person who under the British Nationality Act 1981(a) is a British subject, or

(c) a British protected person within the meaning of that Act.

(4) Proceedings for an offence committed under section 2 outside the Territory may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the Territory.

### **Suspicious objects**

4. - (1) If -

(a) the Governor has grounds to suspect that an object is a chemical weapon, and

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(a) 1981 c.61.

(b) at least one person falls within subsection (2),

the Governor may serve on any person falling within that subsection a copy of a notice falling within subsection (3).

(2) The persons falling within this subsection are -

(a) any person who appears to the Governor to have the object in his possession, and

(b) any person not falling within paragraph (a) and who appears to the Governor to have an interest which the Governor believes is materially affected by the notice.

(3) A notice falling within this subsection is a notice which -

(a) describes the object and states its location;

(b) states that the Governor suspects that the object is a chemical weapon and gives the reasons for his suspicion;

(c) states that he is considering whether to secure its destruction under sections 5 to 7;

(d) states that any person may make representations that the object is not a chemical weapon;

(e) states that a person on whom the notice is served and who has the object in his possession must not relinquish possession before a date specified in the notice.

#### **Power to remove or immobilise objects**

5. - (1) If the Governor has reasonable cause to believe that -

(a) an object is on premises to which the public has access or which are occupied by a person who consents to action being taken under this subsection, and

(b) the object is a chemical weapon,

the Governor may authorise a person to enter the premises and to search them.

(2) If a justice of the peace is satisfied on information on oath that there is reasonable cause to believe that an object is on premises (of whatever nature) and that it is a chemical weapon, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(3) A person who acts under an authorisation given under subsection (1) or (2) may take with him such other persons and such equipment as appear to him to be necessary.

(4) If a person enters premises under an authorisation given under subsection (1) or (2) and the object is found there he may make the object safe and -

(a) he may seize and remove it if it is reasonably practicable to do so, or

(b) he may in any other case affix a warning to the object or to something in a conspicuous position

near the object, stating that the object is not to be moved or interfered with before a date specified in the warning.

(5) For the purposes of subsection (4) an object is made safe if, without being destroyed, it is prevented from being an immediate danger (as where a fuse is neutralised or the object is smothered in foam).

(6) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (1) or the warrant so provides, in the presence of a police officer.

(7) This section applies whether or not any copy of a notice has been served under section 4.

**Power to destroy removed objects**

6. - (1) This section applies if an object is removed from premises under section 5, and for the purposes of this section -

(a) the first six-month period is the period of six months beginning with the day after the removal;

(b) the second six-month period is the period of six months beginning with the day after the first six-month period ends.

(2) If at any time in the second six-month period the Governor decides that the object should be destroyed he may authorise a person to destroy it; but this is subject to subsections (3) to (5).

(3) If at any time in the first six-month period -

(a) any person appears to the Governor to have had the object in his possession immediately before its removal, or

(b) any person not falling within paragraph (a) appears to the Governor to have an interest which the Governor believes would be materially affected by the object's destruction,

the Governor must serve on such a person a copy of a notice falling within subsection (4).

(4) A notice falling within this subsection is a notice which -

(a) describes the object and states its location;

(b) states that the Governor proposes to secure its destruction and gives the reasons for his proposal;

(c) states that the person on whom the copy of the notice is served may object to the Governor's proposal;

(d) states that an objection (if made) must be made in writing to the Governor before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Governor must -

(a) allow any person on whom a copy of a notice has been served under subsection (3) time to respond, and

(b) take into account any objections to the object's proposed destruction (whether made in response to a notice or otherwise).

(6) If an object is removed from premises under section 5 and destroyed under this section the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the removal and destruction; and a responsible person is any person who had possession of the object immediately before its removal.

(7) If -

(a) an object is removed from premises under section 5,

(b) at the end of the second six-month period the Governor has not authorised the destruction of the object, and

(c) a person had possession of the object immediately before its removal,

the Governor must return the object to the person mentioned in paragraph (c) or, if there is more than one, to such of them as the Governor thinks appropriate.

#### **Power to enter premises and destroy objects**

7. - (1) This section applies if a warning has been affixed under section 5, and for the purposes of this section -

(a) the first six-month period is the period of six months beginning with the day after the warning was affixed;

(b) the second six-month period is the period of six months beginning with the day after the first six-month period ends.

(2) If at any time in the second six-month period the Governor decides that the object should be destroyed it may be destroyed as provided by subsections (6) to (9); but this is subject to subsections (3) to (5).

(3) If at any time in the first six-month period -

(a) any person appears to the Governor to have had the object in his possession immediately before the warning was affixed, or

(b) any person not falling within paragraph (a) appears to the Governor to have an interest which the Governor believes would be materially affected by the object's destruction,

the Governor must serve on such a person a copy of a notice falling within subsection (4).

(4) A notice falling within this subsection is a notice which -

(a) describes the object and states its location;

(b) states that the Governor proposes to secure its destruction and gives the reasons for his proposal;

(c) states that the person on whom the copy of the notice is served may object to the Governor's proposal;

(d) states that an objection (if made) must be made in writing to the Governor before such date as is specified in the notice and must state why the object should not be destroyed.

(5) Before he reaches a decision under subsection (2) the Governor must –

(a) allow any person on whom a copy of a notice has been served under subsection (3) time to respond, and

(b) take into account any objections to the object's proposed destruction (whether made in response to a notice or otherwise).

(6) If -

(a) at any time in the second six-month period the Governor decides that the object should be destroyed, and

(b) the object is on premises to which the public has access or which are occupied by a person who consents to action being taken under this subsection,

the Governor may authorise a person to enter the premises and to destroy the object if it is found there.

(7) If (whatever the nature of the premises concerned) a justice of the peace is satisfied on information on oath that a warning has been affixed under section 5, and that the Governor has decided at any time in the second six-month period that the object should be destroyed, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to destroy the object if it is found there.

(8) A person who acts under an authorisation given under subsection (6) or (7) may take with him such other persons and such equipment as appear to him to be necessary.

(9) The powers conferred on an authorised person under this section shall only be exercisable, if the authorisation under subsection (6) or the warrant so provides, in the presence of a police officer.

(10) Where an object is destroyed under this section the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the destruction; and a responsible person is any person who had possession of the object immediately before the warning was affixed under section 5.

### **Compensation for destruction**

8. - (1) This section applies if a person claims that -

(a) an object has been destroyed under section 6 or 7,

(b) he had an interest which was materially affected by the destruction and he sustained loss as a result, and

(c) no copy of a notice was served on him under the section concerned (whether or not one was served on any other person).

(2) If the person concerned makes an application under this section to the supreme court of the Territory, and the court finds that his claim is justified, the court may order the Governor to pay to the applicant such amount (if any) by way of compensation as the court considers just.

(3) If the court believes that the object would have been destroyed even if a copy of a notice had been

served on the applicant under the section concerned the court must not order compensation to be paid under this section.

**Offences relating to destruction etc**

9. - (1) If -

- (a) a copy of a notice is served on a person under section 4,
- (b) the notice relates to an object in his possession at the time the copy is served,
- (c) he relinquishes possession before the date specified under section 4(3)(e), and
- (d) he has no reasonable excuse for so relinquishing possession, he is guilty of an offence.

(2) If a person wilfully obstructs a person in -

- (a) entering or searching premises under an authorisation given under section 5(1) or (2) or 7(6) or (7),
- (b) making an object safe, seizing or removing an object, or affixing a warning, under section 5(4),
- (c) destroying an object under an authorisation given under section 6(2) or 7(6) or (7), or
- (d) attempting to do anything mentioned in paragraphs (a) to (c),

the person so obstructing is guilty of an offence.

(3) If -

- (a) a warning is affixed under section 5(4),
- (b) a person interferes with the warning, or moves or interferes with the object before the date specified in the warning, and
- (c) he has no reasonable excuse for doing so,

he is guilty of an offence.

(4) A person guilty of an offence under any of the preceding provisions of this section is liable -

- (a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;
- (b) on conviction on indictment, to a fine.

(5) A person who knowingly makes a false or misleading statement in response to a copy of a notice served under section 4, 6 or 7 is guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

**Destruction etc: supplementary**

10. - (1) If an object is in the possession of a person who intends that it will be used only for permitted purposes, it is not a chemical weapon for the purposes of sections 4(1) and (3) and 5(1) and (2); and in deciding whether permitted purposes are intended the types and quantities of objects shall be taken into account.

(2) For the purposes of sections 4 to 9 -

(a) to the extent that an object consists of a toxic chemical or precursor, it is destroyed if it is permanently prevented from being used other than for permitted purposes;

(b) to the extent that an object consists of a munition or other device designed to cause death or harm through toxic chemicals released by it, it is destroyed if it is permanently prevented from doing so;

(c) to the extent that an object consists of equipment designed for use in connection with a munition or other device, it is destroyed if it is permanently prevented from being so used.

(3) In sections 5 to 9 "premises" includes land (including buildings), moveable structures, vehicles, vessels, aircraft and hovercraft.

(4) Nothing in sections 4 to 7 affects any power arising otherwise than by virtue of those sections (such as a power to dispose of property in police possession in connection with the investigation of a suspected offence).

*Premises for producing chemical weapons etc*

**Premises or equipment for producing chemical weapons**

11. - (1) No person shall -

(a) construct premises he intends to be used to produce chemical weapons;

(b) alter premises in circumstances where he intends that they will be used to produce chemical weapons;

(c) install or construct equipment he intends to be used to produce chemical weapons;

(d) alter equipment in circumstances where he intends that it will be used to produce chemical weapons;

(e) permit the construction on land he occupies of premises he intends to be used to produce chemical weapons;

(f) permit premises on land he occupies to be altered in circumstances where he intends that they will be used to produce chemical weapons;

(g) permit the installation or construction on land he occupies of equipment he intends to be used to produce chemical weapons;

(h) permit equipment on land he occupies to be altered in circumstances where he intends that it will be used to produce chemical weapons.

(2) For the purposes of subsection (1) an object is not a chemical weapon if the person intends that the object will be used only for permitted purposes; and in deciding whether permitted purposes are intended



the types and quantities of objects shall be taken into account.

(3) A person contravening this section is guilty of an offence and liable on conviction on indictment to imprisonment for life.

### **Suspicious equipment or buildings**

12. - (1) If -

(a) the Governor has grounds to suspect that any equipment or building is a chemical weapons production facility, and

(b) at least one person falls within subsection (2),

the Governor may serve on any person falling within that subsection a copy of a notice falling within subsection (3).

(2) The persons falling within this subsection are -

(a) any person who appears to the Governor to occupy the land on which the equipment or building is situated,

(b) if the Governor's suspicion relates to equipment, any person not falling within paragraph (a) and who appears to the Governor to have the equipment in his possession, and

(c) any person not falling within paragraph (a) or (b) and who appears to the Governor to have an interest which the Governor believes is materially affected by the notice.

(3) A notice falling within this subsection is a notice which -

(a) describes the equipment or building and states its location;

(b) states that the Governor suspects that the equipment or building is a chemical weapons production facility and gives the reasons for his suspicion;

(c) states that he is considering whether to require the equipment or building to be destroyed or altered;

(d) states that any person may make representations that the equipment or building is not a chemical weapons production facility.

(4) If the notice relates to equipment it must state that a person on whom the notice is served and who has the equipment in his possession must not relinquish possession of or alter or use, the equipment before a date specified in the notice.

### **Notice requiring destruction or alteration**

13. - (1) If -

(a) the Governor has reasonable cause to believe that any equipment or building is a chemical weapons production facility, and

(b) at least one person falls within subsection (2),

the Governor may serve on each person falling within that subsection a copy of a notice falling within subsection (3).

(2) The persons falling within this subsection are -

(a) any person who appears to the Governor to occupy the land on which the equipment or building is situated,

(b) if the Governor's belief relates to equipment, any person not falling within paragraph (a) and who appears to the Governor to have the equipment in his possession, and

(c) any person not falling within paragraph (a) or (b) and who appears to the Governor to have an interest which the Governor believes would be materially affected by the destruction or alteration of the equipment or building.

(3) A notice falling within this subsection is a notice which -

(a) describes the equipment or building and states its location;

(b) states that the Governor believes the equipment or building is a chemical weapons production facility;

(c) requires the equipment or building to be destroyed or altered (as the case may be) in a manner, and before a date, specified in the notice.

(4) If a notice under this section requires any equipment or building to be altered, a further notice under this section may -

(a) revoke the first notice, and

(b) require the equipment or building to be destroyed;

and the preceding provisions of this section shall apply to the further notice accordingly.

(5) This section applies whether or not any copy of a notice has been served under section 12.

**Power where notice not complied with**

14. - (1) For the purposes of this section the qualifying condition is that -

(a) a notice has been prepared under section 13,

(b) the provisions of section 13(1) to (3) have been complied with in relation to the notice,

(c) the notice has not been revoked, and

(d) any requirement set out in the notice has not been complied with.

(2) If a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled, he may issue a warrant in writing authorising a person acting under the authority of the Governor to take remedial action under this section.

(3) If a person is authorised by a warrant to take remedial action under this section he may -

- (a) enter the land on which the equipment or building is situated, if necessary by force;
- (b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the notice;
- (c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).

(4) The powers conferred on an authorised person under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.

(5) If anything is done in exercise of the powers mentioned in this section, the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the exercise of those powers; and a responsible person is -

- (a) in the case of equipment, any person in possession of the equipment at the time the land is entered;
- (b) in the case of a building, any person occupying the land at the time it is entered.

**Position where no notice can be served**

15. - (1) For the purposes of this section the qualifying condition is that -

- (a) the Governor has reasonable cause to believe that any equipment or building is a chemical weapons production facility,
- (b) in the period of six months beginning with the day after he formed his belief it has not been possible to serve a copy of a notice under section 13 because of the circumstances mentioned in subsection (2), and
- (c) the Governor has drawn up proposals for the destruction or alteration of the equipment or building in a manner specified in the proposals.

(2) The circumstances are that -

- (a) no person appeared to the Governor to occupy the land on which the equipment or building is situated,
- (b) if the Governor's belief relates to equipment, no person appeared to the Governor to have the equipment in his possession, and
- (c) no person appeared to the Governor to have an interest which the Governor believed would be materially affected by the destruction or alteration of the equipment or building.

(3) If a justice of the peace is satisfied on information on oath that the qualifying condition is fulfilled, he may issue a warrant in writing authorising a person acting under the authority of the Governor to take remedial action under this section.

(4) If a person is authorised by a warrant to take remedial action under this section he may -

- (a) enter the land on which the equipment or building is situated, if necessary by force;

(b) do whatever is required to secure that the equipment or building is destroyed or altered in a manner specified in the proposals drawn up by the Governor;

(c) take with him such other persons and such equipment as appear to him to be necessary to help him to exercise the powers mentioned in paragraphs (a) and (b).

(5) The powers conferred on an authorised person under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.

(6) If anything is done in exercise of the powers mentioned in this section, the Governor may recover from a responsible person any costs reasonably incurred by the Governor in connection with the exercise of those powers; and a responsible person is -

(a) in the case of equipment, any person in possession of the equipment at the time the land is entered;

(b) in the case of a building, any person occupying the land at the time it is entered.

#### **Compensation for destruction or alteration**

16. - (1) This section applies if a person claims that -

(a) any equipment or building has been destroyed or altered in compliance with a notice falling within section 13(3) or has been destroyed or altered under section 14,

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result, and

(c) no copy of a notice was served on him under section 13.

(2) This section also applies if a person claims that -

(a) any equipment or building has been destroyed or altered under section 15, and

(b) he had an interest which was materially affected by the destruction or alteration and he sustained loss as a result.

(3) If the person concerned makes an application under this section to the supreme court of the Territory, and the court finds that his claim is justified, the court may order the Governor to pay to the applicant such amount (if any) by way of compensation as the court considers just.

(4) If the court believes that the equipment or building would have been destroyed or altered even if a copy of a notice had been served on the applicant under section 13 the court must not order compensation to be paid under this section.

#### **Offences relating to destruction etc**

17. - (1) If -

(a) a copy of a notice is served on a person under section 12,

(b) the notice relates to equipment in his possession at the time the copy is served,

(c) he relinquishes possession of, or alters or uses, the equipment before the date specified under

section 12(4), and

(d) he has no reasonable excuse for doing so,

he is guilty of an offence.

(2) If -

(a) a copy of a notice is served on a person under section 13,

(b) the notice relates to equipment in his possession at the time the copy is served or to a building situated on land he occupies at that time,

(c) any requirement set out in the notice is not fulfilled, and

(d) he has no reasonable excuse for the requirement not being fulfilled,

he is guilty of an offence.

(3) If a person wilfully obstructs -

(a) a person exercising, or attempting to exercise, the powers mentioned in section 14(3)(a) or (b) or 15(4)(a) or (b), or

(b) any other person taken with him as mentioned in section 14(3)(c) or 15(4)(c) and helping him, or attempting to help him, to exercise those powers,

the person so obstructing is guilty of an offence.

(4) A person guilty of an offence under any of the preceding provisions of this section is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(5) A person who knowingly makes a false or misleading statement in response to a notice served under section 12 is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

**Destruction etc: supplementary**

18. - (1) In sections 12 to 15 "chemical weapons production facility" has the meaning given by the definition of that expression in the Convention, and for this purpose -

(a) expressions used in the definition in the Convention shall be construed in accordance with the Convention, and

(b) section 1 shall be ignored.

(2) For the purposes of sections 12 to 16 "destroyed" and "destruction", in relation to a building, mean demolished and demolition.

(3) Nothing in sections 12 to 15 affects any power arising otherwise than by virtue of those sections (such as a power to dispose of property in police possession in connection with the investigation of a suspected offence).

*Chemicals for permitted purposes*

**Restriction on use etc**

19. - (1) Subject to section 20 (which relates to licences) no person shall -

- (a) use a Schedule 1 toxic chemical or precursor for a permitted purpose, or
- (b) produce or have in his possession a Schedule 1 toxic chemical or precursor with the intention that it will be used for a permitted purpose.

(2) A Schedule 1 toxic chemical or precursor is a toxic chemical or precursor listed in Schedule 1 to the annex on chemicals to the Convention; and for ease of reference that Schedule is set out in the Schedule to this Act.

(3) A person contravening this section is guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;
- (b) on conviction on indictment, to a fine.

**Licences**

20. - (1) Section 19 does not apply to anything done in accordance with the terms of a licence granted by the Governor and having effect at the time it is done.

(2) The Governor may -

- (a) grant a licence in such circumstances and on such terms as he thinks fit;
- (b) vary or revoke a licence by serving a notice to that effect on the person to whom the licence was granted.

(3) A variation or revocation shall take effect at such reasonable time as is specified in the notice served under subsection (2)(b).

(4) The Governor may by order make provision with respect to appealing against a refusal to grant, renew or vary a licence or against a variation or revocation of a licence.

(5) [omitted]

(6) A person who knowingly makes a false or misleading statement for the purpose of obtaining a licence or renewal or variation of a licence, or of opposing a variation or revocation of a licence, is guilty of an offence and liable -

- (a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

#### *Information and records*

#### **Information for purposes of Act**

21. - (1) If the Governor has grounds to suspect that a person is committing or has committed an offence under this Act the Governor may by notice served on the person require him to give in such form as is specified in the notice, and within such reasonable period as is so specified, such information as -

(a) the Governor has reasonable cause to believe will help to establish whether the person is committing or has committed such an offence, and

(b) is specified in the notice.

(2) A person who without reasonable excuse fails to comply with a notice served on him under subsection (1) is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(3) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

#### **Information and records for the purposes of Convention**

22. - (1) The Governor may by notice served on any person require him to give in such form as is specified in the notice, and within such reasonable period as is so specified, such information as -

(a) the Governor has reasonable cause to believe is or will be needed in connection with anything to be done for the purposes of the Convention, and

(b) is specified in the notice;

and the information required by a notice may relate to a state of affairs subsisting before the coming into force of this Act or of the Convention.

(2) The Governor may by notice served on any person require him to keep such records as -

(a) the Governor has reasonable cause to believe will facilitate the giving of information the person may at any time be required to give under subsection (1), and

(b) are specified in the notice.

(3) A person who without reasonable excuse fails to comply with a notice served on him under subsection (1) or (2) is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(4) A person on whom a notice is served under subsection (1) and who knowingly makes a false or misleading statement in response to it is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

#### **Identifying persons who have information**

23. - (1) The Governor may make regulations requiring persons of any description specified in the regulations to inform him that they are of such a description.

(2) Any such description must be so framed that persons within it are persons on whom the Governor is likely to want to serve a notice under section 22.

(3) If regulations are made under this section the Governor shall arrange for a statement of the fact that they have been made to be published in such manner as is likely to bring them to the attention of persons affected by them.

(4) A person who without reasonable excuse fails to comply with a requirement imposed by the regulations is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

(5) A person who knowingly makes a false or misleading statement in response to a requirement imposed by the regulations is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(6) [omitted]

#### *Inspections under Convention*

#### **Inspections: interpretation**

24. For the purposes of sections 25 to 28 -

(a) the verification annex is the annex on implementation and verification to the Convention;

(b) a routine inspection is an inspection conducted pursuant to Parts II to IX of that annex;

(c) a challenge inspection is an inspection conducted pursuant to Parts II and X of that annex;

(d) an assistance inspection is an inspection conducted pursuant to Parts II and XI of that annex;



(e) "in-country escort", "inspector", "inspection team" and "observer" have the meanings given by Part I of that annex.

**Rights of entry etc for purposes of inspections**

25. - (1) If it is proposed to conduct a routine inspection, a challenge inspection or an assistance inspection in the Territory, the Governor may issue an authorisation under this section in respect of that inspection.

(2) An authorisation under this section shall -

- (a) contain a description of the area (the specified area) in which the inspection is to be conducted,
- (b) specify the type of inspection concerned,
- (c) state the names of the members of the inspection team by whom the inspection is to be carried out, and
- (d) in the case of a challenge inspection, state the name of any observer who may accompany the team.

(3) Such an authorisation shall have the effect of authorising the inspection team -

- (a) to exercise within the specified area such rights of access, entry and unobstructed inspection as are conferred on them by the verification annex, and
- (b) to do such other things within that area in connection with the inspection as they are entitled to do by virtue of the verification annex (including things concerning the maintenance, replacement or adjustment of any instrument or other object).

(4) Such an authorisation shall in addition have the effect of -

- (a) authorising an in-country escort to accompany the inspection team in accordance with the provisions of the verification annex, and
- (b) authorising any police officer to give such assistance as the in-country escort may request for the purpose of facilitating the conduct of the inspection in accordance with the verification annex;

and the name of the person in charge of the in-country escort shall be stated in the authorisation.

(5) An authorisation under this section in the case of a challenge inspection shall in addition have the effect of authorising the observer to exercise within the specified area such rights of access and entry as are conferred on him by the verification annex.

(6) Any police officer giving assistance in accordance with subsection (4)(b) may use such reasonable force as he considers necessary for the purpose mentioned in that provision.

(7) The occupier of any premises -

- (a) in relation to which it is proposed to exercise a right of entry in reliance on an authorisation under this section, or
- (b) on which an inspection is being carried out in reliance on such an authorisation,

or a person acting on behalf of the occupier of any such premises, shall be entitled to require a copy of the authorisation to be shown to him by a member of the in-country escort.

(8) The validity of any authorisation purporting to be issued under this section in respect of any inspection shall not be called in question in any court of law at any time before the conclusion of that inspection.

(9) Accordingly, where an authorisation purports to be issued under this section in respect of any inspection, no proceedings (of whatever nature) shall be brought at any time before the conclusion of the inspection if they would, if successful, have the effect of preventing, delaying or otherwise affecting the carrying out of the inspection.

(10) If in any proceedings any question arises whether a person at any time was or was not, in relation to any routine, challenge or assistance inspection, a member of the inspection team or a member of the in-country escort or the observer, a certificate issued by or under the authority of the Governor stating any fact relating to that question shall be conclusive evidence of that fact.

(11) If an authorisation is issued under this section the Governor may issue an amendment varying the specified area, and -

(a) from the time when the amendment is expressed to take effect this section shall apply as if the specified area were the area as varied;

(b) subsection (8) shall apply to the amendment as it applies to the authorisation;

(c) the Governor may issue further amendments varying the specified area and in such a case paragraphs (a) and (b) shall apply.

#### **Offences in connection with inspections**

26. - (1) If an authorisation has been issued under section 25 in respect of any inspection, a person is guilty of an offence if he -

(a) refuses without reasonable excuse to comply with any request made by a police officer or a member of the in-country escort for the purpose of facilitating the conduct of that inspection in accordance with the verification annex,

(b) interferes without reasonable excuse with any container, instrument or other object installed in the course of that inspection in accordance with the verification annex, or

(c) wilfully obstructs any member of the inspection team or of the in-country escort, or the observer, in the conduct of that inspection in accordance with the verification annex.

(2) Subsection (1)(b) applies to interference which occurs at any time while the container, instrument or other object is retained in accordance with the verification annex.

(3) A person guilty of an offence under this section is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to a fine.

**Privileges and immunities in connection with inspections**

27. - (1) Members of inspection teams and observers shall enjoy the same privileges and immunities as are enjoyed by diplomatic agents in accordance with the following provisions of the 1961 Articles, namely -

- (a) Article 29,
- (b) paragraphs 1 and 2 of Article 30,
- (c) paragraphs 1, 2 and 3 of Article 31, and
- (d) Article 34.

(2) Such persons shall, in addition, enjoy the same privileges as are enjoyed by diplomatic agents in accordance with paragraph 1(b) of Article 36 of the 1961 Articles, except in relation to articles the importing or exporting of which is prohibited by law or controlled by the enactments relating to quarantine.

(3) Samples and approved equipment carried by members of an inspection team shall be inviolable and exempt from customs duties.

(4) The privileges and immunities accorded to members of inspection teams and observers by virtue of this section shall be enjoyed by them at any time when they are in the Territory -

- (a) in connection with the carrying out there of a routine inspection, a challenge inspection or an assistance inspection, or
- (b) while in transit to or from the territory of another party to the Convention in connection with the carrying out of such an inspection there.

(5) If -

- (a) immunity from jurisdiction of a member of an inspection team is waived in accordance with the verification annex, and
- (b) a notice made by the Governor and informing the member of the waiver is delivered to him in person,

then, from the time the notice is so delivered, this section shall not have effect to confer that immunity on the member.

(6) If in any proceedings any question arises whether a person is or is not entitled to any privilege or immunity by virtue of this section, a certificate issued by or under the authority of the Governor stating any fact relating to that question shall be conclusive evidence of that fact.

(7) In this section -

"the 1961 Articles" means the Articles which are set out in Schedule 1 to the Diplomatic Privileges Act 1964 (Articles of Vienna Convention on Diplomatic Relations of 1961 having force of law in United Kingdom)(a);

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(a) 1964 c.81.

"approved equipment" and "samples" shall be construed in accordance with the verification annex;

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978)(a).

### **Reimbursement of expenditure**

28. The Governor may reimburse any person in respect of expenditure incurred in connection with a routine inspection, a challenge inspection or an assistance inspection.

### *Offences: miscellaneous*

#### **Power to search and obtain evidence**

29. - (1) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence under this Act is being, has been or is about to be committed on any premises or that evidence of the commission of such an offence is to be found there, he may issue a warrant in writing authorising a person acting under the authority of the Governor to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(2) A person who enters the premises under the authority of the warrant may -

(a) take with him such other persons and such equipment as appear to him to be necessary;

(b) inspect any document found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under this Act;

(c) take copies of, or seize and remove, any such document;

(d) inspect, seize and remove any device or equipment found on the premises which he has reasonable cause to believe may be required as such evidence;

(e) inspect, sample, seize and remove any substance found on the premises which he has reasonable cause to believe may be required as such evidence;

(f) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any document, device, equipment or substance;

but no woman or girl shall be searched except by a woman.

(3) The powers conferred by a warrant under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.

#### **Forfeiture in case of conviction**

30. - (1) The court by or before which a person is convicted of an offence under this Act may order that anything shown to the court's satisfaction to relate to the offence shall be forfeited, and either destroyed or otherwise dealt with in such manner as the court may order.

(2) In particular, the court may order the thing to be dealt with as the Governor may see fit; and in such a case the Governor may direct that it be destroyed or otherwise dealt with.

(3) Where -

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(a) 1978 c.30.

(a) the court proposes to order anything to be forfeited under this section, and

(b) a person claiming to have an interest in it applies to be heard by the court,

the court must not order it to be forfeited unless he has been given an opportunity to show cause why the order should not be made.

30A. [omitted]

#### **Offences: other provisions**

31. - (1) Proceedings for an offence under section 2 or 11 shall not be instituted except by or with the consent of the Attorney General.

(2) Proceedings for an offence under any provision of this Act other than section 2 or 11 shall not be instituted except by or with the consent of the Governor.

(3) Where an offence under this Act is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) In subsection (3) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

(5) [omitted]

#### *Other miscellaneous provisions*

#### **Disclosure of information**

32. - (1) This section applies to information if -

(a) it was obtained under, or in connection with anything done under, this Act or the Convention, and

(b) it relates to a particular business or other activity carried on by any person.

(2) So long as the business or activity continues to be carried on the information shall not be disclosed except -

(a) with the consent of the person for the time being carrying on the business or activity,

(b) in connection with anything done for the purposes of the Convention,

(c) in connection with anything done for the purposes of this Act,

(d) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings,

(e) in connection with the enforcement of any restriction on imports or exports,

(f) in dealing with an emergency involving danger to the public,

(g) with a view to ensuring the security of the Territory, or

(h) to the International Court of Justice for the purpose of enabling that Court to deal with any dispute referred to it under the Convention.

(3) [omitted]

(4) A person who discloses information in contravention of this section is guilty of an offence and liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) Where a person proposes to disclose information to which this section applies in circumstances where the disclosure would by virtue of paragraphs (b) to (h) of subsection (2) not contravene this section, he may disclose the information notwithstanding any obligation not to disclose it that would otherwise apply.

33. [omitted]

#### **Service of notices**

34. A notice under any provision of this Act, or a copy of a notice under any such provision, may be served on a person -

(a) by delivering it to him in person,

(b) by sending it by post to him at his usual or last-known residence or place of business in the Territory, or

(c) in the case of a body corporate, by delivering it to the secretary or clerk of the body corporate at its registered or principal office or sending it by post to the secretary or clerk of that body corporate at that office.

35. [omitted]

36. [omitted]

#### **The Crown**

37. - (1) Subject to the following provisions of this section, this Act binds the Crown.

(2) No contravention by the Crown of a provision made by or under this Act shall make the Crown criminally liable; but the supreme court of the Territory may, on the application of a person appearing to the court to have an interest, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Notwithstanding subsection (2), the provisions made by or under this Act apply to persons in the public service of the Crown as they apply to other persons.

(4) Nothing in this section affects Her Majesty in her private capacity; and this subsection shall be construed as if section 38(3) of the Crown Proceedings Act 1947 (meaning of Her Majesty in her private capacity)(a) were contained in this Act.

38. [omitted]

**Citation**

39. - (1) [omitted]

(2) [omitted]

(3) [omitted]

(4) This Act shall be cited as the Chemical Weapons Act 1996.

SCHEDULE TO THE ACT

Section 19

SCHEDULED TOXIC CHEMICALS AND PRECURSORS

(CAS registry number)

**A. TOXIC CHEMICALS:**

- |     |   |  |
|-----|---|--|
| (1) | O-Alkyl (less than or equal to C <sub>10</sub> , incl. cycloalkyl) alkyl<br>(Me, Et, n-Pr or i-Pr)-phosphonofluoridates<br>eg. Sarin: O-Isopropyl methylphosphonofluoridate (107-44-8)<br>Soman: O-Pinacolyl methylphosphonofluoridate (96-64-0)  |  |
| (2) | O-Alkyl (less than or equal to C <sub>10</sub> , incl. cycloalkyl)<br>N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidocyanidates<br>eg. Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate (77-81-6)  |  |
| (3) | O-Alkyl (H or less than or equal to C <sub>10</sub> , incl. cycloalkyl)<br>S-2 dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me,<br>Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated<br>salts<br>eg. VX: O-Ethyl S-2-diisopropylaminoethyl methyl<br>phosphonothiolate (50782-69-9)  |  |
| (4) | Sulfur mustards:<br>2-Chloroethylchloromethylsulfide (2625-76-5)<br>Mustard gas: Bis (2-chloroethyl) sulfide (505-60-2)<br>Bis (2-chloroethylthio) methane (63869-13-6)<br>Sesquimustard: 1,2-Bis (2-chloroethylthio) ethane (3563-36-8)<br>1,3-Bis (2-chloroethylthio)-n-propane (63905-10-2)<br>1,4-Bis (2-chloroethylthio)-n-butane (142868-93-7)<br>1,5-Bis (2-chloroethylthio)-n-pentane (142868-94-8)<br>Bis (2-chloroethylthiomethyl) ether (63918-90-1)<br>O-Mustard: Bis (2-chloroethylthioethyl) ether (63918-89-8) |  |
| (5) | Lewisites:<br>Lewisite 1: 2-Chlorovinyl dichloroarsine (541-25-3)<br>Lewisite 2: Bis (2-chlorovinyl) chloroarsine (40334-69-8)<br>Lewisite 3: Tris (2-chlorovinyl) arsine (40334-70-1)  |  |

---

(a) 1947 c.44.

- |     |                                      |              |
|-----|--------------------------------------|--------------|
| (6) | Nitrogen mustards:                   |              |
|     | HN1: Bis (2-chloroethyl) ethylamine  | (538-07-8)   |
|     | HN2: Bis (2-chloroethyl) methylamine | (51-75-2)    |
|     | HN3: Tris (2-chloroethyl) amine      | (555-77-1)   |
| (7) | Saxitoxin                            | (35523-89-8) |
| (8) | Ricin                                | (9009-86-3)  |

#### B. PRECURSORS

- |      |   |              |
|------|---|--------------|
| (9)  | Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides<br>eg DF: Methylphosphonyldifluoride   | (676-99-3)   |
| (10) | O-Alkyl (H or less than or equal to C <sub>10</sub> , incl. cycloalkyl)<br>O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me,<br>Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts<br>eg QL: O-Ethyl O-2 diisopropylaminoethyl methylphosphonite | (57856-11-8) |
| (11) | Chlorosarin: O-Isopropyl methylphosphonochloridate  | (1445-76-7)  |
| (12) | Chlorosoman: O-Pinacolyl methylphosphonochloridate  | (7040-57-5)  |

#### Notes:

1. This Schedule sets out Schedule 1 to the annex on chemicals to the Convention as corrected.
2. In this Schedule the reference to the CAS registry is to the chemical abstract service registry.
3. This Schedule must be read subject to the following proposition, which is based on a note in the Convention: where reference is made to groups of dialkylated chemicals, followed by a list of alkyl groups in parentheses, all chemicals possible by all possible combinations of alkyl groups listed in the parentheses must be taken to be listed in the Schedule.

## SCHEDULE 2

### Article 3

SECTIONS 50 TO 56 OF THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001, AS EXCEPTED AND MODIFIED AND EXTENDED TO THE TERRITORIES LISTED IN SCHEDULE 3

#### *Assisting or inducing weapons-related acts overseas*

#### **Assisting or inducing certain weapons-related acts overseas**

50. - (1) A person who aids, abets, counsels or procures, or incites, a person who is not a United Kingdom person to do a relevant act outside the United Kingdom is guilty of an offence.

(2) For this purpose a relevant act is an act that, if done by a United Kingdom person, would contravene section 2 of the Chemical Weapons Act 1996 (offences relating to chemical weapons).

(3) [omitted]

(4) A person accused of an offence under this section in relation to a relevant act which would contravene section 2 of the Chemical Weapons Act 1996 may raise any defence which would be open to a person accused of the corresponding offence ancillary to an offence under that provision.

(5) A person accused of an offence under this section is liable on conviction on indictment to imprisonment for life.



(6) This section applies to acts done outside the Territory, but only if they are done by a United Kingdom person.

(7) Nothing in this section prejudices any criminal liability existing apart from this section.

*Supplemental provisions relating to Section 50*

**Extraterritorial application**

51. - (1) Proceedings for an offence committed under section 50 outside the United Kingdom may be taken, and the offence may for incidental purposes be treated as having been committed, in any part of the Territory.

(2) [omitted]

**Powers of entry**

52. - (1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting that evidence of the commission of an offence under section 50 is to be found on any premises, he may issue a warrant authorising an authorised officer to enter the premises, if necessary by force, at any time within one month from the time of the issue of the warrant and to search them.

(2) The powers of a person who enters the premises under the authority of the warrant include power -

(a) to take with him such other persons and such equipment as appear to him to be necessary;

(b) to inspect, seize and retain any substance, equipment or document found on the premises;

(c) to require any document or other information which is held in electronic form and is accessible from the premises to be produced in a form -

(i) in which he can read and copy it; or

(ii) from which it can readily be produced in a form in which he can read and copy it;

(d) to copy any document which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of an offence under section 50.

(3) A police officer who enters premises under the authority of a warrant or by virtue of subsection (2)(a) may -

(a) give such assistance as an authorised officer may request for the purpose of facilitating the exercise of any power under this section; and

(b) search or cause to be searched any person on the premises who the constable has reasonable cause to believe may have in his possession any document or other thing which may be required as evidence for the purposes of proceedings in respect of an offence under section 50.

(4) No police officer shall search a person of the opposite sex.

(5) The powers conferred by a warrant under this section shall only be exercisable, if the warrant so provides, in the presence of a police officer.

(6) A person who -

(a) wilfully obstructs an authorised officer in the exercise of a power conferred by a warrant under this section; or

(b) fails without reasonable excuse to comply with a reasonable request made by an authorised officer or a police officer for the purpose of facilitating the exercise of such a power,

is guilty of an offence.

(7) A person guilty of an offence under subsection (6) is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent; and

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

(8) In this section "authorised officer" means an officer acting under the authority of the Governor.

53. [omitted]

#### **Offences**

54. - (1) A person who knowingly or recklessly makes a false or misleading statement for the purpose of obtaining (or opposing the variation or withdrawal of) authorisation for the purposes of section 50 is guilty of an offence.

(2) A person guilty of an offence under subsection (1) is liable -

(a) on summary conviction, to a fine not exceeding £5,000 or its equivalent;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

(3) Where an offence under section 50 or subsection (1) above committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of -

(a) a director, manager, secretary or other similar officer of the body corporate; or

(b) any person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(4) In subsection (3) "director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

#### **Consent to prosecutions**

55. Proceedings for an offence under section 50 shall not be instituted except by or with the consent of the Attorney General.

#### **Interpretation**

56. - (1) In the foregoing provisions "United Kingdom person" means a United Kingdom national or a

body incorporated under the law of the Territory.

(2) For this purpose a United Kingdom national is an individual who is -

(a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen;

(b) a person who under the British Nationality Act 1981(a) is a British subject; or

(c) a British protected person within the meaning of that Act.

### SCHEDULE 3

Articles 2 and 3

#### TERRITORIES TO WHICH THIS ORDER EXTENDS

Anguilla

Bermuda

British Antarctic Territory

British Indian Ocean Territory

Cayman Islands

Falkland Islands

Montserrat

Pitcairn, Henderson, Ducie and Oeno Islands

St Helena and Dependencies

South Georgia and the South Sandwich Islands

Turks and Caicos Islands

Virgin Islands

Sovereign Base Areas of Akrotiri and Dhekelia

---

(a) 1981 c.61.

SCHEDULE 4

Article 2

FURTHER EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF THE BRITISH ANTARCTIC TERRITORY AND THE BRITISH INDIAN OCEAN TERRITORY

1. The following provisions shall not extend to the British Antarctic Territory and the British Indian Ocean Territory:

section 5(6)  
section 7(9)  
section 9(4)(a)  
section 9(5)(a)  
section 14(4)  
section 15(5)  
section 17(4)(a)  
section 17(5)(a)  
section 19(3)(a)  
section 20(5)(a)  
section 21(2)(a)  
section 21(3)(a)  
section 22(3)(a)  
section 22(4)(a)  
section 23(4)(a)  
section 23(5)(a)  
section 25(4)(b)  
section 25(6)  
section 26(3)(a)  
section 29(3)  
section 32(4)(a)

2. In the application of sections 2(6)(b) and 26(1)(a) in the British Antarctic Territory and the British Indian Ocean Territory, the references therein to "a police officer" shall be omitted.

3. In the application of the following provisions in the British Antarctic Territory and the British Indian Ocean territory, the references therein to "conviction on indictment" shall be replaced by references to "conviction by the supreme court of the Territory":

section 2(8)  
section 9(4)(b)  
section 9(5)(b)  
section 11(3)  
section 17(4)(b)  
section 17(5)(b)  
section 19(3)(b)  
section 20(6)(b)  
section 21(2)(b)  
section 21(3)(b)  
section 22(3)(b)  
section 22(4)(b)  
section 23(4)(b)

section 23(5)(b)  
section 26(3)(b)  
section 32(4)(b)

4. In the application of section 31(1) in the British Antarctic Territory and the British Indian Ocean Territory, the reference therein to "the Attorney General" shall be replaced by a reference to "the Principal Legal Adviser of the Territory".

#### SCHEDULE 4A

Article 3

#### FURTHER MODIFICATION TO THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001 IN RESPECT OF THE BRITISH ANTARCTIC TERRITORY AND THE BRITISH INDIAN OCEAN TERRITORY

In the application of section 50(5) in the British Antarctic Territory and the British Indian Ocean Territory, the reference therein to "conviction on indictment" shall be replaced by a reference to "conviction by the supreme court of the Territory".

#### SCHEDULE 5

Article 2

#### FURTHER ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF PITCAIRN, HENDERSON, DUCIE AND OENO ISLANDS

1. In the application of the following sections in Pitcairn, Henderson, Ducie and Oeno Islands, the references therein to "summary conviction" shall be replaced by references to "conviction by the subordinate court of the Territory", and references to "conviction on indictment" shall be replaced by references to "conviction by the supreme court of the Territory":

section 2(8)  
section 9(4)  
section 9(5)  
section 11(3)  
section 17(4)  
section 17(5)  
section 19(3)  
section 20(6)  
section 21(2)  
section 21(3)  
section 22(3)  
section 22(4)  
section 23(4)  
section 23(5)  
section 26(3)  
section 32(4)

2. In the application of section 31(1) in Pitcairn, Henderson, Ducie and Oeno Islands, the reference therein to "the Attorney General" shall be replaced by a reference to "the Legal Adviser".

3. In the application of the following sections in Pitcairn, Henderson, Ducie and Oeno Islands, the references therein to "a fine" shall be replaced by references to "a fine not exceeding £10,000 or its equivalent":

section 9(4)(b)  
section 9(5)(b)  
section 17(4)(b)  
section 17(5)(b)  
section 19(3)(b)  
section 20(6)(b)  
section 21(2)(b)  
section 21(3)(b)  
section 22(3)(b)  
section 22(4)(b)  
section 23(4)(b)  
section 23(5)(b)  
section 26(3)(b)  
section 32(4)(b)

#### SCHEDULE 5A

##### Article 3

#### FURTHER MODIFICATION TO THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001 IN RESPECT OF PITCAIRN, HENDERSON, DUCIE AND OENO ISLANDS

In the application of section 50(5) in Pitcairn, Henderson, Ducie and Oeno Islands, the reference therein to "conviction on indictment" shall be replaced by a reference to "conviction by the supreme court of the Territory".

#### SCHEDULE 6

##### Article 2

#### FURTHER ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF BERMUDA

In the application of the following sections in Bermuda, the references therein to "a fine not exceeding £5,000 or its equivalent" shall be replaced by references to "a fine not exceeding \$8,500":

section 9(4)(a)  
section 9(5)(a)  
section 17(4)(a)  
section 17(5)(a)  
section 19(3)(a)  
section 20(6)(a)  
section 21(2)(a)  
section 21(3)(a)  
section 22(3)(a)

section 22(4)(a)  
section 23(4)(a)  
section 23(5)(a)  
section 26(3)(a)  
section 32(4)(a)

## SCHEDULE 7

### Article 2

#### FURTHER ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF THE TURKS AND CAICOS ISLANDS

1. In the application of the following sections in the Turks and Caicos Islands, the references therein to "a fine not exceeding £5,000 or its equivalent" shall be replaced by references to "a fine not exceeding \$8,500":

section 9(4)(a)  
section 9(5)(a)  
section 17(4)(a)  
section 17(5)(a)  
section 19(3)(a)  
section 20(6)(a)  
section 21(2)(a)  
section 21(3)(a)  
section 22(3)(a)  
section 22(4)(a)  
section 23(4)(a)  
section 23(5)(a)  
section 26(3)(a)  
section 32(4)(a)

2. In the application of the following sections in the Turks and Caicos Islands, the references therein to "a fine" shall be replaced by references to "a fine not exceeding \$50,000":

section 9(4)(b)  
section 9(5)(b)  
section 17(4)(b)  
section 17(5)(b)  
section 19(3)(b)  
section 20(6)(b)  
section 21(2)(b)  
section 21(3)(b)  
section 22(3)(b)  
section 22(4)(b)  
section 23(4)(b)  
section 23(5)(b)  
section 26(3)(b)  
section 32(4)(b)

SCHEDULE 8

Article 2

FURTHER EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS TO THE CHEMICAL WEAPONS ACT 1996 IN RESPECT OF THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA

1. The following sections shall not extend to the Sovereign Base Areas of Akrotiri and Dhekelia:

section 9(4)(a)  
section 9(5)(a)  
section 17(4)(a)  
section 17(5)(a)  
section 19(3)(a)  
section 20(5)(a)  
section 21(2)(a)  
section 21(3)(a)  
section 22(3)(a)  
section 22(4)(a)  
section 23(4)(a)  
section 23(5)(a)  
section 26(3)(a)  
section 32(4)(a)

2. In the application of the following sections in the Sovereign Base Areas of Akrotiri and Dhekelia the references therein to "conviction on indictment" shall be replaced by references to "conviction by the Judge's Court":

section 2(8)  
section 9(4)(b)  
section 9(5)(b)  
section 11(3)  
section 17(4)(b)  
section 17(5)(b)  
section 19(3)(b)  
section 20(6)(b)  
section 21(2)(b)  
section 21(3)(b)  
section 22(3)(b)  
section 22(4)(b)  
section 23(4)(b)  
section 23(5)(b)  
section 26(3)(b)  
section 32(4)(b)

3. In the applications of sections 5(2), 7(7) and 29(1) in the Sovereign Base Areas of Akrotiri and Dhekelia, the references therein to "a justice of the peace" shall be replaced by references to "a judge".



SCHEDULE 8A

Article 3

FURTHER MODIFICATION TO THE ANTI-TERRORISM, CRIME AND SECURITY ACT 2001 IN  
RESPECT OF THE SOVEREIGN BASE AREAS OF AKROTIRI AND DHEKELIA

In the application of section 50(5) in the Sovereign Base Areas of Akrotiri and Dhekelia the reference therein to "conviction on indictment" shall be replaced by a reference to "conviction by the Judge's Court".

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, made under the Chemical Weapons Act 1996 and the Anti-terrorism, Crime and Security Act 2001, extends provisions of the two Acts, with exceptions, adaptations and modifications, to the territories listed in Schedule 3.

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**THE  
SOUTH GEORGIA  
AND THE  
SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 4*

*16th September 2005*

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The following are published in this Gazette -

**Visitors (Amendment) Ordinance 2005, (No. 1 of 2005);**

**Visitors Ordinance 1992, Notification of Passenger Landing Fees.**



**ELIZABETH II**



**The Territories of South Georgia  
and the South Sandwich Islands**

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**HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Commissioner.***

**Visitors (Amendment) Ordinance 2005**

(No: 1 of 2005)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title
2. Amendment of Visitors Ordinance 1992
3. Repeal of Visitors (Landing Fees) Regulations 1998

ELIZABETH II



**The Territories of South Georgia  
and the South Sandwich Islands**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Commissioner.*

**VISITORS (AMENDMENT) ORDINANCE 2005**

(No: 1 of 2005)

*(assented to: 6 September 2005)*

*(published: 16 September 2005)*

*(commencement: on publication)*

**AN ORDINANCE**

To provide for passenger landing fees to be prescribed by the Commissioner.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows—

**Short title**

1. This Ordinance may be cited as the Visitors (Amendment) Ordinance 2005 and shall come into force upon publication in the Gazette.

**Amendment of Visitors Ordinance 1992**

2. Section 3 of the Visitors Ordinance 1992(a) is replaced by the following section—

**“Passenger landing fees**

3.—(1) There shall be paid in respect of every visitor to South Georgia a passenger landing fee in such sum as may be prescribed by notice signed by the Commissioner and published in the Gazette.

---

(a) No 2 of 1992

(2) Payment of landing fees in the equivalent to the relevant sum in another currency approved for the purpose shall be accepted.

(3) For the purposes of this section, the currencies of the United Kingdom and of the Falkland Islands shall always be approved currencies but any other currency may be revocably approved in a notice signed by the Commissioner and published in the Gazette."

**Repeal of Visitors (Landing Fees) Regulations**

3. The Visitors (Landing Fees) Regulations 1998(b) are hereby repealed.

Made this sixth day of September 2005

H J S Pearce C.V.O.,  
*Commissioner*

**VISITORS ORDINANCE 1992**

**Notification of Passenger Landing Fees**

In accordance with the section 3 of the Visitors Ordinance 1992 I hereby give notice that the Passenger Landing Fee shall be increased to £75 per person with effect from 1 October 2005 and shall be further increased to £100 with effect from 1 October 2006.

Dated this ninth day of September 2005

H J S Pearce C.V.O.,  
*Commissioner*





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**THE  
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*No. 5*

*15th December 2005*

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The following are published in this Gazette -

**Interpretation and General Clauses (Amendment) Ordinance 2005, (No: 2 of 2005);**

**Post Office (Amendment) Order 2005, (S. R. & O. No: 1 of 2005);**

**The Air Navigation (Overseas Territories) (Amendment) Order 2005, (2005 No. 2763).**

**ELIZABETH II**



**The Territories of South Georgia  
and the South Sandwich Islands**

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HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Commissioner.*

**Interpretation and General Clauses (Amendment) Ordinance 2005**

(No: 2 of 2005)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Short title and commencement
2. Amendment of principal Ordinance

**ELIZABETH II**



**The Territories of South Georgia  
and the South Sandwich Islands**

HOWARD JOHN STREDDER PEARCE C.V.O.,  
*Commissioner.*

**INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) ORDINANCE 2005**

(No: 2 of 2005)

*(assented to: 1 December 2005)*

*(commencement: on publication)*

*(published: 15 December 2005)*

**AN ORDINANCE**

To amend the Interpretation and General Clauses Ordinance 1977.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands —

**Short title and commencement**

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 2005 and shall come into force upon publication.

**Interpretation**

2. In this Ordinance “the principal Ordinance” means the Interpretation and General Clauses Ordinance 1977.

**Amendment of the principal Ordinance**

3. The principal Ordinance is amended by replacing section 12 with the following new section 12 —

**“Publication and commencement of Laws**

**12.—(1)** If so expressed therein, a law may have effect retrospective from the date of its publication in the Gazette, but —

(a) no act or omission which did not constitute an offence at the time it was done or made shall retrospectively become an offence; and

(b) no law shall render any offence committed before that law came into operation punishable more severely than it would have been if that law had not been made.

(2) For the sake of avoidance of doubt, it is declared that this section applies to subsidiary legislation as well as to Ordinances.”

Assented to in Her Majesty’s name and on Her Majesty’s behalf this first day of December 2005

H. J. S. PEARCE C.V.O.,  
*Commissioner.*

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**SUBSIDIARY LEGISLATION**

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**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**POST OFFICE**

**Post Office (Amendment) Order 2005**

S. R. & O. No: 1 of 2005

*Made: ..... 1 December 2005*

*Published: ..... 15 December 2005*

*Commencing: as provided in article 1*

IN EXERCISE of my powers under sections 3 and 4 of the Post Office Ordinance(a), I make the following Order —

**Citation and commencement**

**1.**—(1) This Order may be cited as the Post Office (Amendment) Order 2005.

(2) Article 2(1) of this Order shall be deemed to have come into effect on 1 November 2004.

(3) Article 2(2) of this Order shall come into effect on publication in the *Gazette*.

**Amendment of the Post Office Order 2002**

**2.**—(1) The Post Office Order 2002 is amended by replacing the First, Second and Third Schedules with those appearing in the Schedule to this Order.

(2) The Post Office Order 2002 is further amended by replacing the numbers “42” with the numbers “45” where they appear after the word “Postcard” in the Second Schedule to that Order.

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(a) of the Falkland Islands in its application to South Georgia and the South Sandwich Islands  
(b) SR&O 1 of 2002

## SCHEDULE

### "FIRST SCHEDULE"

#### Airmail Rates to all Countries

#### AIRMAIL RATES

|   |                                    |              |
|---|------------------------------------|--------------|
| Letters   | First 20gm<br>each additional 10gm | 50p<br>25p   |
| Small Packets & Printed Papers                  | First 70gm<br>each additional 10gm | £1.00<br>14p |
| Printed Papers<br>(Registered with Post Office) | First 70gm<br>each additional 10gm | 97p<br>14p   |
| Postcard  |                                    | 42p          |
| Aerogramme                                      |                                    | 40p          |
| "    (illustrated)                              |                                    | 52p          |
| Christmas Card                                  |                                    | 45p          |

### SECOND SCHEDULE

#### Surface Mail Rates

#### SURFACE RATES

|                                |  |                   |
|--------------------------------|--|-------------------|
| Postcards                      |  | 26p               |
| Letters                        | First 20gm<br>up to 100gm<br>each additional 50gm      | 36p<br>81p<br>35p |
| Small Packets & Printed Papers | First 100gm<br>each additional 50 gm                   | 70p<br>25p        |
| Christmas Card                 |  | 32p               |
| Parcels to United Kingdom      | First kg<br>each additional kg<br>Maximum weight 30 kg | £8<br>£4          |

*(Rates to other countries, as notified from time to time)*



## THIRD SCHEDULE

### Inland Rates

#### INLAND RATES

|                                |                                    |            |
|--------------------------------|------------------------------------|------------|
| Letters                        | First 20gm<br>each additional 50gm | 24p<br>15p |
| Small Packets & Printed Papers | First 70gm<br>each additional 50gm | 20p<br>7p  |
| Postcard                       |                                    | 16p        |
| Christmas Card                 |                                    | 18p        |

Literature for the blind shall not attract postage.

Made this first day of December 2005

H. J. S. Pearce C.V.O.,  
*Commissioner*

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#### EXPLANATORY NOTE

This Order amends the Post Office Order 2002 in relation to postal rates.

2005 No. 2763

CIVIL AVIATION

The Air Navigation (Overseas Territories) (Amendment) Order  
2005

|                               |         |                           |
|-------------------------------|---------|---------------------------|
| <i>Made</i>                   | - - - - | <i>12th October 2005</i>  |
| <i>Laid before Parliament</i> |         | <i>24th October 2005</i>  |
| <i>Coming into force</i>      | - -     | <i>14th November 2005</i> |

At the Court at Buckingham Palace, the 12th day of October 2005

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by Sections 8, 41, 57, 58, 59 and 61 of the Civil Aviation Act 1949(a), as extended to certain territories by the Civil Aviation Act 1949 (Overseas Territories) Order 1969(b), as amended by the Civil Aviation Act 1982 (Overseas Territories) Order 2001(c), of the powers conferred on Her by Section 61 of the Civil Aviation Act 1982(d), as extended to certain territories by the Civil Aviation Act 1982 (Overseas Territories) Order 2001 and all other powers enabling her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**Citation and Commencement**

1. This Order may be cited as the Air Navigation (Overseas Territories) (Amendment) Order 2005 and shall come into force on 14th November 2005.

**Amendment of the Air Navigation (Overseas Territories) Order 2001**

2. The Air Navigation (Overseas Territories) Order 2001(e) shall be amended as follows.
3. After article 8 there shall be inserted:

**“Type Acceptance Certificate**

**8A.—(1)** A certificate of airworthiness for an aircraft registered in the Territory shall not be issued in accordance with article 9 of this Order unless there is in force a Type Acceptance Certificate issued by the Governor for the aircraft type.

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(a) 1949 c. 67.  
(b) S.I. 1969/592.  
(c) S.I. 2001/1452.  
(d) 1982 c. 16.  
(e) S.I. 2001/2128, amended by S.I. 2003/433 and S.I. 2004/2038.

(2) Any person who intends to operate an aircraft to be registered in the Territory of a type for which a Type Acceptance Certificate has not been issued shall apply to the Governor for the issue of a Type Acceptance Certificate for that aircraft in accordance with this article and the requirements of the Governor.

(3) A Type Acceptance Certificate with respect to an aircraft, engine or propeller means a document issued by the Governor on the basis of a Type Certificate issued by a Contracting State acceptable to the Governor.

(4) For the purposes of this article a "Type Certificate" means a document issued by a Contracting State to define the design of an aircraft type and to certify that this design meets the appropriate airworthiness requirements of that State."

4. For article 9(4) there shall be substituted:

"(4) The flight manual or equivalent document shall specify the operational limitations within which the aircraft shall be operated for the purposes of the requirements referred to in article 36(1) of this Order."

5. In article 12(1) after the words "is in force" there shall be inserted "or would be in force if it had not ceased to be in force by virtue of sub-paragraphs (b) and (c) of article 9(7)".

6. In article 13(8) for "drink or a drug to such an extent as to impair his capacity to exercise such privileges" there shall be substituted "alcohol, any drug or any psychoactive substance, including prescribed or proprietary medication, so as to render that person unable safely and properly to exercise such privileges or so as to create a risk to the licence holder or any other person".

7. After article 13 there shall be inserted:

#### **"Approval of maintenance organisations**

13A.—(1) No person intending to engage in any stage of the maintenance of aircraft, aircraft components or aircraft materials, or the manufacture of components for the purpose of maintenance, or in associated training activities shall do so without first obtaining from the Governor a certificate of approval in respect of those activities.

(2) The Governor shall issue an approval to an organisation which complies with his requirements.

(3) A certificate of approval shall be in such form, be subject to such conditions and limitations and contain such particulars as may be determined by the Governor.

(4) Subject to the provisions of this article and article 81 of this Order, a certificate of approval shall remain in force for such period as may be specified therein, and may be renewed from time to time by the Governor for such further period as he thinks fit.

(5) For the purposes of this order "Maintenance" means any one or combination of overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection."

8. In article 16(2)(b) for "the particulars specified at sub-paragraph (xvii) of Part A of Schedule 10 to this Order" there shall be substituted "such particulars of any permission granted to the operator under this article as may be necessary to enable the commander of the aircraft to determine whether he can comply with article 43(b)(ii) of this Order".

9.—(1) For article 20(2) there shall be substituted:

"(2)(a) An aircraft registered in the Territory shall carry a flight crew adequate in number and description to ensure the safety of the aircraft.

(b)(i) In the case of an aircraft in respect of which there is a flight manual, the flight crew shall be of at least a number and description specified in the flight manual.

(ii) In the case of an aircraft in respect of which there is not a flight manual, the flight crew shall be of at least a number and description specified by the Governor in the Certificate of Airworthiness or Permit to Fly."

(2) For article 20(7)(a) there shall be substituted:

“(a) This paragraph applies to any flight for the purpose of public transport by an aircraft registered in the Territory which has a maximum approved seating configuration of more than 19.”

10. For article 22(1)(a) there shall be substituted:

“(a) Subject to sub-paragraph (d), the Governor shall grant licences, subject to such conditions as he thinks fit, of any of the classes specified in Part A of Schedule 8 to this Order authorising the holder to act as a member of the flight crew of an aircraft registered in the Territory upon his being satisfied that the applicant complies with his requirements.”

11. For article 40 there shall be substituted:

“40.—(1) This article shall apply to any aircraft that is not a public transport aircraft.

(2) An aircraft to which this article applies shall not:

- (a) conduct a Category II, Category IIIA or Category IIIB approach and landing; or
- (b) take off when the relevant runway visual range is less than 150 metres;

otherwise than under and in accordance with the terms of an approval so to do granted in accordance with the law of the country in which it is registered.

(3) In the case of an aircraft registered in the Territory, an approval referred to in paragraph (2) shall be issued by the Governor.

(4) Without prejudice to the provisions of paragraph (2) an aircraft to which this article applies, when making a descent at an aerodrome to a runway in respect of which there is a notified instrument approach procedure, shall not descend from a height of 1000 ft or more above the aerodrome to a height less than 1000 ft above the aerodrome if the relevant runway visual range for that runway is at the time less than the specified minimum for landing.

(5) Without prejudice to the provisions of paragraph (2) an aircraft to which this article applies when making a descent to a runway in respect of which there is a notified instrument approach procedure shall not:

- (a) continue an approach to landing at such a runway by flying below the relevant specified decision height;
- (b) descend below the relevant specified minimum descent height;

unless in either case from such height the specified visual reference for landing is established and is maintained.

(6) If, according to the information available, an aircraft would as regards any flight be required by the Rules of the Air to be flown in accordance with the Instrument Flight Rules at the aerodrome of intended landing, the commander of the aircraft shall select prior to take-off an alternate aerodrome unless no aerodrome suitable for that purpose is available.

(7) A flight to be conducted in accordance with the Instrument Flight Rules to an aerodrome when no alternate aerodrome is available shall not be commenced unless:

- (a) a designated standard instrument approach procedure is available for the aerodrome of intended landing; and
- (b) available current meteorological information indicates that visual meteorological conditions will exist at the aerodrome of intended landing from two hours before to two hours after the estimated time of arrival.

(8) A flight shall not be continued towards the aerodrome of intended landing unless the latest available information indicates that conditions at that aerodrome, or at least one alternate aerodrome, will, at the estimated time of arrival, be at or above the specified aerodrome operating minima.

(9) In this article "specified" in relation to aerodrome operating minima means such particulars of aerodrome operating minima as have been notified in respect of the aerodrome or if the relevant minima have not been notified such minima as are ascertainable by reference to the notified method for calculating aerodrome operating minima.

(10) In this article "Category II, Category IIIA and Category IIIB approach and landing" have the same meaning as in article 39(8)."

12. After article 41(1)(c) there shall be inserted:

"(d) An operator shall not permit a helicopter rotor to be turned under power for the purpose of making a flight unless there is a person at the controls qualified to act as pilot-in-command of the helicopter in accordance with the provisions of article 21 of this Order."

13.—(1) After article 45 there shall be inserted:

**"Non-public transport flights – additional duties of commander**

45A.—(1) This article shall apply to an aircraft flying for any purpose other than public transport.

(2) In relation to every flight to which this article shall apply the commander of the aircraft shall ensure that breathing oxygen is available to crew members and passengers in sufficient quantities for all flights at such altitudes where lack of oxygen might result in impairment of the faculties of crew members or harmfully affect passengers and made available for use by such crew members and passengers in accordance with paragraphs (2)(e) and (f) of article 45 of this Order."

(2) In Schedule 4 Paragraph 4 (Table) sub-paragraphs (2)(a) and (15)(a), in the column headed "Circumstances of flight", there shall be added "(iv) when flying at a height of 10 000 ft or more above mean sea level" and adjacent thereto, in the column headed "Scale of equipment required", there shall be added "L1 or L2".

14. For articles 50 and 51 there shall be substituted:

**"Area navigation and required navigation performance capabilities – aircraft registered in the Territory**

50.—(1) Subject to paragraph (4) an aircraft registered in the Territory shall not fly in designated required navigation performance airspace unless it is equipped with area navigation systems which enable the aircraft to maintain the navigation performance capability specified in respect of that airspace.

(2) Subject to paragraph (4) while the aircraft is flying in the said airspace the equipment required by paragraph (1) shall be operated in accordance with procedures approved by the Governor.

(3) The equipment required by paragraph (1) shall be approved by the Governor and installed and maintained in a manner approved by the Governor.

(4) An aircraft need not comply with the requirements of paragraphs (1) and (2) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.

(5) An approval granted by the Governor for the purposes of this article shall be in writing and subject to such conditions as the Governor thinks fit.

**Area navigation and required navigation performance capabilities – aircraft not registered in the Territory**

51.—(1) An aircraft registered elsewhere than in the Territory shall not fly in designated required navigation performance airspace in the Territory unless it is equipped with area navigation systems so as to comply with the law of the country in which the aircraft is registered insofar as that law requires it to be so equipped when flying within designated required navigation performance airspace.

(2) Subject to paragraph (3) the said navigation equipment shall be capable of being operated so as to enable the aircraft to maintain the navigation performance capability notified in respect of the airspace in which the aircraft is flying, and it is so operated.

(3) An aircraft need not comply with the requirements of paragraph (2) where the flight has been authorised by the appropriate air traffic control unit notwithstanding the lack of compliance and provided that the aircraft complies with any instructions the air traffic control unit may give in the particular case.”

15. For article 54(1) there shall be substituted:

“54.—(1) An aircraft in flight shall not tow a glider unless there is a certificate of airworthiness issued or rendered valid in respect of the towing aircraft under the law of the country in which the aircraft is registered and that certificate of airworthiness or the flight manual for the aircraft includes an express provision that it may be used for that purpose.”

16. For article 55(1) there shall be substituted:

“55.—(1) Subject to the provisions of this article, an aircraft in flight shall not, by means external to the aircraft, tow any article, other than a glider, or pick up or raise any person, animal or article, unless there is a certificate of airworthiness issued or rendered valid in respect of that aircraft under the law of the country in which the aircraft is registered and that certificate of airworthiness or the flight manual for the aircraft includes an express provision that it may be used for that purpose.”

17. In article 65(2) for “drink or drug to such an extent as to impair his capacity so to act” there shall be substituted “alcohol, any drug or any psychoactive substance, including prescribed or proprietary medication, so as to render that person unable safely and properly so to act or so as to create a risk to that person or any other person”.

18. For article 67 there shall be substituted:

“67.—(1) Every person in an aircraft shall obey all lawful commands which the commander or a member of the crew of that aircraft may give for the purpose of securing the safety of the aircraft and of the persons or property carried therein, or the safety, efficiency or regularity of air navigation.

(2) No person may operate on any aircraft any cellphone, computer or other electronic device that is designed to transmit or capable of transmitting electromagnetic energy otherwise than in accordance with the permission of the commander of that aircraft.

(3) Paragraph (2) of this article shall not apply to—

- (a) hearing aids; or
- (b) heart pacemakers; or
- (c) portable voice recorders; or
- (d) electric shavers; or
- (e) electronic watches; and
- (f) any other portable electronic device if the operator or commander of the aircraft has determined that the said portable electronic device to be used will not cause interference with any aircraft system or equipment of the aircraft on which it is used.”

19. After article 105 there shall be inserted:

**“Instrument Approach Procedures**

**105A.**—(1) No person may establish or use an instrument approach procedure at an aerodrome in the Territory otherwise than under and in accordance with an approval granted by the Governor to the aerodrome licence holder or to the person having the management and control of a government aerodrome.

(2) An approval shall be granted pursuant to paragraph (1) upon the Governor being satisfied:

- (a) as to the intended purpose of the procedure; and
- (b) that the person applying for approval is competent to operate the procedure and that any equipment associated with such procedure is fit for its intended purpose.

(3) An approval pursuant to paragraph (1) shall be granted on such conditions as the Governor shall think fit and he shall cause such procedure to be notified as a procedure available for the landing of aircraft at an aerodrome within the Territory.

(4) No person may use an instrument approach procedure otherwise than in accordance with the published conditions for such use.

(5) For the purposes of this article an “instrument approach procedure” means a series of pre-determined manoeuvres by reference to flight instruments with specified protection from obstacles from the initial approach fix or, where applicable, from the beginning of a defined arrival route, to a point from which a landing can be completed and thereafter if a landing is not completed, to a position at which holding or en-route obstacle clearance criteria apply.

(6) Nothing in paragraph (1) shall apply to any aerodrome in the Territory that is in the occupation of Her Majesty’s naval, military or air force or of any visiting force.”

20. In article 118(2) for “and any authorised person” there shall be substituted “or any authorised person”.

21. In article 130(1):

(1) After the definition of “Declared distances” there shall be inserted:

““Designated required navigation performance airspace” means airspace that has been notified, prescribed or otherwise designated by the competent authority for the airspace as requiring specified navigation performance capabilities to be met by aircraft flying within it;”

(2) After the definition of “Flight level” there shall be inserted:

““Flight manual” means a manual, associated with the certificate of airworthiness, containing limitations within which the aircraft may be considered airworthy, and instructions and information necessary to the flight crew for the safe operation of the aircraft;”

(3) After the definition of “Logbook” there shall be inserted:

““Maintenance” means any one or combination of overhaul, repair, inspection, replacement, modification or defect rectification of an aircraft or component, with the exception of pre-flight inspection;”

(4) After the definition of “Replacement” there shall be inserted:

““Requirements” means requirements published by the Governor pursuant to the provisions of article 135 of this Order;”

(5) After the definition of “Special VFR flight” there shall be inserted:

““Standard instrument approach procedure” means an instrument approach procedure designed in accordance with International Civil Aviation Organisation Procedures for Air Navigation Services (PANS-OPS);”

22. After article 137 there shall be inserted:

**“Arrangements for giving effect to the Convention**

138.—(1) The Governor shall within the Territory publish such requirements or make such arrangements as are necessary, requisite or expedient for carrying out the Chicago Convention and any Annex thereto relating to international standards and recommended practices and any amendment to the Convention or to any such Annex or generally for regulating and securing the safety of international air navigation.

(2) Pursuant to the provisions of paragraph (1) the Governor shall in particular:

- (a) Provide or secure the provision of a meteorological service to meet the needs of international air navigation and with due regard to regional air navigation agreements and shall designate the appropriate authority to provide or arrange for the provision of such meteorological service;
- (b) Ensure the availability in the Territory of aeronautical charts;
- (c) Arrange for the establishment and provision of search and rescue services within the Territory, and in such portions of the high seas that are the responsibility of the Territory pursuant to regional air navigation agreements;
- (d) Provide an aeronautical information service or agree with one or more other Contracting States for the provision of a joint service, or delegate the authority for the provision of the service to a non-governmental agency.

(3) The Governor shall arrange for the details of the services and arrangements provided in accordance with paragraph (2) to be included in the Aeronautical Information Publication relating to the Territory.”

23. In Schedule 4, paragraph 4 (Table), sub-paragraphs (11)(a) and (11)(b), in the column headed “Circumstances of flight” for “the purpose of public transport” there shall be substituted “purposes other than public transport”.

*A.K. Galloway*  
Clerk of the Privy Council



## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order further amends the Air Navigation (Overseas Territories) Order 2001 (referred to below as "the Order"). The following changes are made:

(1) **Type certification.** The adoption of this article enables a Governor to accept onto a Territory register an aircraft that has a Type Certificate issued by a Contracting State in accordance with the Chicago Convention Annex 8 Part II Chapter 1 and to facilitate the issue by the Governor of a Certificate of Airworthiness in accordance with Annex 8 Part II Chapter 3 and the provisions of article 9(1)(a) of the Order (article 3).

(2) **Certification of airworthiness.** This amendment paves the way for the elimination of the various categories of certificate of airworthiness as detailed in Schedule 3 Part B. This is in order to enable an aircraft to be certified according to what it is rather than what it does on the basis of the operating and performance limitations prescribed in the approved flight manual and in conformity with its Type Certificate (article 4).

(3) **Certificate of release to service.** This amendment clarifies an area of uncertainty regarding the reinstatement of a certificate of airworthiness and the associated issue of a certificate of release of an aircraft to service upon completion of maintenance, inspection, repair or other similar activity (article 5).

(4) **Licensing of maintenance engineers.** The amendment expands the scope of restrictions on performing functions whilst under the influence of drink or drugs and brings the provisions more closely into alignment with the requirements of the Chicago Convention Annex 1 Chapter 1 paragraph 1.2.7 (article 6).

(5) **Approval of maintenance organisations.** This article has been added to provide a basis for the grant by the Governor of an approval to a maintenance organisation to undertake maintenance on Territory registered aircraft (article 7).

(6) **Equipment of aircraft.** This amendment facilitates the longer-term objective of removing as many as possible of the schedules to the Order and their replacement by the Requirements specified by the Governor under article 135 of the Order (article 8).

(7) **Flight crew.** The amendments reflect the fact that the number of flight crew will not normally in the future be specified in the Certificate of Airworthiness (article 9).

(8) **Flight crew licences.** The objective of this amendment is to relocate some of the flight crew licensing provisions from Schedules 8 and 10 of the Order to the Requirements published by the Governor under article 135 (article 10).

(9) **Aerodrome operating minima.** This article establishes aerodrome operating minima applicable to non-public transport flights (article 11).

(10) **Commander of an aircraft.** Addition of a new sub-paragraph to article 41(1) to meet the requirements of the Chicago Convention Annex 6 Part III Section III Chapter 2 paragraph 2.17 (article 12).

(11) **Commander's additional duties.** Requirements applied to international general aviation, in the same way as for public transport flights in article 45, to comply with the Chicago Convention Annex 6 Part II paragraph 4.10 and Annex 6 Part III paragraph 2.10. Consequential amendment to Schedule 4, Paragraph 4 (Table) (article 13).

(12) **Navigation performance capability.** This amendment reflects current international practice in relation to area navigation, required navigation performance and operational approval (article 14).

(13) **Towing of gliders.** This amendment reflects the changes made in respect of certificates of airworthiness and the performance characteristics of aircraft (article 15).

(14) **Towing, picking up and raising of persons and articles.** This amendment reflects the changes made in respect of certificates of airworthiness and the performance characteristics of aircraft (article 16).

(15) **Drunkenness of aircrew.** This amendment expands the scope of restrictions on performing functions whilst under the influence of drink or drugs and brings the provisions more closely into alignment with the requirements of the Chicago Convention Annex 1 Chapter 1 paragraph 1.2.7 (article 17).

(16) **Commander and crew authority.** These amendments impose an obligation to comply with the instructions of a crew member as well as the commander and add specific obligations to comply with instructions concerning mobile phones and similar equipment and to reinforce the authority of the commander in this respect (article 18).

(17) **Approval of instrument approach procedures.** The Order is presently silent with regard to the requirement for approval for the establishment and use of an instrument approach procedure at a Territory aerodrome. The article is designed to require that such a procedure shall be approved before it may be established or used (article 19).

(18) **Power to prevent aircraft flying.** The amendment removes any doubt as to the Governor's power to appoint more than one authorised person and for any such authorised person to inspect an aircraft without the necessity for the presence of the Governor (article 20).

(19) **Interpretation.** Additional definitions inserted as required by other amendments (article 21).

(20) **Arrangements for giving effect to the Convention.** This article empowers and enables Governors to ensure that arrangements are put in place to secure compliance with certain Annexes to the Chicago Convention dealing with meteorology, aeronautical charts, search and rescue and aeronautical information services that are not currently covered in the order (article 22).

(21) **Aircraft equipment.** This amendment achieves compliance with the Chicago Convention Annex 6 Part II paragraph 6.9.7 with regard to the requirement for Terrain Awareness Warning System Class A or B on aircraft used for international general aviation (article 23).

Annexes to the Chicago Convention can be purchased from:

ICAO Document Sales Unit,

999 University Street,

Montreal,

Quebec HC 5H7,

Canada,

Tel: +1 (514) 954-8022; Fax: +1 (514) 954-6769

E-mail: sales@ico.int.



# THE SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*No. 1*

*13 June 2007*

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The following are published in this Gazette –

**Appointments;**

**Notices 1 - 3;**

**Trade in Controlled Goods (Embargoed Destinations)(Amendment) Order 2006  
(S.R.&O. No 1 of 2006);**

**Commemorative Coins (2000-2006) Order 2007 (S.R.&O. No 1 of 2007);**

**Commemorative Coins (2007 Issues) Order 2007 (S.R.&O. No 2 of 2007).**

**Appointments**

Melanie Louise Best Chilton, Acting Attorney General, 19.06.06.

Andrew Thomas Barker, Magistrate, 01.10.06.

Melanie Louise Best Chilton, Attorney General, 01.11.06.

Rosalind Catriona Cheek, Acting Attorney General, 09.01.07 – 31.01.07.

Robert Mark Titterington, Attorney General, 26.02.07.

**NOTICES**

No. 1

26 January 2007

**United Kingdom Statutory Instruments**

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at [www.opsi.gov.uk](http://www.opsi.gov.uk) :-

2005 No 3183 - The Overseas Territories (Zimbabwe) (Restrictive Measures) (Amendment) Order 2005;

2006 No 310 - The Uzbekistan (Restrictive Measures) (Overseas Territories) Order 2006;

2006 No 311 - The Lebanon and Syria (United Nations Measures) (Overseas Territories) Order 2006;

2006 No 610 - The Ivory Coast (Restrictive Measures) (Overseas Territories) (Amendment) Order 2006; and

2006 No 3327 - The North Korea (United Nations Measures) (Overseas Territories) Order 2006.

Dated 26 January 2007

B. I. STEEN,  
*for Attorney General.*

No. 2

25 April 2007

**United Kingdom Statutory Instruments**

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at [www.opsi.gov.uk](http://www.opsi.gov.uk) :-

2007 No 282 - The Iran (United Nations Measures) (Overseas Territories) Order 2007;

2007 No 283 - The Lebanon (United Nations Sanctions) (Overseas Territories) Order 2007; and

2007 No 284 - The Liberia (Restrictive Measures) (Overseas Territories) (Amendment) Order 2007.

Dated 25 April 2007

B. I. STEEN,  
*for Attorney General.*

No. 3

8 June 2007

**INCOME TAX ORDINANCE 1939  
section 90****Notification of income tax assessments**

Notice is hereby given that income tax assessments for the 2006 year of assessment (2005 income) are to be reviewed. Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided in each case that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess. Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayers who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 8 June 2007

A. E. HUCKLE,  
*Commissioner.*

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**SUBSIDIARY LEGISLATION**

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**TRADE**

**Trade in Controlled Goods (Embargoed Destinations)(Amendment) Order 2006**

S. R. & O. No: 1 of 2006

*Made: ..... 24 March 2006*

*Published: ..... 13 June 2007*

*Coming into force: in accordance with article 1*

IN EXERCISE of my powers under article 5 of the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004<sup>a</sup>, and of all other powers enabling me in that behalf, I make the following Order —

**Citation and commencement**

1. This Order may be cited as the Trade in Controlled Goods (Embargoed Destinations)(Amendment) Order 2006 and shall be deemed to have come into force on 6<sup>th</sup> March 2006.

**Amendment**

2. Schedule 4 to the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order is modified by deleting the words “Bosnia and Herzegovina” in Schedule 4 to the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004.

Made this 24<sup>th</sup> day of March 2006

H. J. S. Pearce C.V.O.,  
*Commissioner*

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**EXPLANATORY NOTE**

*(not forming part of the above Order)*

Bosnia and Herzegovina have by the Export Control (Bosnia and Herzegovina Order 2006 (SI 2006/300) with effect from 6<sup>th</sup> March 2006 been removed from Schedule 4 to the Trade in Controlled Goods (Embargoed Destinations) Order 2004 (SI 2004/318). That being so, the Commissioner is required by article 5 of the Trade in Controlled Goods (Embargoed Destinations)(Overseas Territories) Order 2004 (SI 2004/3103) to remove Bosnia and Herzegovina from Schedule 4 to that Order. The effect of doing that is that the embargo on the export of arms to Bosnia and Herzegovina is lifted.

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<sup>a</sup> SI 2004/3103

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**SUBSIDIARY LEGISLATION**

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**SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS**

**CURRENCY**

**Commemorative Coins (2000-2006) Order 2007**

(S.R. & O. No 1 of 2007)

*Made:* 24 May 2007  
*Published:* 13 June 2007  
*Coming into force:* on publication

IN EXERCISE of my powers under section 5(3) of the Currency Ordinance 2000<sup>a</sup> and of all other powers enabling me, I make the following Order —

**Citation**

1. This Order may be cited as the Commemorative Coins (2000-2006) Order 2007.

**Authorisation**

2.—(1) This article has effect in relation to the coins —

(a) the design of the reverse of which is described in Part 1 of the Schedule, and

(b) the design of the obverse of which in each case consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription “SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS” and the year of minting of the coin.

(2) Subject to paragraph (3), the minting in accordance with the specification and in the quantity mentioned in Part 2 of the Schedule of the Gold Proof, Silver Proof and Cupro Nickel coins referred to in paragraph (1) is hereby authorised with effect in relation to each such coin from the first date on which that coin was minted.

(3) Every coin described in paragraph (1) must comply with such of the specifications contained in Part 2 of the Schedule as relate to it.

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<sup>a</sup> No 3 of 2000

## THE SCHEDULE

### Part 1

#### Description of design of reverse of coins

##### 1. Year of minting 2000

###### (a) Queen Mother Centenary

Design depicts the Coat of Arms of Her Majesty Queen Elizabeth the Queen Mother garlanded by Marguerites. The wording "100th Birthday of Queen Elizabeth the Queen Mother" appears in the surround and the denomination of the coin appears at the foot.

###### (b) Antoine de la Roche

Design has wording "Antoine de la Roche" in surround and an image of Antoine de la Roche looking from his vessel towards the Island in the centre of the design. A map of South Georgia appears to the side. The wording "DISCOVERY 1675" and the denomination of the coin appears at the foot.

###### (c) Captain Cook Anniversary

The design has wording "225th ANNIVERSARY OF POSSESSION BY CAPT. COOK" in the surround flanked by a decorative laurel border. An interpretation of the Flaxman cameo appears in the centre of the design and the denomination of the coin appears at the foot of the design

##### 2. Year of minting 2001

###### (a) Sir Joseph Banks

The design has the wording "SIR JOSEPH BANKS" in the surround. An illustration of "The Endeavour" and a cameo portrait of Sir Joseph Banks appear in the centre of the design and the denomination of the coin appears at the foot of the design.

###### (b) Sir Ernest Shackleton

The design has the wording "SIR ERNEST HENRY SHACKLETON" in the surround. A portrait of Sir Ernest appears in the foreground of the design with an image of his grave and memorial cross in the background. The denomination of the coin appears at the foot of the design.

##### 3. Year of minting 2002

###### (a) Golden Jubilee of Her Majesty Queen Elizabeth II (first issue)

Design depicts a portrait of Her Majesty Queen Elizabeth II taken from The Coronation Medal which was minted to commemorate her Coronation. The official Golden Jubilee logo is also shown. The wording "GOLDEN JUBILEE OF QUEEN ELIZABETH II 1952-2002" appears in the surround. The denomination of the coin appears at the foot of the design.

###### (b) Golden Jubilee of Her Majesty Queen Elizabeth II (second issue)

Design depicts Her Majesty Queen Elizabeth II on horseback in the grounds of Balmoral Castle which can itself be seen in the background. The official Golden Jubilee logo is also shown. The

wording "GOLDEN JUBILEE OF QUEEN ELIZABETH II 1952-2002" appears in the surround and the denomination of the coin appears at the foot of the design.

(c) Fifth Anniversary of the death of Diana, Princess of Wales

Design depicts a portrait of Diana Princess of Wales. The wording "DIANA, PRINCESS OF WALES – THE WORK CONTINUES" appears in the surround with two roses and the denomination of the coin appears at the foot of the design.

**4. Year of minting 2003**

(a) H.R.H. Prince William of Wales 21st Birthday

The wording "H.R.H. PRINCE WILLIAM OF WALES 21<sup>st</sup> BIRTHDAY" appears in the surround. The design depicts the Coat of Arms of Prince William. The denomination of the coin appears at the foot of the design.

(b) The 275<sup>th</sup> Anniversary of Captain Cook

The wording "THE 275<sup>th</sup> ANNIVERSARY OF CAPTAIN JAMES COOK" appears in the surround. The design consists of a map of Antarctica to the left, an image of the "Resolution" in the centre and a portrait of Captain Cook on the right. The wording "ANTARCTICA" appears in a scroll at the top of the design and the denomination appears at the foot of the design.

**5. Year of minting 2004**

(a) Centenary of Grytviken

The design has the wording "1904 CENTENARY OF GRYTVIKEN 2004" in the surround. The vessel "Louise" appears in the foreground and a general view of Grytviken appears in the background. A cameo of Captain Carl Anton Larsen appears at top left of the design above the mountains. The denomination of the coin appears at the foot of the design.

(b) Sir Ernest Shackleton

The design has the wording "SIR ERNEST SHACKLETON 1874-1922" in the surround. A portrait of Sir Ernest Shackleton appears on the left of the design and in the centre of the design appears an image of the vessel "Endurance" stuck in the ice. In the foreground is an impression of the crew pulling one of the lifeboats over pack ice surmounting the wording "TRANS-ANTARCTIC EXPEDITION 1914". The denomination appears at the foot.

**6. Year of minting 2005**

Wedding of His Royal Highness the Prince of Wales and Mrs Parker Bowles

The design consists of the Coat of Arms of The Prince of Wales and the wording "APRIL 8<sup>th</sup> 2005". The wording "WEDDING OF H.R.H. THE PRINCE OF WALES AND MRS PARKER BOWLES" appears in the surround. The denomination appears at the foot of the design.

**7. Year of minting 2006**

(a) Eightieth birthday of Her Majesty Queen Elizabeth II

(i) First design

The design shows Her Majesty in the robes of the Order of the Garter. The wording "80 YEARS" appears to the left and the denomination of the coin appears at the foot of the design.



## (ii) Second design

The design shows Her Royal Highness Princess Elizabeth and Her Royal Highness Princess Margaret with their parents on the balcony at Buckingham Palace following the Coronation of His Majesty King George VI. The wording "80 YEARS" appears at the top of the design and the denomination of the coin appears at the foot of the design

## (iii) Third design

The design shows Her Majesty on horseback at the Trooping of the Colour. The wording "80 YEARS" appear to the left of that and the denomination of the coin appears at the foot of the design.

## (iv) Fourth design

The design shows Her Royal Highness Princess Elizabeth and His Royal Highness Prince Philip, Duke of Edinburgh, on their wedding day. The wording "80 YEARS" appears at the top of the design and the denomination of the coin appears at the foot of the design.

(b) Wildlife Series

## (i) First design

The design an Elephant Seal and pup. The wording "ELEPHANT SEAL" appears at the top of the design and the denomination of the coin appears at the foot of the design.

## (ii) Second design

The design shows a Humpback Whale and calf. The wording "HUMPBACK WHALE" appears at the top of the design and the denomination of the coin appears at the foot of the design.

## (iii) Third design

The design of the reverse shows a Rockhopper Penguin and chick. The wording "ROCKHOPPER PENGUIN" appears at the top of the design and the denomination appears at the foot of the design.

## (iv) Fourth design

The design of the reverse shows a Grey-headed Albatross and chick. The wording "GREY-HEADED ALBATROSS" appears at the top of the design and the denomination of the coin appears at the foot of the design.

(c) Henrik Ibsen

The design depicts a portrait of Henrik Ibsen. Wording '1828 - HENRIK IBSEN - 1906' appears in the surround and the denomination £2 appears at the foot of the design.

**Specification authorised quantity and authorised mint of coins**

| Type                      | Gold proof  | Gold proof  | Silver proof<br>(see footnote<br>1) | Silver proof   | Cupro nickel     |
|---------------------------|---|---|-------------------------------------|--|------------------|
| Denomination              | £20   | £4  | £10                                 | £2   | £2               |
| Weight (grams)            | 6.22  | 1.24  | 155.51                              | 28.28  | 28.28            |
| Diameter<br>(millimetres) | 22.0  | 13.92   | 65.0                                | 38.60  | 38.60            |
| Fineness                  | 0.999   | 0.999   | 999                                 | 92.5   | 75% Cu<br>25% Ni |
| Quality                   | Proof   | Proof   | Proof                               | Proof  | Uncirculated     |
| Shape                     | Round   | Round   | Round                               | Round  | Round            |
| Edge                      | Milled  | Milled  | Milled                              | Milled   | Milled           |
| Quantity                  | 2,000   | 5,000<br>(except as<br>mentioned<br>in<br>footnote 3) | 2,000                               | 10,000<br>(except as<br>mentioned<br>in footnote<br>2) | Unlimited        |
| Authorised mint           | Pobjoy Mint Ltd   |   |                                     |  |                  |
| Remedy                    | Variations to be allowed to extent permitted by Pobjoy Mint Ltd |   |                                     |  |                  |

## Footnotes:

1. The minting of £10 silver proof coins is only authorised in respect of the Captain Cook issue (2003).
2. In the case of the 80<sup>th</sup> Birthday of Her Majesty the Queen issue (2006) the quantity authorised to be minted of the £2 Silver Proof coin is 25,000.
3. In the case of the Henrik Ibsen issue (2006) the quantity authorised to be minted of the £4 Gold Proof coin is 7,500.

Made this 24<sup>th</sup> day of May 2007

A. E. HUCKLE,  
*Commissioner*

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SUBSIDIARY LEGISLATION

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SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS

CURRENCY

Commemorative Coins (2007 Issues) Order 2007

(S.R. & O No 2 of 2007)

*Made:* 24 May 2007  
*Published:* 13 June 2007  
*Coming into force:* on publication

IN EXERCISE of my powers under section 5(3) of the Currency Ordinance 2000<sup>a</sup> and of all other powers enabling me in that behalf I make the following Order—

**Citation**

1. This Order may be cited as the Commemorative Coins (2007 Issues) Order.

**Authorisation**

2.—(1) This article has effect in relation to the coins—

(a) the design of the reverse of which is described in Part 1 of the Schedule, and

(b) the design of the obverse of which in each case consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription “SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS” and the year “2007”.

(2) Subject to paragraph (3), the minting in accordance with the specification and in the quantity mentioned in Part 2 of the Schedule of the Gold Proof, Silver Proof and Cupro Nickel coins referred to in paragraph (1) is hereby authorised.

(3) Every coin described in paragraph (1) must comply with such of the specifications contained in Part 2 of the Schedule as relate to it.

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<sup>a</sup> No 3 of 2000

## THE SCHEDULE

### Part 1

#### Design of reverse of coins

##### 1. Great Britons issue

###### (a) First design

Design depicts an image of Her Majesty Queen Elizabeth the Second framed by symbolic flowers. The wording "QUEEN ELIZABETH II-1926" appears in surround of coin and the denomination of the coin in the words "TWO POUNDS" appears at the foot of the design.

###### (b) Second design

Design depicts an image of Captain Cook framed by the names of the vessels he commanded: Endeavour, Resolution, Adventure, Discovery. The wording "1728 — JAMES COOK — 1779" appears in the surround of the coin, with Emperor Penguins to the left and Endeavour to the right. A map of South Georgia appears below and the denomination of the coin in the words "TWO POUNDS" appears at the foot of the design.

###### (c) Third design

Design depicts an image of Sir Ernest Shackleton framed by snowflakes with Endurance to the left. The wording "1874 — ERNEST SHACKLETON — 1922" appears in the surround of the coin with Antarctica below and the denomination of the coin in the words "TWO POUNDS" appears at the foot of the design.

##### 2. 25<sup>th</sup> Anniversary of Liberation issue

Design shows a Royal Marine raising the White Ensign at Grytviken. In the background is HMS Plymouth with a Wasp helicopter above her stern and a Wessex helicopter above her bows and the denomination of the coin in the words "TWO POUNDS" at the foot of the design.

##### 3. International Polar Year issue

###### (a) First design

Design shows Sir Ernest Shackleton with huskies. The James Caird is in the background and the IPY logo is above. The wording "2007—INTERNATIONAL POLAR YEAR—" appears in the surround of the coin and the denomination of the coin in the words "TWO POUNDS" appears at the foot of the design.

###### (b) Second design

Design depicts an image of Shackleton's crew in an ice flow in late 1915 with the Aurora Australis in the background. The IPY logo appears at the top of the design and the wording "TRANS—ANTARCTICA EXPEDITION AURORA AUSTRALIS" appears in the surround of the coin. The denomination of the coin in the words "TWO POUNDS" appears at the foot of the design.

#### 4. King Penguin

Design of the outer ring of the coin depicts King Penguins and their young with the wording 'PENGUINS OF THE ANTARCTIC'. The central image is engraved in Crystal with an outline design of a King Penguin Chick. The denomination appears at the foot of the coin.

#### Part 2

#### Specification authorised quantity and authorised mint of coins

| Type                      | Gold proof | Gold proof | Silver proof<br>with crystal | Silver proof | Cupro nickel     |
|---------------------------|------------|------------|------------------------------|--------------|------------------|
| Denomination              | £20        | £4         | £2                           | £2           | £2               |
| Weight (grams)            | 6.22       | 1.24       | 23.45                        | 28.28        | 28.28            |
| Diameter<br>(millimetres) | 22.0       | 13.92      | 38.60                        | 38.60        | 38.60            |
| Fineness                  | 0.999      | 0.999      | 925                          | 925          | 75% Cu<br>25% Ni |
| Quality                   | Proof      | Proof      | Proof                        | Proof        | Uncirculated     |
| Shape                     | Round      | Round      | Round                        | Round        | Round            |
| Edge                      | Milled     | Milled     | Milled                       | Milled       | Milled           |
| Quantity                  | 2,000      | 5,000      | 5,000                        | 10,000       | Unlimited        |

Authorised mint Pobjoy Mint Limited

Remedy Variations to be allowed to extent permitted by Pobjoy Mint Ltd

Made this 24<sup>th</sup> day of May 2007

A. E. HUCKLE,  
*Commissioner*

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Published by the Attorney General's Chambers, Cable Cottage, Stanley, Falkland Islands.  
Price: Four pound and five pence.

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**THE  
SOUTH GEORGIA AND SOUTH  
SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 2*

*30 November 2007*

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The following are published in this Gazette –

**Appointments; and**

**Notice 4.**

**Appointments**

Rosalind Catriona Cheek, Acting Attorney General,  
14.07.07.

David Francis William Pickup, Attorney General,  
31.08.07.

Mairi Macleod, Magistrate, 10.12.07.

**NOTICES**

No. 4

19 October 2007

**INCOME TAX ORDINANCE 1939  
section 90****Notification of income tax assessments**

Notice is hereby given that income tax assessments for the 2007 year of assessment (2006 income) are to be reviewed. Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided in each case that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess. Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayers who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 19 October 2007

A. E. HUCKLE,  
*Commissioner.*





**THE  
SOUTH GEORGIA AND SOUTH  
SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*10 December 2009*

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The following are published in this Gazette –

**Appointments; and**

**Notices 1 – 2.**

**Appointments**

Keith Padgett, Financial Secretary, 17.07.08.

Emma Louise Jones, Registrar, 24.02.09.

Martin Anthony Collins, Director of Fisheries,  
08.05.09.

John Christopher Rowland, Registrar General,  
18.08.09.

**NOTICES**

No. 1

1 April 2008

**United Kingdom Statutory Instruments**

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at [www.opsi.gov.uk](http://www.opsi.gov.uk):-

2007 No 3468 – The Air Navigation (Overseas Territories) Order 2007 - Correction.

Dated 1 April 2008

B. I. STEEN,  
*for Attorney General.*

No. 2

21 October 2009

**INCOME TAX ORDINANCE 1939**  
section 90**Notification of income tax assessments**

Income tax assessments for the following years of assessment are to be reviewed:-

2007 (2006 income)

2008 (2007 income)

2009 (2008 income)

Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess.

Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayer who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 21 October 2009

P. L. MARTINEZ,  
*Acting Commissioner.*



# SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

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*No. 1*

*24 September 2010*

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The following are published in this Gazette –

Notices 1 – 2;

Prohibited Areas Ordinance 2010 (No 1 of 2010); and

Prohibited Areas Order 2010 (No 1 of 2010).

**NOTICES**

No. 1

14 September 2010

**INCOME TAX ORDINANCE 1939**  
*section 90*

**Notification of income tax assessments**

Income tax assessments for the following years of assessment are to be reviewed:-

2010 (2009 income)

Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess.

Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayer who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 14 September 2010

A. E. HUCKLE,  
*Commissioner.*

No. 2

14 September 2010

**VISITORS ORDINANCE 1992**  
*section 8*

**Notification of amount of passenger landing fee**

Section 3(1) of the Visitors Ordinance (No 2 of 1992), as amended by the Visitors (Amendment) Ordinance 2005 (No 1 of 2005), provides that a passenger landing fee must be paid for every visitor to South Georgia and the South Sandwich Islands and states that the amount of the fee is to be prescribed by the Commissioner and published in the *Gazette*.

From the date on which this Notice is published in the *Gazette* until further notice, the amount of the passenger landing fee is £105 in the currency of the United Kingdom.

Dated 14 September 2010

A. E. HUCKLE,  
*Commissioner.*

**ELIZABETH II**



The Territories of South Georgia  
and the South Sandwich Islands

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ALAN EDDEN HUCKLE,  
*Commissioner.*

**Prohibited Areas Ordinance 2010**

(No. 1 of 2010)

ARRANGEMENT OF PROVISIONS

Section

1. Short title
2. Commencement
3. Prohibited Area Order

**ELIZABETH II**



The Territories of South Georgia  
and the South Sandwich Islands

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ALAN EDDEN HUCKLE,  
*Commissioner.*

**PROHIBITED AREAS ORDINANCE 2010**

(No. 1 of 2010)

*(assented to: 14 September 2010)*

*(commencement: on publication)*

*(published: 24 September 2010)*

**AN ORDINANCE**

To enable the Commissioner by Order to declare any area in the Territories and the territorial sea of the Territories specified in it to be an area into which subject to this Ordinance entry by any person without the Commissioner's permission is prohibited, and to create offences in relation to such areas and things within them

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows—

**1. Short title**

This is the Prohibited Areas Ordinance 2010.

**2. Commencement**

This Ordinance comes into force on publication in the *Gazette*.

**3. Prohibited Area Order**

(1) The Commissioner may by Order declare—

(a) any area of land in the Territories;

(b) any area of land or sea lying to the landward of the outer limit of the territorial sea and which is covered by water at all times or at any stage of any tide;

and which is described in the Order to be or to be part of an area (a "Prohibited Area")—

(i) the entry into which by any person by any means; and

(ii) from which the taking or removal by any person of any thing,

except as provided by this Ordinance or with the permission of the Commissioner is an offence.

(2) The Commissioner may only exercise the power conferred by subsection (1) in respect of an area in relation to which he is satisfied it is necessary to do either or both of the following—

(a) to protect persons from danger to their health or safety; or

(b) to protect the heritage value of the area.

(3) Nothing in subsection (1) shall apply so as to render it an offence for a person aboard any vessel to enter any area of sea due to stress of weather or by reason of force majeure.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding £50,000 or to imprisonment for a term not exceeding 12 months or both.

(5) This section has effect in addition to any other provision of law enabling the Commissioner to prohibit or restrict entry into any area.

Made 14<sup>th</sup> September 2010

A. E. Huckle,  
*Commissioner.*

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## SUBSIDIARY LEGISLATION

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### HEALTH AND SAFETY AND ENVIRONMENT

#### Prohibited Areas Order 2010

S. R. & O. No. 1 of 2010

*Made: 14 September 2010*

*Published: 24 September 2010*

*Coming into force: on publication*

IN EXERCISE of my powers under section 2(1) of the Prohibited Areas Ordinance 2010 (No 1 of 2010) and being satisfied as required by section 2(2) of that Ordinance that it is necessary to do so to protect persons from danger to their health and safety and to protect the heritage of the areas to which the Order relates, I make the following Order—

#### **1. Citation and commencement**

This is the Prohibited Areas Order 2010 and comes into force on the publication in the *Gazette*.

#### **2. Interpretation**

(1) In this Order —

“the principal Ordinance” means the Prohibited Areas Ordinance 2010;

“the Husvik Whaling Station Prohibited Area” means that area of land and sea surrounding the Husvik whaling station, which is identified and delineated by a grey line on the plan marked Plan No. 1 attached to this Order;

“the Leith Whaling Station Prohibited Area” means that area of land and sea surrounding the Leith whaling station which is identified and delineated by a grey line on the plan marked Plan No. 2 attached to this Order; and

“the Prince Olaf Whaling Station Prohibited Area” means that area of land and sea surrounding the Prince Olaf whaling station which is identified and delineated by a grey line on the plan marked Plan No. 3 attached to this Order.

“the Stromness Whaling Station Prohibited Area” means that area of land and sea surrounding the Stromness whaling station which is identified and delineated by a grey line on the plan marked Plan No. 4 attached to this Order.

(2) The plans attached to this Order form part of this Order.



### **3. Prohibited Areas**

The Husvik Whaling Station Prohibited Area, the Prince Olaf Whaling Station Prohibited Area, the Leith Whaling Station Prohibited Area and the Stromness Whaling Station Prohibited Area are declared under section 2(1) of the principal Ordinance to be Prohibited Areas.

Made 14<sup>th</sup> September 2010

A. E. Huckle,  
*Commissioner.*

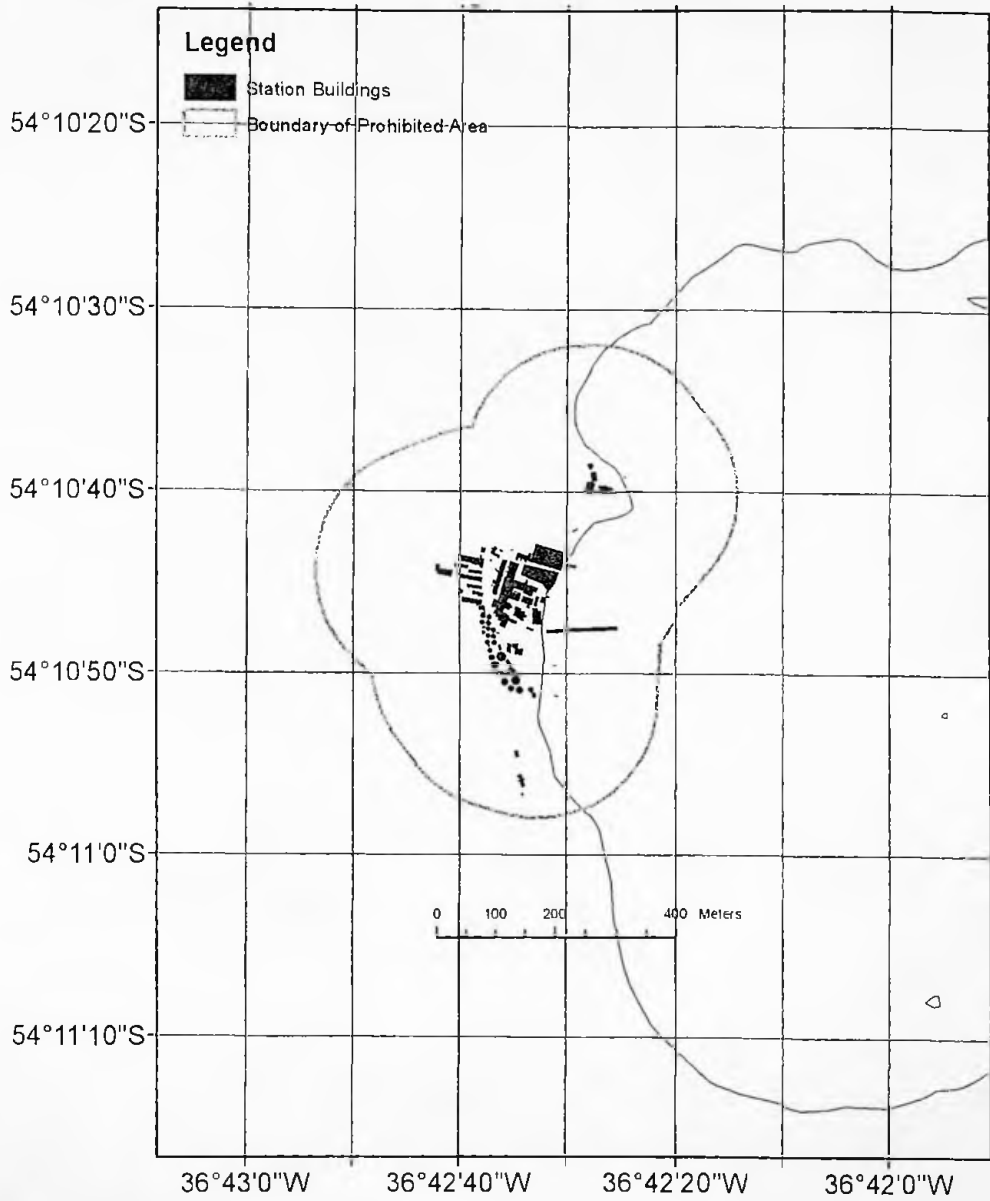
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EXPLANATORY NOTE  
*(not forming part of the Order)*

This Order constitutes areas of land and sea surrounding the Husvik, Leith, Prince Olaf and Stromness Whaling Stations in South Georgia as prohibited areas under the Prohibited Areas Ordinance 2010, thus prohibiting entry into those areas except with the permission of the Commissioner or, in the case of vessels, entry into the sea within such an area due to stress of weather or by reason of force majeure.

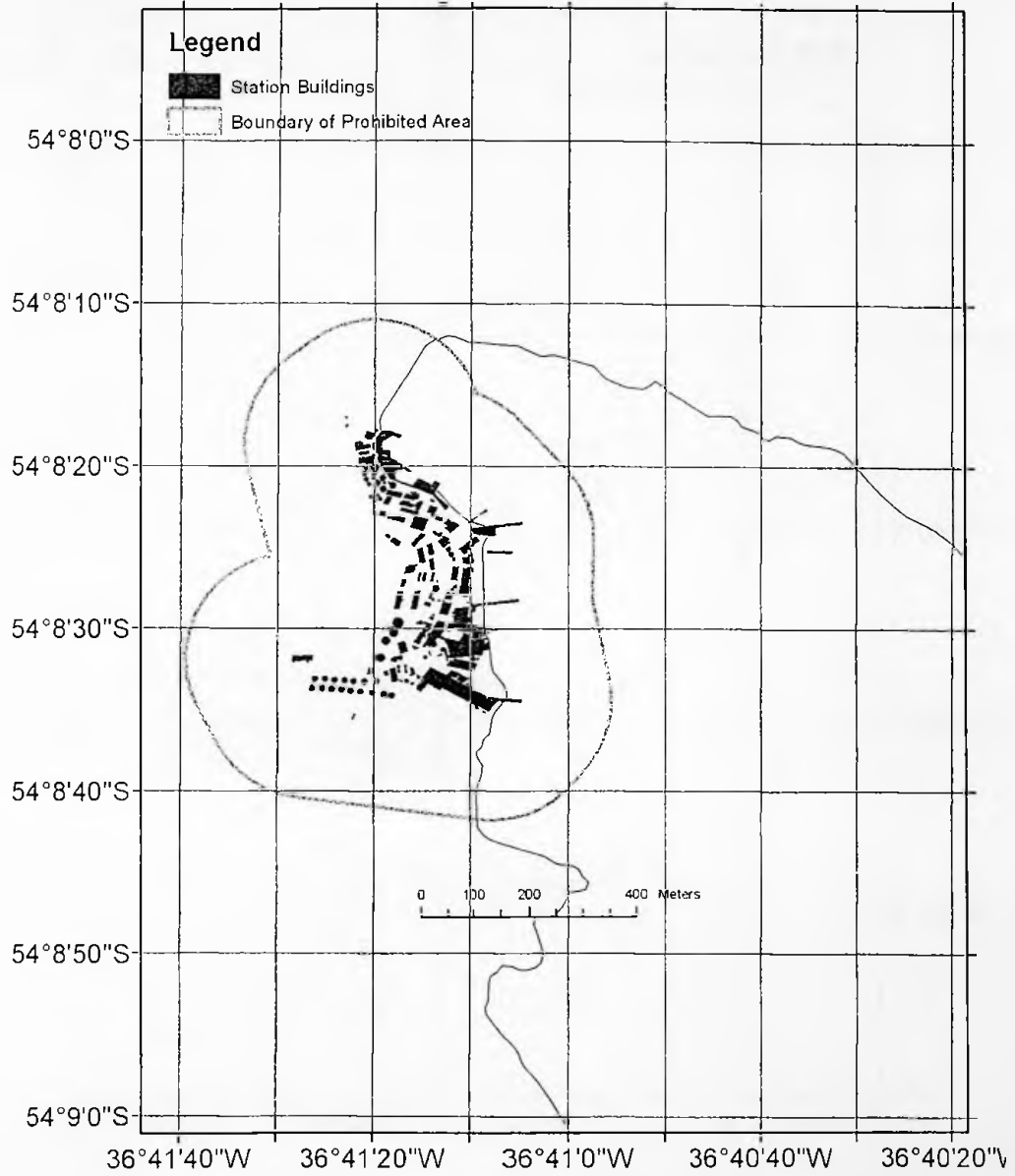
Plan No. 1

# Husvik Whaling Station Prohibited Area

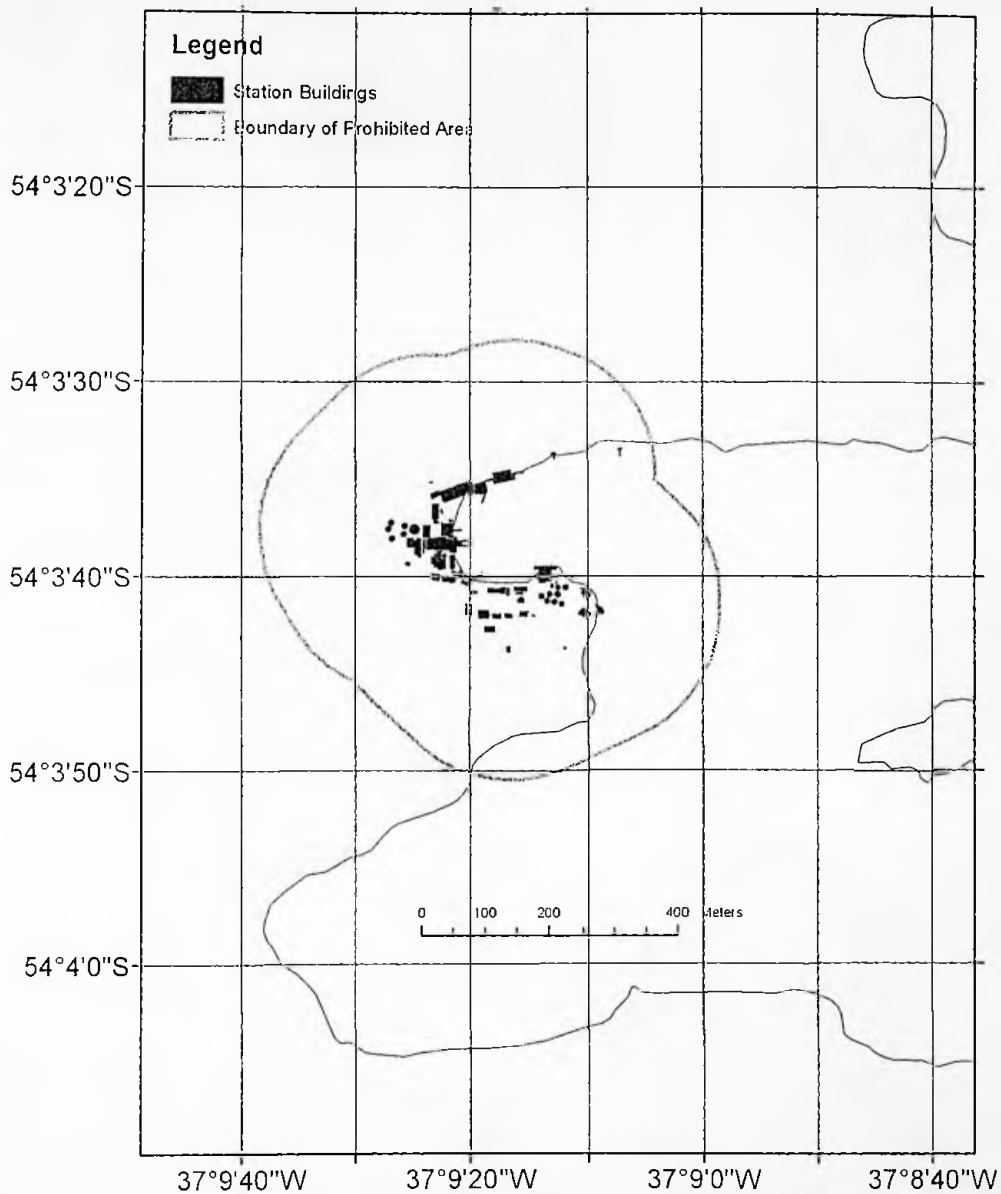


Plan No. 2

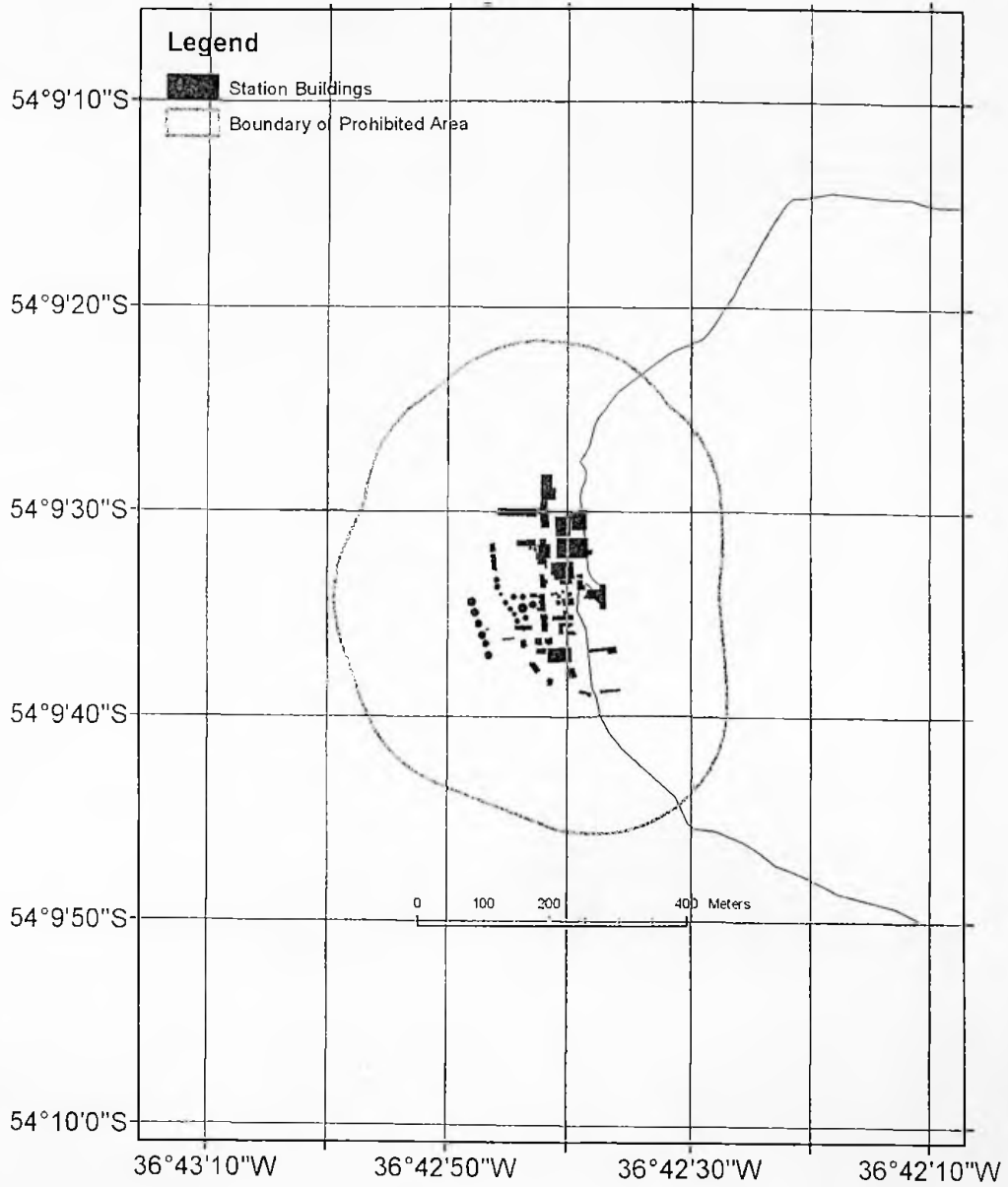
# Leith Whaling Station Prohibited Area



# Prince Olaf Whaling Station Prohibited Area



# Stromness Whaling Station Prohibited Area



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Published by the Attorney General's Chambers, Cable Cottage, Stanley, Falkland Islands.  
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# **SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*9 September 2011*

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The following are published in this Gazette –

**Notices 1 to 7;**

**Wildlife and Protected Areas Ordinance 2011 (No 1 of 2011);**

**Appropriation (2011) Ordinance 2011 (No 2 of 2011);**

**Appropriation (1998-2010) Ordinance 2011 (No 3 of 2011);**

**Postal Services Ordinance 2011 (No 4 of 2011);**

**Customs (Fees) Regulations 2011 (SR&O No 1 of 2011);**

**Harbours (Fees) Regulations 2011 (SR&O No 2 of 2011);**

**Commemorative Coins (2007-2011) Order 2011 (SR&O No 3 of 2011); and**

**Harbours (Fees)(Amendment) Regulations 2011 (SR&O No 4 of 2011).**

## NOTICES

No. 1

28 March 2011

### **South Georgia and South Sandwich Islands Order 1985** *section 7*

#### **Appointment of Attorney General**

1. Section 7 of the South Georgia and South Sandwich Islands Order 1985 permits the Commissioner to constitute offices for the Territory.

2. In exercise of my powers under section 7 of the South Georgia and the South Sandwich Islands Order, and given the office of Attorney General for South Georgia and the South Sandwich Islands has been constituted, I appoint Mark David Lewis to be Attorney General for South Georgia and the South Sandwich Islands.

3. This appointment has effect from 28 March 2011 and continues in effect until the completion of Mark David Lewis' contract of employment with the Falkland Islands Government.

Dated 28 March 2011

N. R. HAYWOOD C.V.O.,  
*Commissioner.*

No. 2

28 March 2011

### **South Georgia and South Sandwich Islands** **Order 1985** *section 7*

#### **Appointment of Acting Attorney General**

1. Section 7 of the South Georgia and the South Sandwich Islands Order 1985 permits the Commissioner to constitute offices for the Territory and to make appointments to any office so constituted.

2. In exercise of my powers under section 7 of the South Georgia and the South Sandwich Islands Order 1985, and given the office of Attorney General for South Georgia and the South Sandwich Islands has been constituted, I appoint Rosalind Catriona Cheek to be Acting Attorney General for the purpose of carrying out the duties of the Attorney General at any time when the post is vacant, or the substantive holder of the post is unavailable to discharge the same through any absence from the Falkland Islands or inability to perform the functions and duties of the post.

3. This appointment has effect from the date given below, and continues in effect whilst Rosalind Catriona Cheek holds office as the Principal Crown Counsel of the Falkland Islands Government, unless terminated sooner.

Dated 28 March 2011

N. R. HAYWOOD C.V.O.,  
*Commissioner.*

No. 3

31 May 2011

### **United Kingdom Statutory Instruments**

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at [www.legislation.gov.uk](http://www.legislation.gov.uk):-

2011 No 748 – The Tunisia (Restrictive Measures) (Overseas Territories) Order 2011;

2011 No 750 – The Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) Order 2011.

Dated 31 May 2011

B. I. STEEN,  
*for Attorney General.*

No. 4

22 August 2011

### **Fisheries (Conservation and Management)** **Ordinance 2000** *section 4*

#### **Appointment of Fisheries Protection Officers**

In exercise of the powers under section 4(4) of the Fisheries (Conservation and Management) Ordinance 2000, the following persons are appointed Fisheries Protection Officers:-

Kristofer Jon Askey  
Dean Edward Cook  
Kenneth Whittaker

for the period 22 August 2011 to 31 July 2012

Dated 22 August 2011

N. R. HAYWOOD C.V.O.,  
*Commissioner.*

No. 5

25 August 2011

### **Income Tax Ordinance 1939** *section 90*

#### **Notification of income tax assessments**

Income tax assessments for the following years of assessment are to be reviewed:-

2011 (2010 income)  
2012 (2011 income)

Any amounts in excess of 7% of income earned in the Territory (0% for those who were present for less than 6 months) will be remitted, provided that the Commissioner of Taxation is satisfied that the taxpayer concerned has been disadvantaged by the excess.



Any tax assessments that have already been appealed will be considered automatically in this review. Any other taxpayers who consider that they would benefit from this review should notify the Commissioner of Taxation, Stanley, Falkland Islands, within 90 days of this notice.

Dated 25 August 2011

N. R. HAYWOOD C.V.O.,  
*Commissioner.*

No. 6

25 August 2011

#### United Kingdom Statutory Instruments

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at [www.legislation.gov.uk](http://www.legislation.gov.uk):-

2011 No 1080 – The Libya (Restrictive Measures) (Overseas Territories) Order 2011;

2011 No 1678 – The Syria (Restrictive Measures) (Overseas Territories) Order 2011; and

2011 No 1679 – The Egypt (Restrictive Measures) (Overseas Territories) Order 2011.

Dated 25 August 2011

N. R. HAYWOOD C.V.O.,  
*Commissioner.*

No. 7

29 August 2011

#### Visitors Ordinance 1992 *section 8*

##### Notification of amount of passenger landing fee

Section 3(1) of the Visitors Ordinance (No 2 of 1992), as amended by the Visitors (Amendment) Ordinance 2005 (No 1 of 2005), provides that a passenger landing fee must be paid for every visitor to South Georgia and the South Sandwich Islands and states that the amount of the fee is to be prescribed by the Commissioner and published in the *Gazette*.

The following passenger landing fees, in the currency of the United Kingdom, must be paid:-

(a) for a short visit (one lasting less than 72 hours), the amount of the passenger landing fee is £105.

(b) for an extended visit (one lasting 72 hours or more), the amount of the passenger landing fee is £155.

(c) The extended visit passenger landing fee (£155) is valid for one calendar month from the start of the visit. If the visitor remains in the Territory, a further passenger landing fee must be paid as if a new visit had started when the previous fee expired.

These apply from when this Notice is published in the *Gazette* and they are also to be treated as having applied from 1 July 2010.

Dated 29 August 2011

R. P. NYE,  
*Acting Commissioner.*

**ELIZABETH II**



**Territories of South Georgia  
and the South Sandwich Islands**

**NIGEL ROBERT HAYWOOD C.V.O.,**  
*Commissioner.*

**WILDLIFE AND PROTECTED AREAS ORDINANCE 2011**

(No 1 of 2011)

**ARRANGEMENT OF PROVISIONS**

**PART I  
PRELIMINARY**

Section

1. Title
2. Commencement
3. Application
4. Ordinance to bind the Crown
5. Interpretation and general

**PART II  
PROTECTION OF WILDLIFE**  
*Protection of wild birds and mammals*

6. Protection of wild birds and mammals
7. Supplementary to section 6

*Protection of other native fauna*

8. Protection of native invertebrates

*Protection of native plants*

9. Protection of native plants
10. Unlawful possession of live or dead wildlife
11. Introduction of non-native species

12. Prohibition of certain methods of killing wild birds or mammals
13. Special protection for species or habitats

*Control of imports, exports and movement of wildlife within the Territory*

14. Control of imports, exports and movement of wildlife within the Territory

*General defences*

15. General defences for the purposes of this Part

PART III

SPECIALLY PROTECTED AREAS (SPAs) AND MARINE PROTECTED AREAS (MPAs)

*Specially protected areas*

16. Specially protected areas (SPAs)
17. Management plans and regulations in relation to SPAs

*Marine protected areas*

18. Marine protected areas (MPAs)
19. Further provision as to orders designating MPAs
20. Conservation orders for the protection of MPAs

PART IV  
PERMITS

21. Permits to do things otherwise prohibited
22. Supplementary to section 21
23. False statement made to obtain a permit
24. Permits: applications, production, revocation and suspension

PART V  
PROVISIONS IN RELATION TO OFFENCES  
AND CONCLUDING PROVISIONS

*Provisions in relation to offences*

25. Offences by bodies corporate
26. Institution of proceedings
27. Power of arrest etc
28. Trial of offences under this Ordinance
29. Penalty for offences under this Ordinance
30. Defences not applicable in civil proceedings

*Concluding provisions*

31. Regulations
32. Repeals
33. Exclusion of provisions of English law

**ELIZABETH II**



**Territories of South Georgia  
and the South Sandwich Islands**

**NIGEL ROBERT HAYWOOD C.V.O.,**  
*Commissioner.*

**WILDLIFE AND PROTECTED AREAS ORDINANCE 2011**

(No 1 of 2011)

*(assented to: 31 May 2011)*  
*(commencement: on publication)*  
*(published: 9 September 2011)*

**AN ORDINANCE**

To repeal the Wildlife and Protected Birds Ordinance 1913 and the Falkland Islands Dependencies Conservation Ordinance 1975; to exclude a number of provisions of English law which would otherwise apply in the Territory; to make new provision for the conservation of ecosystems and habitats, to make new provision in relation to the protection of wild birds, mammals, native invertebrates and native plants; to prohibit certain methods of killing wild birds and mammals; to restrict the introduction of non-native species; to make provision for specially protected areas (SPAs) and marine protected areas (MPAs); and for connected purposes.

ENACTED by the Commissioner for South Georgia and the South Sandwich Islands as follows—

**PART I  
PRELIMINARY**

**1. Title**

This is the Wildlife and Protected Areas Ordinance 2011.

**2. Commencement**

This Ordinance comes into force when it is published in the *Gazette*.

### **3. Application**

This Ordinance applies throughout the Territory (including the internal waters), the territorial sea and the Maritime Zone.

### **4. Ordinance to bind the Crown**

(1) Subject to subsection (2), this Ordinance and regulations made under it bind the Crown.

(2) No contravention by the Crown of any provision of this Ordinance or of any regulations made under it makes the Crown criminally liable; but the Supreme Court may, on the application of any person appearing to the Court to have an interest, declare unlawful an act or omission by the Crown which constitutes such a contravention.

(3) Despite subsection (2), this Ordinance applies to persons in the public service of the Crown as it applies to other persons.

### **5. Interpretation and general**

(1) In this Ordinance, unless the context otherwise requires —

“authorised person” means a person in the public service of the Crown, a commissioned officer in Her Majesty’s armed forces and any other person appointed in writing by or under the authority of the Commissioner to be an authorised person for the purposes of this Ordinance;

“Commissioner”, in relation to the exercise of any power conferred by this Ordinance upon the Commissioner, includes a public officer to whom the Commissioner has under subsection (4) delegated in writing the exercise of that power;

“contravene” includes failure to comply with and “contravention” has a corresponding meaning;

“injury” includes any disability, disease or infestation and “injure” has a corresponding meaning;

“internal waters” means those parts of the sea which lie to the landward side of the baselines of the territorial sea of the Territory established by article 3 of the South Georgia and South Sandwich Islands (Territorial Sea) Order 1989;

“living organism” includes a virus;

“marine mammal” means any mammal of the Orders Cetacea (whales, dolphins and porpoises) or Pinnipedia (seals);

“MPA” means a marine protected area designated by an Order under section 18(1);

“Maritime Zone” means the maritime zone for the Territory established by Proclamation No 1 of 1993 of the Territory, that is to say a zone having as its inner boundaries the outer limits of the territorial sea of the Territory and its seaward boundary a line drawn so that each point on the line is 200 nautical miles from the nearest point on the baselines defined;

“native bird” means any member, or egg, of any species of the Class Aves indigenous to the Territory or occurring there seasonally through natural migrations;

“native invertebrate” means any terrestrial, freshwater or marine invertebrate at any stage of its life cycle, indigenous to the Territory;

“native plant” means any terrestrial, freshwater or marine vegetation, including flowering plants, ferns, clubmosses, bryophytes, lichens, fungi and algae indigenous to the Territory and includes such vegetation at any stage of its life cycle and seeds and other propagules of such vegetation;

“non-native” in relation to micro-organisms, means viruses, bacteria and yeasts which are not indigenous to the Territory;

“non-sterile soil” means soil, sand or aggregate which is not free of every living organism;

“occupied building” means a building that is maintained for use by any person or body of persons, corporate or otherwise;

“offence under this Ordinance” includes any offence under any provision of any Order or regulations made under this Ordinance, incitement to commit an offence under this Ordinance, conspiracy to commit an offence under this Ordinance and any attempt to commit an offence under this Ordinance;

“pick” in relation to a plant means gather or pluck any part of the plant without uprooting the plant;

“protected feature”, in relation to an MPA or SPA, means any flora, fauna, habitat or other feature which is sought to be conserved by the order designating the area;

“recreational vessel” means any vessel designed or used for any recreational or sporting purpose (whether or not as part of a commercial enterprise) and includes a yacht;

“seashore” means —

(a) the foreshore, that is to say, land which is covered and uncovered by the ordinary movement of the tide; and

(b) any land, whether or not covered intermittently by water, which is in apparent continuity (determined by reference to the physical characteristics of that land) with the foreshore, as far landward as any natural or artificial break in that continuity;

“SPA” means an area which is a specially protected area designated by an Order under section 16(1);

“uproot”, in relation to a plant, means dig up or otherwise remove the plant from the place in which it is growing;

“vessel” includes a hovercraft, an aircraft capable of landing on water, and any other craft of any kind whatsoever capable of travelling on, in or under water, whether or not self propelled and whether or not capable of carrying any person;

“wild bird” means a native bird or a vagrant species of Class Aves arriving in the Territory without the assistance of man.

- (2) Nothing in this Ordinance, except section 12, applies to rats or mice of any species.
- (3) Any power under any provision of this Ordinance to make an Order or Regulations includes power by further Order or Regulations as the case may be under that provision to amend or revoke the Order or Regulations.
- (4) The Commissioner may by instrument in writing delegate to any named public officer or public officers, subject to such conditions and limitations, if any, as he or she may specify in that instrument, the exercise of any power he or she has under this Ordinance specified in that delegation except that the Commissioner may not delegate his power under section 31 to make regulations.

## PART II PROTECTION OF WILDLIFE

### *Protection of wild birds and mammals*

#### **6. Protection of wild birds and mammals**

(1) Subject to this Part, and except as permitted under a permit granted under section 21(1), a person commits an offence who intentionally or recklessly —

- (a) kills, injures, captures, handles or molests a wild bird or mammal;
- (b) administers any noxious substance to a wild bird or mammal;
- (c) damages or destroys the breeding site or the nesting place or nest of a native bird;
- (d) takes, destroys or damages an egg of a native bird; or
- (e) disturbs a breeding or moulting wild bird, the dependent young of any native bird, mammal or a concentration of wild birds or mammals.

(2) Subject to this Part, a person commits an offence who —

- (a) uses a vehicle, vessel or aircraft in a manner that disturbs a concentration of wild birds or mammals, or which disturbs any marine mammal of the Order Cetacea;
- (b) uses firearms or explosives in a manner that disturbs any wild birds or mammals; or

(c) does anything that is likely to cause significant damage to the habitat of any wild bird or mammal.

#### **7. Supplementary to section 6**

(1) Where a person is charged with an offence in respect of a contravention of section 6(1)(a) of killing, injuring or molesting a wild bird or mammal, it is a defence for him or her to show that the act in question was done for the relief of the suffering of the wild bird or mammal in question.

(2) It is a defence for a person charged with an offence under section 6(1)(a) of capturing or handling a wild bird or mammal if he or she shows that the wild bird or mammal —

(a) was captured or handled by him or her for the purpose of attending to any injury or disease suffered by it and thereafter returned it to the wild without unreasonable delay; and

(b) if it was injured, the injury was not caused by an unlawful act on his or her part.

(3) It is a defence for a person charged with an offence under section 6(1)(b) of administering a noxious substance to a wild bird or mammal to show that the noxious substance was reasonably used by him or her in providing treatment in relation to any injury or disease suffered by the wild bird or mammal.

#### *Protection of other native fauna*

#### **8. Protection of native invertebrates**

(1) Subject to this Part, and except as permitted under a permit granted under section 21(1), it is an offence for a person intentionally or recklessly —

(a) to do anything that is likely to cause significant damage to the habitat of any native invertebrate; or

(b) to collect any native invertebrate other than from within an occupied building or its immediate surroundings,

but nothing in paragraphs (a) and (b) applies to any damage arising to the habitat of a native invertebrate from anything done in the course of the lawful operation of a vessel.

(2) In any proceedings for an offence under subsection (1), unless in a building or its immediate surroundings, the invertebrate is to be presumed to be a native invertebrate unless the contrary is shown.

#### *Protection of native plants*

#### **9. Protection of native plants**

(1) Subject to this Part and except as permitted under a permit granted under section 21(1), a person commits an offence who intentionally or recklessly —



(a) picks, collects, uproots or applies any noxious substance to any native plant; or

(b) damages or destroys a concentration of native plants in such a manner or to such an extent that their local distribution or abundance will be significantly affected

but nothing in this subsection applies to anything done in the course of the lawful operation of a vessel.

(2) In any proceedings for an offence under subsection (1), the plant is to be presumed to be a native plant unless the contrary is shown.

*Other offences in relation to wildlife*

**10. Unlawful possession of live or dead wildlife**

Subject to this Part and except as permitted under a permit granted under section 21(1), a person commits an offence if he or she knowingly has in his or her possession, transports, sells, exchanges or offers for sale or exchange —

(a) any live or dead wild bird, mammal, native invertebrate or native plant;

(b) any egg of a native bird; or

(c) any part of, or anything derived from, such a wild bird, mammal, native invertebrate, egg of a native bird or native plant.

**11. Introduction of non-native species**

(1) Subject to the provisions of this Part and except as permitted under a permit granted under section 21(1), a person commits an offence who releases or allows to escape into the wild in the Territory any animal or plant of a non-native species.

(2) Subject to the provisions of this Part and except as permitted under a permit granted under section 21(1), a person commits an offence who —

(a) keeps on board any vessel in the territorial sea or internal waters or lands or permits to alight on land or escape onto land or into the sea any animal of a non-native species;

(b) plants or distributes in the wild in the Territory seeds or propagules of a non-native plant;

(c) cultivates in the Territory any non-native plant; or

(d) except by reason of unavoidable accident or unavoidable natural process, releases or allows any non-native micro-organism to escape in the Territory.

(3) In any proceedings for an offence under any of the preceding subsections, the organism concerned is to be presumed to be non-native unless the contrary is shown.

(4) Subject to subsection (5), it is a defence to a charge of committing an offence under subsection (1) or (2) for the accused to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(5) Where the defence provided by subsection (4) involves an allegation that the commission of the offence was due to the default of another person, the person charged is not, without leave of the court, entitled to rely on the defence unless, within a period ending seven clear days before the hearing, he or she has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in his or her possession.

## **12. Prohibition of certain methods of capturing or killing wild birds or mammals**

(1) A person commits an offence who —

(a) traps, snares, electrocutes, mutilates, kicks, beats, nails or otherwise impales, stabs, burns, stones, crushes, drowns, shoots with any form of projectile, stuns, dazzles, frightens, asphyxiates, poisons, stupefies or attempts to poison or stupefy any wild bird or mammal;

(b) uses a mechanically propelled vehicle or vessel in immediate pursuit of a wild bird or mammal;

(c) uses any live bird or live marine mammal whatsoever, any sound recording or any live bird or live marine mammal as a decoy for the purpose of killing or capturing any wild bird or marine mammal;

(d) knowingly causes or permits to be done an act which is mentioned in the foregoing provisions of this subsection.

(2) Subsection (1) is subject to subsection (3).

(3) A person does not commit an offence under subsection (1) if —

(a) the activity is undertaken under a permit granted by the Commissioner under section 21(1); or

(b) the activity is the use of traps or poison bait to kill mice or rats for preventative biosecurity reasons.

(4) The Commissioner may, by Order, either generally or in relation to any kind of wild bird or mammal, amend subsection (1) by adding any method of killing or capturing or omitting any such method as is mentioned in that subsection.

(5) In any proceedings for an offence under subsection (1)(a) it is a defence for the accused to show that the article was set in position or used for the purpose of killing or taking, in the interests of public health, fisheries or nature conservation any wild bird or mammal which could lawfully be taken or killed by those means and that he or she took all reasonable precautions to prevent injury to any other wild bird or mammal.

### **13. Special protection for species and habitats**

(1) The Commissioner may by Order under this subsection provide that measures of special protection, specified in the Order ("the measures") are to be established in respect of any species of animal or plant, terrestrial or aquatic, specified in the Order (and, for the purposes of this section, measures for the protection of the habitat of any species are deemed to be measures for the protection of that species).

(2) All persons must comply with the measures unless excused from doing so by any provision of the Order.

(3) An Order under subsection (1) may make such provision as the Commissioner may think fit as to the preparation, contents, publication, approval, implementation and any other matter relating to or connected with an action plan or action plans in respect of any species afforded special protection by that Order.

(4) An Order under subsection (1) may create such offences as the Commissioner considers necessary or expedient to ensure so far as possible compliance with the measures.

#### *Control of imports, exports and movement of wildlife within the Territory*

### **14. Control of imports, exports and movement of wildlife within the Territory**

(1) Except as permitted under a permit granted under section 21(1) or, in relation to the import or export of fish, a licence granted under any legislation of the Territory relating to fishing, a person commits an offence who —

(a) imports into the Territory or exports from the Territory, living or dead, any animal, plant, or any part or thing which is a derivative of any such species;

(b) imports non-sterile soil into the Territory;

(c) intentionally or recklessly transports to or releases at a place within the Territory any thing of a kind mentioned in paragraph (a) or (b) which has been acquired at another place within the Territory;

(d) disposes of any poultry in the Territory; or

(e) disposes of any thing of a kind mentioned in paragraph (a) or (b) without due regard to preventing its establishment or spread in the Territory.

(2) In this section, "poultry" means any bird, or derivative of a bird intended for human consumption.

(3) For the purposes of subsection (1) and (2), "derivative" in relation to a species includes any part of the body living or dead (including any bone, skin, feathers, fur or scales), of a member of that species and any egg, spawn, embryo, gamete, zygote, larva, pupa, seed or spore of a member

of that species but does not include anything which has undergone a manufacturing process and is intended for human consumption as food.

(4) Any wild bird or marine mammal or part of a wild bird or marine mammal taken from the sea within the territorial sea or Maritime Zone is to be deemed not to have been imported into the Territory if it is landed directly in the Territory.

### *General defences*

#### **15. General defences for the purposes of this Part**

(1) Where a person is charged with an offence under section 6, 8, 9, 11 or 14 or an Order under section 13 it is a defence to prove that the contravention in question occurred in the course of dealing with an emergency relating to —

(a) the safety of human life;

(b) the safety of any vessel or aircraft of significant value or cargo, equipment or facilities of significant value or importance, or

(c) the protection of the environment.

(2) It is a defence for a person charged with an offence under any provision of section 6, 8, 9, 11 or 14 or an Order under section 13 to show that the act rendered unlawful under that provision was the incidental result of an otherwise lawful operation and could not reasonably have been avoided.

### PART III

#### SPECIALLY PROTECTED AREAS (SPAs) AND MARINE PROTECTED AREAS (MPAs)

### *Specially protected areas*

#### **16. Specially protected areas (SPAs)**

(1) If the Commissioner believes that any area of land is in need of a high level of protection to preserve its special values he or she may by Order under this subsection designate that area as a specially protected area ("SPA").

(2) The Commissioner may designate an area as an SPA if he or she believes that any of the following applies in respect of that area —

(a) the flora, fauna, habitats or other features to be found in the area render it of significant conservation or ecological importance;

(b) it is of significant geological, geomorphological or landscape importance; or

(c) it is of high scientific interest.

(3) The reference in subsection (1) to land includes any land lying directly above mean low water mark.

(4) If an area of land to which an Order relates includes land falling within subsection (3) ("area A"), it may also include land lying below mean low water mark ("area B") if —

(a) area B adjoins area A, and

(b) any of the conditions set out in subsection (5) is satisfied

(5) The conditions are —

(a) that the flora, fauna, habitat, or other features leading to the designation of area A is or are also present in area B;

(b) that the designation of area A is by reason of any flora, fauna or habitat which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;

(c) that, without the addition of area B, the identification of the boundary of the land to which the Order relates (either in the Order or on the ground for the purposes of exercising functions in relation to it) would be impossible or impracticable.

(6) An Order under subsection (1) must specify —

(a) the boundaries of the area designated;

(b) the flora, fauna, habitat, geological, landscape or other features giving rise to the making of the Order (the protected features);

(c) the conservation objectives for the area,

and may prohibit entry into the area without permission and provide that permission to enter it can only be granted in special circumstances.

(7) Nothing in an Order prohibiting entry into an SPA applies to an authorised person acting in the course of his or her duties.

(8) A person commits an offence who, except as provided by subsection (7), contravenes a provision of an Order which prohibits entry into an SPA without being authorised to enter the SPA by a permit granted under section 21(1).

### **17. Management plans and regulations in relation to SPAs**

(1) The protection and management of an SPA will be achieved by the implementation of a management plan devised in relation to that SPA or a number of SPAs including that SPA.

(2) A management plan is a scheme for —

(a) conserving, protecting, or preserving, as the case may be, such of the features mentioned in paragraphs (a) to (c) of section 16(2) as have justified the area being designated as an SPA; or

(b) as the case may be, restoring them; or

(c) both (a) and (b).

(3) The Commissioner must make regulations to provide for the implementation of the management plan.

(4) Regulations made under subsection (3) must contain a synopsis of the management plan and may —

(a) provide for any of the matters mentioned or referred to in subsection (2);

(b) prohibit or restrict (either absolutely or subject to exceptions specified in the regulations) entry into or movement within the SPA of vehicles or craft of any kind;

(c) prohibit or restrict all or specified activities within the SPA;

(d) impose or provide for the imposition of conditions subject to which restricted activities may be undertaken in the SPA;

(e) prohibit within the SPA the depositing of rubbish or other wastes and the discharge of noxious or polluting substances;

(f) prohibit the bringing into the SPA of any weapon or other device or thing designed or adapted for the purpose of killing, or capturing any wild bird or mammal;

(g) prohibit the lighting of any fire, or the smoking of any cigar, cigarette or pipe within the SPA.

(5) A person commits an offence who contravenes any regulations made under subsection (3).

#### *Marine protected areas*

### **18. Marine protected areas (MPAs)**

(1) Subject to subsection (2), if the Commissioner believes that any area of sea falling within subsection (6) is in need of protection he or she may by Order under this subsection designate that area as a marine protected area (“MPA”).

(2) The Commissioner may designate an area as an MPA by Order under subsection (1) if he or she believes it is desirable to do so for the purpose of conserving one or more of —

(a) marine flora or fauna;

(b) any species dependent on the marine environment;

(c) marine habitats or types of marine habitat;

(d) features of scientific interest, including those of geological, geomorphological or oceanographic interest.

(3) The reference in subsection (2)(a) to conserving marine flora or fauna and the reference in subsection (2)(b) to conserving any species dependent on the marine environment includes, in particular, references to conserving any species that is rare or threatened because of —

(a) the limited number of individuals of that species;

(b) the limited number of locations within the Territory, regionally or globally, in which that species is present.

(4) The references in subsection (2)(a), (b) and (c) to conserving marine fauna or flora, species dependent on the marine environment or habitats include references to conserving the diversity of such flora, fauna or habitats, whether or not any or all of them are rare or threatened.

(5) Any reference to conserving a species or habitat includes references to —

(a) assisting in its conservation;

(b) enabling or facilitating its recovery or increase.

(6) An area falls within this subsection if —

(a) it falls entirely within one or more of —

(i) internal waters;

(ii) the seaward limits of the territorial sea;

(iii) the Maritime Zone north of latitude 60 degrees south; and

(b) except so far as is permitted by section 19(5) read with section 19(6), it does not include any area lying above mean high water spring tide.

## **19. Further provisions as to orders designating MPAs**

(1) An Order under section 18(1) must —

(a) identify the boundaries of the area designated;

(b) state the protected feature or features;

- (c) state the conservation objectives for the MPA.
- (2) The boundary of an MPA may be defined by, or by reference to, mean high water spring tide.
- (3) An Order under section 18(1) designating an area falling within 18(6)(a)(i), (ii) or (iii) must designate —
  - (a) an area of land (whether or not covered by water) only; or
  - (b) an area of land together with all or some of the water covering it.
- (4) Section 18(6)(a)(i), (ii) and (iii) include any island, whether or not any part of it lies above mean high water spring tide.
- (5) If an MPA includes an area falling within section 18(6)(a)(i) or (ii) (“area A”), it may also include an area of the seashore lying above mean high water spring tide (“area B”) if —
  - (a) area B adjoins area A, and
  - (b) any of the conditions in subsection (6) are satisfied.
- (6) The conditions are —
  - (a) that the protected feature or features leading to the designation of area A is or are also present in area B;
  - (b) that area A is designated for the purpose of protecting marine flora or fauna, habitat, or species dependent on the marine environment, which are dependent (wholly or in part) on anything which takes place in, or is present in, area B;
  - (c) that, without the inclusion of area B, the identification of the boundary of the MPA (either in the Order designating the area or on the ground for the purpose of exercising functions in relation to it) would be impossible or impracticable.

## **20. Conservation orders for the protection of MPAs**

- (1) The Commissioner may make one or more Orders for the purposes of furthering the objectives of an MPA.
- (2) In this Part “conservation order” means an Order under subsection (1).
- (3) The provision that may be made by a conservation order includes, in particular, provision —
  - (a) prohibiting or restricting entry into, or any movement or activity within, the MPA by persons;



(b) prohibiting or restricting entry into, or any movement or other activity within the MPA by vessels, including recreational vessels; or where appropriate, vehicles;

(c) restricting the speed at which any vessel may move in the MPA or in a specified area outside the MPA where that movement might hinder the conservation objectives of the MPA;

(d) prohibiting or restricting the anchoring of any vessel within the MPA;

(e) prohibiting or restricting the doing of anything in the MPA which will interfere with the seabed or damage or disturb any object in the MPA,

provided that no provision in a conservation order has effect so as to prevent a vessel having the right of innocent passage or transit passage through the MPA or from doing anything it is entitled to do in the exercise of that right.

(4) The provision that may be made by a conservation order also includes provision prohibiting or restricting entry into, or any movement or other activity on, any part of the seashore that adjoins the MPA by persons or vehicles.

(5) A conservation order may be made subject to specified exceptions.

(6) A conservation order may make different provision for different cases including (in particular) —

(a) different parts of the MPA;

(b) different times of the year;

(c) different means or methods of carrying out any activity.

(7) In this section “specified” means specified in the Order.

(8) Nothing in a conservation order applies to anything done —

(a) in the interests of the prevention or detection of crime;

(b) for securing public health; or

(c) for the purpose of saving human life, securing the safety of any vessel of significant value or of preventing damage to any vessel or cargo (in either case of significant value) from any danger which could not have been foreseen or avoided.

(9) Subject to subsection (8) and to any permit granted to him or her under section 21(1), a person who contravenes a conservation order made under subsection (1) of this section commits an offence.

PART IV  
PERMITS

**21. Permits to do things otherwise prohibited**

(1) The Commissioner, may, of his or her own motion or on the application of any person —

(a) grant for a purpose specified in subsection (6) a permit authorising any person who is specified or of a description specified in the permit to do anything specified or of a description specified in the permit that would otherwise constitute a contravention of section 6, 8, 9, 10, 11, 12, 14, or 16, regulations under section 17(3) or of any prohibition or restriction contained in an Order made under section 17(1) or section 20(1);

(b) grant a permit of general effect (that is to say a permit the benefit of which enures (subject to such exceptions as may be specified in the permit) to all persons present in the Territory) to do anything specified in the permit which would otherwise be prohibited by section 14.

(2) Unless the Commissioner is satisfied that the permit is granted for a compelling scientific purpose or that the grant of the permit will not jeopardise the survival of the species concerned or the survival of the local population of that species or is necessary in the interests of public health or safety, he or she must not grant a permit under subsection (1) —

(a) to kill, capture or handle a wild bird, marine mammal or native invertebrate;

(b) to take an egg of a native bird; or

(c) to pick, collect or uproot a native plant.

(3) The Commissioner must not grant a permit under subsection (1) to enter an SPA in relation to which the Order designating it indicates that a permit to enter it will only exceptionally be granted unless the Commissioner is satisfied that the applicant has demonstrated that in the exceptional circumstances disclosed in their application the permit ought to be granted.

(4) The Commissioner may grant a permit under subsection (1) subject to such conditions as he or she thinks fit including —

(a) conditions to be complied with by persons doing anything authorised by the permit; and

(b) conditions requiring the person to whom the permit is granted to provide information to the Commissioner.

(5) The Commissioner may, by notice published in the Gazette, require a fee to be paid on the grant of any permit under subsection (1) and may waive payment of a fee in any particular case.

(6) Subject to subsection (7), the purposes for which a permit may be granted under subsection (1) are —

(a) scientific, research and educational purposes;

(b) conserving wild birds, marine mammals, native invertebrates or native plants or for re-introducing them to the Territory or re-establishing them in particular areas within the Territory;

(c) conserving or restoring, habitats;

(d) preserving public health or public safety;

(e) preventing the spread of disease; and

(f) any other purpose for which the Commissioner believes that a permit may properly, in all the circumstances, be granted.

(7) Permits issued for any of the purposes set out in subsection (6) must be limited so as to ensure, as far as possible, that —

(a) the diversity of native species and the balance of the natural ecological systems of the Territory are maintained;

(b) no more wild birds, marine mammals, native invertebrates or native plants are taken than are necessary for the purpose or purposes for which the permit was granted;

(c) no more wild birds or marine mammals are killed or captured from local populations than can reasonably be expected to be replaced in the following breeding season by natural reproduction.

## **22. Supplementary to section 21**

(1) A permit under section 21(1) which authorises any person to kill or capture any wild bird or mammal must specify the area within which and the methods by which such a wild bird or mammal may be killed or captured and may be granted for a period not exceeding one year specified in the permit.

(2) A person commits an offence who —

(a) contravenes any condition of a permit granted under section 21(1); or

(b) fails without reasonable excuse to produce to an authorised person a permit, or a copy of a permit issued under section 21(1).

## **23. False statement made to obtain a permit**

A person commits an offence who for the purpose of obtaining for themselves or another person the grant of a permit under section 21(1) —

(a) makes a statement or representation, or furnishes any document or information, which he or she knows to be false in a material particular; or

(b) recklessly makes a statement or representation, or furnishes a document or information which is false in a material particular.

#### **24. Permits: applications, production, revocation and suspension**

Regulations may make provision —

(a) as to the procedure for making applications for permits under section 21(1);

(b) as to the circumstances in which permits may be required to be produced;

(c) as to the circumstances in which permits are liable to be revoked or suspended by the Commissioner;

(d) as to the notice to be given before permits are revoked or suspended, and as to other procedures to be followed in relation to the revocation or suspension of permits; and

(e) for appeals against the revocation or suspension of permits, and as to the procedure to be followed in relation to such appeals (including provision in accordance with which such procedure is to be determined).

### PART V PROVISIONS AS TO OFFENCES AND CONCLUDING PROVISIONS

#### *Provisions in relation to offences*

#### **25. Offences by bodies corporate**

(1) Where an offence under this Part has been committed by a body corporate and the contravention in question is proved to have occurred with the consent or connivance of, or to be attributable to any neglect on the part of —

(a) a director, manager, secretary or other similar officer of the body corporate, or

(b) any person who was purporting to act in any such capacity,

he or she as well as the body corporate is guilty of that offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

#### **26. Institution of proceedings**

Proceedings for an offence under this Ordinance may not be instituted except by or with the consent of the Attorney General for the Territory:

Provided that this section does not prevent the arrest, or the issue or execution of a warrant for the arrest, of any person in respect of such an offence, notwithstanding that the necessary consent for institution of proceedings has not been obtained.

#### **27. Power of arrest etc**

(1) Regulations may make provision for —

(a) the arrest anywhere in the Territory of any person suspected of committing an offence under this Ordinance;

(b) stopping and searching any person suspected of committing any such offence;

(c) the search without a warrant of any premises, land, vessel, vehicle or aircraft which it is believed may contain any evidence of any such offence;

(d) the authorisation of persons to exercise the powers referred to in this subsection;

(e) the conveyance in custody of any person arrested under regulations made by virtue this subsection to any place, whether in the Territory or elsewhere, where he or she can be tried for the offence in question;

(f) the seizure and detention of any article which may be evidence of an offence under this Ordinance and its conveyance to any place, whether in the Territory or elsewhere, where a person charged with that offence can be tried; and

(g) securing the attendance, before any court, whether in the Territory or elsewhere, before which a person can be tried for an offence under this Ordinance, of any person required to give evidence or produce documents in proceedings relating to that offence.

#### **28. Trial of offences under this Ordinance**

All offences under this Ordinance are to be tried summarily by the Magistrate's Court which, on convicting an offender, has the power, notwithstanding any other law of the Territory, to impose any penalty provided for by section 29.

#### **29. Penalty for offences under this Ordinance**

(1) A person convicted of an offence under this Ordinance is liable to a fine or to imprisonment for a term not exceeding two years or both a fine and such imprisonment.

(2) In subsection (1) "a fine" means a fine of such amount as the Magistrate's Court sees fit to impose having regard to the gravity and consequences of the offence, and the need to discourage others from committing like offences and the means and circumstances of the offender.

#### **30. Defences not applicable in civil proceedings**

(1) Subsection (2) applies if a person establishes a defence to (or an exception from) an offence against (or contravention of) this Ordinance (or regulations made under it).

(2) If this subsection applies, the defence (or exception) does not affect whether or not the person has civil liability in relation to the circumstances in which the defence (or exception) applied.

*Concluding provisions*

**31. Regulations**

Regulations under this Ordinance may make —

- (a) different provision for different cases or circumstances; and
- (b) incidental and supplementary provisions.

**32. Repeals**

The Wildlife and Protected Birds Ordinance 1913 and the Falkland Islands Dependencies Conservation Ordinance 1975 are hereby repealed.

**33. Exclusion of provisions of English law**

(1) The following provisions of English law no longer apply as part of the law of the Territory except by virtue of a provision of the law of the Territory applying them by name —

- (a) the Wildlife and Countryside Act 1981;
- (b) the Wild Mammals (Protection) Act 1996;
- (c) the Countryside and Rights of Way Act 2000; and
- (d) Parts 2 and 3 of the Natural Environment and Rural Communities Act 2006.

(2) In subsection (1) a reference to an Act includes a reference to any later Act amending or modifying that Act, whether enacted before or after the commencement of this Ordinance.

Made 31<sup>st</sup> May 2011

N. R. Haywood C.V.O.,  
*Commissioner.*

**ELIZABETH II**



**Territories of South Georgia  
and the South Sandwich Islands**

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**NIGEL ROBERT HAYWOOD C.V.O.,**  
*Commissioner.*

**APPROPRIATION (2011) ORDINANCE 2011**

(No. 2 of 2011)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Title
2. Commencement
3. Appropriation of £4,384,568 for 2011
4. Retrospective authority for pre-commencement withdrawals

**Schedule**

**ELIZABETH II**



Territories of South Georgia  
and the South Sandwich Islands

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NIGEL ROBERT HAYWOOD C.V.O.,  
*Commissioner.*

**APPROPRIATION (2011) ORDINANCE 2011**

(No. 2 of 2011)

*(enacted: 25 August 2011)*  
*(published: 9 September 2011)*  
*(commencement: on publication)*

**AN ORDINANCE**

To authorise withdrawals from South Georgia and South Sandwich Islands funds of money for use during 2011; and for connected purposes.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands —

**1. Title**

This Ordinance is the Appropriation (2011) Ordinance 2011.

**2. Commencement**

This Ordinance comes into force when it is published in the *Gazette*.

**3. Appropriation of £4,384,568 for 2011**

(1) The Financial Secretary may withdraw sums of up to £4,384,568 in total from South Georgia and South Sandwich Island funds for use during 2011.

(2) Sums withdrawn under subsection (1) may be applied during 2011 in accordance with the Schedule.



**4. Retrospective authority for pre-commencement withdrawals**

(1) Subsection (2) applies to a withdrawal if —

- (a) it would have been authorised by section 3; but
- (b) it was made before this Ordinance comes into force.

(2) A withdrawal to which this subsection applies is to be treated as having been made lawfully.

**SCHEDULE**

(section 3(2))

| <b>Purpose</b>      | <b>Amount (£)</b> |
|---------------------|-------------------|
| Personal Emoluments | 393,279           |
| Other charges       | 3,979,789         |
| Special expenditure | 11,500            |
| <b>TOTAL</b>        | <b>4,384,568</b>  |

Enacted this 25<sup>th</sup> day of August 2011.

N. R. Haywood C.V.O.,  
*Commissioner.*

**ELIZABETH II**



Territories of South Georgia  
and the South Sandwich Islands

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NIGEL ROBERT HAYWOOD C.V.O.,  
*Commissioner.*

**APPROPRIATION (1998-2010) ORDINANCE 2011**

(No. 3 of 2011)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Retrospective supplementary appropriation of £751,039 for period from 1 July 1997 to 31 December 1998
4. Retrospective appropriation of £50,695,746 for period from 1999 to 2010

Schedules 1 and 2

ELIZABETH II



Territories of South Georgia  
and the South Sandwich Islands

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NIGEL ROBERT HAYWOOD C.V.O.,  
*Commissioner.*

**APPROPRIATION (1997-2010) ORDINANCE 2011**

(No. 3 of 2011)

*(commencement: on publication)*  
*(published: 9 September 2011)*  
*(enacted: 25 August 2011)*

AN ORDINANCE

To regularise withdrawals of money made from South Georgia and South Sandwich Islands funds during the period from 1998 to 2010.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands —

**1. Title**

This Ordinance is the Appropriation (1997-2010) Ordinance 2011.

**2. Commencement**

This Ordinance comes into force when it is published in the *Gazette*.

**3. Retrospective supplementary appropriation of £751,039 for period from 1 July 1997 to 31 December 1998**

(1) Subsection (2) applies to the withdrawals totalling £1,410,639 made from South Georgia and South Sandwich Island funds during the period from 1 July 1997 to 31 December 1998, as set out in Schedule 1.

(2) To the extent that the withdrawals to which this subsection applies were not authorised by the Appropriation Ordinance 1997 (No 1 of 1997), they are declared to have been made lawfully.

#### 4. Retrospective appropriation of £50,695,746 for period from 1999 to 2010

(1) Subsection (2) applies to the withdrawals totalling £50,695,746 made from South Georgia and South Sandwich Island funds during the period from 1 January 1999 to 31 December 2010, as set out in Schedule 2.

(2) The withdrawals to which this subsection applies are declared to have been made lawfully.

#### SCHEDULE 1

(section 3(1))

| 18 month Period | Personal Emoluments (£) | Operational Expenditure (£) | Special Expenditure (£) | Total Expenditure (£) |
|-----------------|-------------------------|-----------------------------|-------------------------|-----------------------|
| 1997-1998       | 2,700                   | 1,022,983                   | 384,956                 | 1,410,639             |

#### SCHEDULE 2

(section 4(1))

| Year   | Personal Emoluments (£) | Operational Expenditure (£) | Special Expenditure (£) | Total Expenditure (£) |
|--------|-------------------------|-----------------------------|-------------------------|-----------------------|
| 1999   | 51,003                  | 841,002                     | 238,185                 | 1,130,190             |
| 2000   | 59,912                  | 1,218,635                   | 1,248,715               | 2,527,262             |
| 2001   | 79,956                  | 1,582,956                   | 1,161,536               | 2,824,448             |
| 2002   | 37,715                  | 1,906,565                   | 1,172,720               | 3,117,000             |
| 2003   | 64,028                  | 2,228,902                   | 4,155,858               | 6,448,788             |
| 2004   | 103,990                 | 2,301,053                   | 3,120,015               | 5,525,058             |
| 2005   | 177,551                 | 3,028,275                   | 852,513                 | 4,058,339             |
| 2006   | 179,727                 | 4,326,405                   | 638,637                 | 5,144,769             |
| 2007   | 176,342                 | 3,974,991                   | 1,640,555               | 5,791,888             |
| 2008   | 263,367                 | 4,424,298                   | 15,339                  | 4,703,004             |
| 2009   | 335,000                 | 4,258,000                   | 17,000                  | 4,610,000             |
| 2010   | 355,000                 | 4,456,000                   | 4,000                   | 4,815,000             |
| TOTALS | 1,883,591               | 34,547,082                  | 14,265,073              | 50,695,746            |

Enacted this 25<sup>th</sup> day of August 2011.

N. R. Haywood C.V.O.,  
Commissioner.

**ELIZABETH II**



**Territories of South Georgia  
and the South Sandwich Islands**

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**NIGEL ROBERT HAYWOOD C.V.O.,**  
*Commissioner.*

**Postal Services Ordinance 2011**

(No. 4 of 2011)

**ARRANGEMENT OF PROVISIONS**

**Section**

1. Title
2. Commencement
3. Interpretation
4. Provision of postal services
5. Postal articles not accepted for transmission by post
6. Postal rates
7. Postage stamps
8. Weight limitations
9. Aerogrammes
10. Small packets
11. Exemptions from postage
12. Unpaid or underpaid postage
13. Undelivered parcels
14. Registration
15. Insurance
16. Parcels and customs declarations

17. Postal officer
18. Duties and powers of a postal officer
19. Departing vessel to give notice
20. Duty to carry mail
21. Refusal to receive or deliver mail
22. Payment for carrying mail
23. Determination by the Commissioner
24. Offences
25. Postal article deemed to be property of commissioner
26. Repeal and revocation

**ELIZABETH II**



Territories of South Georgia  
and the South Sandwich Islands

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NIGEL ROBERT HAYWOOD C.V.O.,  
*Commissioner.*

**POSTAL SERVICES ORDINANCE 2011**

(No. 4 of 2011)

*(enacted: 25 August 2011)*  
*(published: 9 September 2011)*  
*(commencement: on publication)*

**AN ORDINANCE**

To provide for postal services in the Territory; to repeal the Post Office Ordinance<sup>(a)</sup> in relation to the Territory; and for connected purposes.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands—

**1. Title**

This Ordinance is the Postal Services Ordinance 2011.

**2. Commencement**

This Ordinance comes into force when it is published in the Gazette.

**3. Interpretation**

In this Ordinance —

“aerogramme” means a letter written on a form consisting of a single sheet of paper suitably folded and gummed on all sides, which is sold by the Post Office for the purpose of being used to send messages by air mail;

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<sup>(a)</sup> Cap.52, Laws of the Falkland Islands (1950 Edition), as it applies to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance (Cap. 1, Dependencies Series).

“frank” means stamp with a postmark to indicate date and place of mailing;

“inland” means, in relation to a postal article, one sent —

- (a) within South Georgia and the South Sandwich Islands;
- (b) to the Falkland Islands; or
- (c) to the British Antarctic Territory;

“postal article” means an article received by a postal officer for transmission by post;

“postal services” includes —

- (a) the issue and sale of postage stamps for the Territory; and
- (b) the transmission of postal articles by post;

“properly stamped” means, in relation to a postal article, that it bears postage stamps or markings which indicate that, when the article was posted in the Territory or in another country, the rates for postage, as determined under this Ordinance or under the law of the other country, were paid;

“transmission by post” means —

- (a) transmission within the Territory by authority of the Commissioner for the purposes of the Ordinance; or
- (b) transmission to a place outside the Territory in accordance with arrangements in force between the Commissioner and the postal administration of any other country.

#### **4. Provision of postal services**

(1) The Commissioner —

- (a) is to ensure that postal services are provided in accordance with this Ordinance;
- (b) may authorise a postal administration for that purpose; and
- (c) may appoint a Postmaster to be responsible for the provision of postal services in the Territory in accordance with this Ordinance.

(2) Except as provided by this Ordinance, no person may provide (or purport to provide) postal services for the Territory.

(3) A person who breaches subsection (2) commits an offence.



## **5. Postal articles not accepted for transmission by post**

The Commissioner may determine that a postal article (or class of articles) will not be accepted for transmission by post, including postal articles that are not properly addressed or stamped.

## **6. Postal rates**

- (1) The Commissioner will set postal rates for the Territory.
- (2) The postal rates set out in the Schedule —
  - (a) are deemed to have been in force for the Territory since 1 July 2010; and
  - (b) will remain in force until the Commissioner determines other postal rates under subsection (1).

## **7. Postage stamps**

- (1) The Commissioner may authorise the issue of postage stamps of any denomination or design for use in the Territory.
- (2) The Commissioner may determine that a postage stamp previously issued by authority of the Commissioner will cease to be authorised for use from a specified date.
- (3) Only authorised postage stamps are valid for use in the Territory.

## **8. Weight limitations**

An item will not be accepted for transmission —

- (a) as an overseas letter or as a small packet, if it exceeds 2 kilograms in weight;
- (b) as an overseas air mail parcel;
- (c) as an overseas surface mail parcel, if it exceeds 30 kilograms in weight;
- (d) as an inland letter, if it exceeds 2 kilograms in weight; or
- (e) as an inland parcel, if it exceeds 10 kilograms in weight.

## **9. Aerogrammes**

- (1) An aerogramme will not be accepted for transmission by air mail —
  - (a) if it has any enclosure; or
  - (b) if it is not sufficiently stamped for transmission as an aerogramme by air mail.
- (2) Where, under subsection (1), an aerogramme is not accepted for transmission by airmail, it may, at the discretion of the Postal Officer or Postmaster, be accepted for transmission by surface mail if it is sufficiently stamped for such transmission.

## 10. Small packets

(1) A class of postal packets called "small packets" is authorised with the object of affording facilities, in the inland and international postal service, for the transmission of small articles of merchandise in the letter mail.

(2) The exchange of small packets in the international service is limited to those countries that have agreed to participate in the service.

(3) The prohibitions applicable to letter post apply equally to the service of small packets.

(4) The following are additionally excluded from transmission in small packets —

(a) letters, notes or documents having the character of actual and personal correspondence, which —

(i) includes tapes, disks or wires bearing recordings of current and personal messages; but

(ii) does not include open invoices reduced to their simplest form (consisting of the addressee's address, the description of the article and the sender's address);

(b) coins;

(c) banknotes;

(d) currency notes;

(e) negotiable instruments payable to the bearer;

(f) platinum, gold or silver (manufactured or not);

(g) precious stones;

(h) jewels and other valuable articles; and

(i) postage stamps, whether obliterated or not.

(5) A small packet must be marked with the words "small packet" in the top left-hand corner of the front of the packet.

(6) A small packet addressed to a destination outside the Territory must have securely fixed to it an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the postal authorities) which has been fully and properly completed by the sender.

(7) A small packet not complying with subsections (4), (5) or (6) will not be accepted for transmission in the letter mail.

(8) Where, under subsections (4), (5) or (6) or under section 8(a), a small packet is not accepted for transmission in the letter mail, it will be treated as a parcel and be charged for and transmitted accordingly.

(9) Small packets may be registered but not insured.

### **11. Exemptions from postage**

(1) The following postal articles may be accepted for transmission by mail without the prepayment of postage —

(a) postal articles originating in a department of the Government, posted in the Territory and bearing —

(i) the words "On Her Majesty's Service" conspicuously marked at the top of the front of the item; and

(ii) in the lower left-hand or right-hand corner of the front of the article the official departmental stamp; and

(b) postal articles sent on postal business by the postal authorities.

(2) Postage will ordinarily be prepaid by affixing adhesive postage stamps obtained from the postal authorities but, by arrangement between the sender and the Postmaster, may be prepaid by use of a franking machine approved by the Postmaster and subject to compliance with such conditions the Postmaster may specify.

### **12. Unpaid or underpaid postage**

(1) Where the postage payable on any postal article has not been prepaid or has not been fully prepaid, a surcharge is payable —

(a) by the addressee on its delivery; or

(b) by the sender, if it is refused or cannot be delivered.

(2) Surcharges on any postal article that has not been prepaid or has not been fully prepaid will be calculated as —

(a) in the case of an overseas postal article, according to the Detailed Regulations of the Universal Postal Union; and

(b) in the case of an inland postal article, double the postage or double the deficiency as the case may be.

(3) An air mail packet on which either none or only part of the postage payable on it has been paid may be dealt with as if it were not an airmail packet.

(4) A postal article which is not properly stamped will not be delivered unless the surcharge is paid.

(5) The surcharge marked on the postal article by the postal administration (of the Territory or of another country) is evidence of the amount payable unless the contrary is proved.

### **13. Undelivered postal articles**

(1) A postal article not collected within three months from the posting or a notification of arrival may be returned to the sender or otherwise disposed of as the Postmaster thinks fit.

(2) A fee payable under this section is payable in cash in such manner as the Postmaster may direct.

### **14. Registration**

(1) The fees for registration are —

(a) inland - 75 pence; and

(b) overseas - £3.50.

(2) The maximum limit of compensation for the loss of a registered postal packet is —

(a) £20, where the overseas fee has been paid; and

(b) £10 otherwise.

### **15. Insurance**

(1) Insurance is available only in relation to letters and parcels addressed to an address in the United Kingdom and any other country for the time being notified by the Postmaster.

(2) Insurance charges are £3 and the maximum insured value is £300.

### **16. Parcels and customs declarations**

(1) Subsection (2) applies to parcels addressed to destinations outside the Territory.

(2) A parcel to which this subsection applies must have securely fixed to it an International Customs Declaration Form in a form approved by the Universal Postal Union (and obtainable from the postal authorities) which has been fully and properly completed by the sender.

### **17. Postal officer**

(1) The Commissioner may authorise one or more persons to perform the functions of postal officer for the Territory, and may confer any power necessary for the postal officer to do so.

(2) A person authorised to perform the functions of postal officer may perform those functions wherever necessary.

(3) A person who performs or purports to perform the functions of a postal officer when not authorised commits an offence.

#### **18. Duties and powers of a postal officer**

(1) The duties of a postal officer are —

- (a) to receive, frank and keep safe all postal articles;
- (b) to arrange for the onward transmission of all postal articles; and
- (c) to exercise any other duties as required by the Commissioner.

(2) A postal officer has the power of detention, examination, opening and disposal of postal articles as authorised by the Commissioner.

#### **19. Departing vessel to give notice**

(1) The captain of a vessel which is about to depart Cumberland Bay must give notice to a postal officer of the vessel's intended departure, not less than 12 hours before the intended departure time.

(2) The captain of the vessel must answer the questions of a postal officer about the ship and the ship's intended voyage if those questions are relevant to the carriage of mail.

#### **20. Duty to carry mail**

(1) A captain of a vessel must carry on the vessel any mail supplied by a postal officer.

(2) Any mail so supplied and carried on a ship must be kept dry and secure, and must be entered on the ship's customs manifest as soon as practicable.

#### **21. Refusal to receive or deliver mail**

A captain of a vessel commits an offence who —

- (a) refuses to receive mail from or on behalf of a postal officer or wilfully delays in the receipt of mail;
- (b) refuses, neglects or wilfully delays the delivery of the mail at the port of destination.

#### **22. Payment for carrying mail**

The postal officer who receives mail from a vessel's captain will, on demand, pay to the captain such sum as the Commissioner may determine.

### **23. Determination by the Commissioner**

(1) Where any matter is determined by the Commissioner under this Ordinance, the Commissioner may publish a notice of that determination in the Gazette.

(2) A person may not be convicted of an offence under this Ordinance in connection with a determination by the Commissioner if that determination had not been notified in the Gazette at the time of the alleged offence.

### **24. Offences**

(1) An offence under this Ordinance may only be tried summarily by the Magistrate's Court.

(2) A person convicted of an offence under this Ordinance is liable to a fine or to imprisonment for a term not exceeding two years or both a fine and such imprisonment.

(3) In subsection (2), "a fine" means a fine of such amount as the Magistrate's Court sees fit to impose having regard to the gravity and consequences of the offence, and the need to discourage others from committing like offences and the means and circumstances of the offender.

### **25. Postal article deemed to be property of Commissioner**

A postal article is deemed to be the property of the Commissioner for the purposes of laying an information in relation to it.

### **26. Repeal and revocation**

The Post Office Ordinance<sup>(a)</sup> is repealed in relation to the Territory, and all orders made under that Ordinance are revoked in relation to the Territory.

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<sup>(a)</sup> Cap.52, Laws of the Falkland Islands (1950 Edition), as it applies to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance (Cap. 1, Dependencies Series).

**SCHEDULE**

(section 6(2))

| <b><u>Airmail Rates</u></b> |                              | £     |
|-----------------------------|------------------------------|-------|
| Letters                     | First 20g                    | 0.70  |
|                             | each extra 10 g              | 0.25  |
| Small packets               | First 70 g                   | 1.15  |
|                             | each extra 10 g              | 0.14  |
| Postcard                    |                              | 0.60  |
| Aerogramme                  |                              | 0.60  |
| Illustrated<br>aerogramme   |                              | 0.70  |
| Registration Fee            |                              | 3.50  |
| <b><u>Surface rates</u></b> |                              | £     |
| Letters                     | First 20g                    | 0.45  |
|                             | up to 100 g                  | 0.90  |
|                             | each extra 50 g              | 0.35  |
| Small packets               | First 100 g                  | 0.80  |
|                             | each extra 50 g              | 0.25  |
| Postcard                    |                              | 0.35  |
| Parcels to UK               | First kg                     | 10.00 |
|                             | each extra kg<br>(max 30 kg) | 4.00  |

| <b><u>Inland Rates</u></b> |                 | £    |
|----------------------------|-----------------|------|
| Letter                     | First 20g       | 0.27 |
|                            | up to 100 g     | 0.42 |
|                            | each extra 50 g | 0.15 |
| Small packets              | First 70 g      | 0.23 |
|                            | each extra 50 g | 0.07 |
| Postcard                   |                 | 0.20 |
| Registration Fee           |                 | 0.75 |

Enacted this 25<sup>th</sup> day of August 2011.

N. R. Haywood C.V.O.,  
*Commissioner.*



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## SUBSIDIARY LEGISLATION

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### CUSTOMS

#### Customs (Fees) Regulations 2011

S. R. & O. No. 1 of 2011

*Made: ..... 25 August 2011*

*Published: ..... 9 September 2011*

*Coming into force: on publication*

I make these regulations under section 230 of the Customs Ordinance<sup>(a)</sup>.

### PART 1 INTRODUCTION

#### 1. Title

These regulations are the Customs (Fees) Regulations 2011.

#### 2. Commencement

These regulations come into force on publication in the *Gazette*.

#### 3. Interpretation

In these regulations —

“customs fees for a vessel” means either —

- (a) in the case of a yacht, the fee payable for it under regulation 4; or
- (b) in the case of a vessel other than a yacht, the fees payable for it under regulations 6 and 7;

“load line length” means, in relation to a vessel, the greater of —

- (a) 96% of the total length of its relevant waterline; and
- (b) the length on that waterline from the fore side of its stem to the axis of its rudder stock;

“normal working hours” means the period each day between 8am and 4.30pm;

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<sup>(a)</sup> Cap.16, Laws of the Falkland Islands (1950 Edition), as it applies to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance (Cap. 1, Dependencies Series).

“relevant waterline” means, in relation to a vessel, the waterline that is —

- (a) at 85% of the vessel’s least moulded depth (measured from the top of the keel); and
- (b) in the case of a vessel designed with a rake of keel, parallel to its design waterline;

“yacht” means a small sailing or motor vessel in relation to which both of the following conditions are satisfied —

- (a) it is used for pleasure cruises; and
- (b) its load line length is not more than 24 metres.

## **PART 2 FEE PAYABLE IN RESPECT OF YACHTS**

### **4. Fee payable in respect of yachts**

A fee of £10 is payable for the customs entry and clearance of a yacht.

## **PART 3 FEES PAYABLE IN RESPECT OF VESSELS OTHER THAN YACHTS**

### **5. Application of Part 3**

This Part applies only in relation to vessels that are not yachts.

### **6. Fees payable for customs entry and customs clearance**

- (1) If customs entry and customs clearance are undertaken in separate visits to the vessel, a fee of £35 is payable for each.
- (2) If customs entry and clearance are undertaken in a single visit to the vessel, only one fee of £35 is payable for both.

### **7. Fees for other services**

- (1) Fees are payable for other services provided by customs officers for purposes under the customs laws.
- (2) A fee is payable for each hour or part hour during which one or more customs officers are engaged providing the services (including time spent travelling, if the services are performed away from King Edward Point).
- (3) The rates at which fees are payable are —
  - (a) £25 for each hour (or part hour) during normal working hours; and
  - (b) £40 for each hour (or part hour) outside normal working hours.

(2) The minimum amount payable for each occasion when services are provided is £50.

#### **PART 4 PAYMENT OF FEES**

##### **8. Arrangements for payment of customs fees**

(1) The Commissioner (or a person acting on behalf of the Commissioner) may enter into arrangements with the owner or operator of a vessel for the payment of customs fees for that vessel.

(2) The fees must be paid in accordance with those arrangements.

##### **9. Payment of customs fees where no arrangement applies**

(1) This regulation applies in relation to vessels in respect of which no arrangement has been made under regulation 8(1).

(2) It also applies to a vessel to the extent that an arrangement made under regulation 8(1) does not apply.

(3) If this regulation applies, payment of the customs fees for the vessel may be demanded by a customs officer from whomever appears to be in charge of the vessel.

(4) Customs fees demanded under paragraph (3) must be paid —

(a) in cash; or

(b) by another method approved by (or on behalf of) the Commissioner.

(5) The customs fees may be paid in one of the following currencies —

(a) the currency of the United Kingdom;

(b) the currency of the Falkland Islands; or

(c) another currency, if it is a currency that has been approved by (or on behalf of) the Commissioner.

(6) If the customs fees are paid in another currency that has been approved under paragraph 5(c), the Commissioner (or a person acting on behalf of the Commissioner) may determine the equivalent amount payable in that currency.

##### **10. Recovery of unpaid customs fees**

Amounts due in respect of unpaid customs fees for a vessel may be recovered as a debt in a court of competent jurisdiction from either —

(a) the owner or operator of the vessel; or

(b) the person from whom they were demanded under regulation 9(3).

### **11. Application of proceeds**

Customs fees paid or recovered under this Part form part of the general revenues of the Territory.

## **PART 5 REVOCATION**

### **12. Customs Fees Regulations 1992 (and amending regulations) revoked**

The following regulations are revoked —

- (a) Customs Fees Regulations 1992 (S.R. & O. No 1 of 1992);
- (b) Customs (Fees) (Amendment) Regulations 1998 (S.R. & O. No 4 of 1998); and
- (c) Customs (Fees) (Amendment) Regulations 2003 (S.R. & O. No 1 of 2003).

Made 25<sup>th</sup> August 2011

N. R. Haywood C.V.O.,  
*Commissioner.*

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#### **EXPLANATORY NOTE** *(not part of the order)*

These regulations replace the Customs Fees Regulations 1992<sup>(a)</sup> to simplify the structure of fees for customs entry and clearance and for other services provided by customs officers.

Yachts are defined as small sailing or motor vessels, with a load line length of up to 24 m, that are used for pleasure cruises. Customs entry and clearance fees for yachts remains £10.

For vessels other than yachts, fee for customs entry and customs clearance will be £35. A single fee of £35 is charged if customs entry and customs clearance are undertaken during a single visit to the vessel.

If a customs officer is required for any purpose under the Customs laws an hourly fee will apply (with a minimum fee based on 2 hours). Higher fees apply outside normal working hours.

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<sup>(a)</sup> S. R. & O. No. 1 of 1992, as amended by S. R. & O. No. 4 of 1998 and S. R. & O. No. 1 of 2003.

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**SUBSIDIARY LEGISLATION**

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**HARBOURS**

**Harbours (Fees) Regulations 2011**

S. R. & O. No. 2 of 2011

*Made: ..... 25 August 2011*

*Published: ..... 9 September 2011*

*Coming into force: on publication*

I make these regulations under section 3 of the Harbours Ordinance<sup>(a)</sup>.

**PART 1  
INTRODUCTION**

**1. Title**

These regulations are the Harbours (Fees) Regulations 2011.

**2. Commencement**

These regulations come into force on publication in the *Gazette*.

**3. Interpretation**

In these regulations —

“authorised collector” means a person authorised by (or on behalf of) the Commissioner to collect harbour fees;

“harbour fees for a vessel” means either —

- (a) in the case of a yacht, the fee payable for it under regulation 4; or
- (b) in the case of a vessel other than a yacht, the fees payable for it under regulations 6, 7(1) and 8(1);

“load line length” means, in relation to a vessel, the greater of —

- (a) 96% of the total length of its relevant waterline; and
- (b) the length on that waterline from the fore side of its stem to the axis of its rudder stock;

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<sup>(a)</sup> Cap. 30, Laws of the Falkland Islands (1950 Edition), as it applies to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance (Cap. 1, Dependencies Series).

“relevant waterline” means, in relation to a vessel, the waterline that is —

- (a) at 85% of the vessel’s least moulded depth (measured from the top of the keel); and
- (b) in the case of a vessel designed with a rake of keel, parallel to its design waterline;

“yacht” means a small sailing or motor vessel in relation to which both of the following conditions are satisfied —

- (a) it is used for pleasure cruises; and
- (b) its load line length is not more than 24 metres.

## **PART 2 FEE PAYABLE IN RESPECT OF YACHTS**

### **4. Fee payable in respect of yachts**

A fee of £50 is payable in respect of every yacht on the first day of its stay in a harbour.

## **PART 3 FEES PAYABLE IN RESPECT OF VESSELS OTHER THAN YACHTS**

### **5. Application of Part 3**

This Part applies only in relation to vessels that are not yachts.

### **6. Fee payable on entering or leaving harbour**

A fee of £35 is payable in respect of every vessel entering or leaving harbour.

### **7. Initial fee**

(1) An initial fee (based on the net tonnage of the vessel and the number of passengers on board when it enters the harbour) is payable in respect of every vessel in relation to the first day of its stay in a harbour.

(2) The amount of the initial fee for a vessel carrying 12 passengers or fewer is the amount in column 2 of the table in the Schedule corresponding to the net tonnage of the vessel.

(3) The amount of the initial fee for a vessel carrying more than 12 passengers is the amount in column 3 of the table in the Schedule corresponding to the net tonnage of the vessel.

### **8. Daily fee**

(1) A daily fee (based on the initial fee payable under regulation 7) is payable in respect of every vessel for each day (or part of a day) during which it remains in a harbour after the first day of its stay in that harbour.

(2) The amount of the daily fee for a vessel is 50% of the initial fee payable under regulation 7 for that vessel.

#### **PART 4 PAYMENT OF FEES**

##### **9. Arrangements for payment of harbour fees**

(1) The Commissioner (or a person acting on behalf of the Commissioner) may enter into arrangements with the owner or operator of a vessel for the payment of harbour fees for that vessel.

(2) The fees must be paid in accordance with those arrangements.

##### **10. Payment of harbour fees where no arrangement applies**

(1) This regulation applies in relation to vessels in respect of which no arrangement has been made under regulation 9(1).

(2) It also applies to a vessel to the extent that an arrangement made under regulation 9(1) does not apply.

(3) If this regulation applies, payment of the harbour fees for the vessel may be demanded by an authorised collector from whomever appears to be in charge of the vessel.

(4) Harbour fees demanded under paragraph (3) must be paid —

(a) in cash; or

(b) by another method approved by (or on behalf of) the Commissioner.

(5) The harbour fees may be paid in one of the following currencies —

(a) the currency of the United Kingdom;

(b) the currency of the Falkland Islands; or

(c) another currency, if it is a currency that has been approved by (or on behalf of) the Commissioner.

(6) If the harbour fees are paid in another currency that has been approved under paragraph 5(c), the Commissioner (or a person acting on behalf of the Commissioner) may determine the equivalent amount payable in that currency.

##### **11. Recovery of unpaid harbour fees**

Amounts due in respect of unpaid harbour fees for a vessel may be recovered as a debt in a court of competent jurisdiction from either —

(a) the owner or operator of the vessel; or

(b) the person from whom they were demanded under regulation 10(3).

### 12. Application of proceeds

Harbour fees paid or recovered under this Part form part of the general revenues of the Territory.

## PART 5 REVOCATION

### 13. Harbours Fees Regulations 1994 (and amending regulations) revoked

The following regulations are revoked —

(a) Harbours Fees Regulations 1994 (S.R. & O. No 1 of 1994);

(b) Harbours Fees (Amendment) Regulations 1995 (S.R. & O. No 1 of 1995);

(c) Harbours (Fees) (Amendment) Regulations 1998 (S.R. & O. No 3 of 1998); and

(d) Harbours (Fees) (Amendment) Regulations 2003 (S.R. & O. No 3 of 2003).

## SCHEDULE TABLE OF INITIAL FEES

regulation 7

| Net tonnage                                    | Column 2<br>(12 or fewer<br>passengers) | Column 3<br>(More than 12<br>passengers) |
|--|---|--|
| Less than 100 tons                             | £220                                    | £440                                     |
| 100 tons or more<br>but less than 800 tons     | £310                                    | £620                                     |
| 800 tons or more<br>but less than 1,000 tons   | £390                                    | £780                                     |
| 1,000 tons or more<br>but less than 1,500 tons | £450                                    | £900                                     |
| 1,500 tons or more<br>but less than 2,000 tons | £550                                    | £1,100                                   |
| 2,000 tons or more<br>but less than 5,000 tons | £660                                    | £1,320                                   |



| Net tonnage                                      | Column 2<br>(12 or fewer<br>passengers) | Column 3<br>(More than 12<br>passengers) |
|--|---|--|
| 5,000 tons or more<br>but less than 7,000 tons   | £820                                    | £1,640                                   |
| 7,000 tons or more<br>but less than 10,000 tons  | £1,220                                  | £2,440                                   |
| 10,000 tons or more<br>but less than 15,000 tons | £1,490                                  | £2,980                                   |
| 15,000 tons or more<br>but less than 20,000 tons | £1,750                                  | £3,500                                   |
| 20,000 tons or more                              | £1,840                                  | £3,680                                   |

Made 25<sup>th</sup> August 2011

N. R. Haywood C.V.O.,  
*Commissioner.*

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EXPLANATORY NOTE  
*(not part of the order)*

These regulations replace the Harbours Fees Regulations 1994<sup>(a)</sup>.

Yachts are defined as small sailing or motor vessels, with a load line length up to 24 m, that are used for pleasure cruises.

The schedule of harbour fees is updated for the first time since 2003.

Fees for yachts that fall within the new definition remain the same but, for all other vessels, a sliding scale of harbour fees based on tonnage applies.

For vessels other than yachts entry and exit fees remain unchanged at £35. Vessels, other than yachts, must pay an initial fee in respect of the first day spent in harbour and a daily fee for each subsequent day spent in harbour.

A higher rate applies to vessels with more than 12 passengers on board at the time of entry into harbour.

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<sup>(a)</sup> S. R. & O. No. 1 of 1994, as amended by S. R. & O.No. 1 of 1995, S. R. & O. No. 3 of 1998 and S. R. & O. No. 3 of 2003.

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## SUBSIDIARY LEGISLATION

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### CURRENCY

#### Commemorative Coins (2007-2011) Order 2011

S. R. & O. No. 3 of 2011

*Made: ..... 25 August 2011*

*Published: ..... 9 September 2011*

*Coming into force: on publication*

IN EXERCISE of my powers under section 5(3) of the Currency Ordinance 2000<sup>(a)</sup> and of all other powers enabling me, I make the following Order—

#### 1. Title

This Order is the Commemorative Coins (2007-2011) Order 2011.

#### 2. Commencement

This Order comes into force when it is published in the *Gazette*.

#### 3. Interpretation

In this Order, “new commemorative coins” means the coins described and specified in Part 1 of the Schedule.

#### 4. New commemorative coins

(1) The minting and issue of the new commemorative coins are authorised.

(2) Paragraph (3) applies to new commemorative coins that were minted or issued before this Order comes into force.

(3) The minting and issue of the new commemorative coins to which this paragraph applies are to be treated as if they had been authorised at the time.

#### 5. Specifications

Part 2 of the Schedule specifies —

(a) the denomination, fineness, weight, diameter, quality, shape, edge and number of the new commemorative coins;

(b) the tolerance or remedy which may be permitted in respect of variations from their standard weight, diameter and fineness; and

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<sup>(a)</sup> No.3 of 2000, as amended by the Currency (Amendment) Ordinance (No.1 of 2001).

(c) the design of their obverse and reverse.

#### **6. Deemed denomination of Crown coins and their value as legal tender**

(1) Part 2 of the Schedule also specifies the deemed denominations of the new commemorative coins.

(2) Those coins are legal tender in the Territory in the amount of their deemed denominations.

### **SCHEDULE**

articles 3, 5 and 6(1)

#### **Part 1 Description of the coins**

##### **1. Year of Minting 2007**

##### **Diamond Wedding**

- i. First design depicts image of Prince Philip. The wording 'DIAMOND WEDDING OF HER MAJESTY QUEEN ELIZABETH II & H.R.H PRINCE PHILIP' appears in the surround of the coin and the denomination appears at the foot of the design with the wording 'THE BRIDEGROOM' above. A diamond appears at the very foot.
- ii. Second design depicts an image of Princess Elizabeth. The wording 'DIAMOND WEDDING OF HER MAJESTY QUEEN ELIZABETH II & H.R.H PRINCE PHILIP' appears in the surround of the coin and the denomination appears at the foot of the design with the wording 'THE BRIDE' above. A diamond appears at the very foot.
- iii. Third design depicts an image of Princess Elizabeth & Prince Philip. The wording 'DIAMOND WEDDING OF HER MAJESTY QUEEN ELIZABETH II & H.R.H PRINCE PHILIP' appears in the surround of the coin and the denomination appears at the foot of the design with the wording 'THE ROYAL ENGAGEMENT' and 'JULY.10.1947'. A diamond appears at the very foot.
- iv. Fourth design depicts part of the Marriage Licence against a jubilant crowd scene. The wording 'DIAMOND WEDDING OF HER MAJESTY QUEEN ELIZABETH II & H.R.H PRINCE PHILIP' appears in the surround of the coin and the denomination appears at the foot of the design with the wording 'THE MARRIAGE LICENCE' above. A diamond appears at the very foot.

The design of the obverse of these four coins consists of conjoined portraits of H.M. Queen Elizabeth II and H.R.H. Prince Phillip surrounded by the inscription 'SOUTH GEORGIA & THE SOUTH SANDWICH ISLANDS' and the wording '2007'.

### Year of Minting 2008

#### **a) Oldest Reigning British Monarch**

The design consists of the four existing coin effigies of Her Majesty Queen Elizabeth II. The effigies are layered in date order starting with a full profile of the current Ian Rank-Broadley effigy (1998 – present) and with the earlier effigies layered behind: Raphael Maklouf effigy (1985 – 1997), Arnold Machin effigy (1968 – 1984) and Mary Gillick effigy (1953 – 1967).

The wording ‘OLDEST REIGNING BRITISH MONARCH’ appears in the surround, whilst the denomination appears at the bottom.

The obverse of this coin consists of the uncoupled portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription “SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2008”

#### **b) 90<sup>th</sup> Anniversary of the RAF**

The design depicts an image of an RAF Hercules dropping supplies over an area of South Georgia. The wording ‘90<sup>th</sup> ANNIVERSARY OF THE RAF’ appears in the surround and the denomination appears in the centre above the aircraft.

The obverse of this coin consists of the uncoupled portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription “SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2008”

### Year of Minting 2009

#### **a) The Nimrod Expedition**

The design depicts Ernest Shackleton, Jameson Adams and Frank Wild at their farthest point south with ‘THE NIMROD’ behind them and the Union Flag to the right. The wording in the surround is ‘THE NIMROD EXPEDITION 1907 – 1909’ with the denomination to the right of the vessel.

The obverse of this coin consists of the uncoupled portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription “SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2009”

### Year of Minting 2010

#### **a) Centenary of the Race to the South Pole 2010**

The design features a scene from the inside of an Antarctic grotto. Two explorers stand at the mouth of the grotto and look out to the ‘Terra Nova’. The wording ‘CENTENARY OF THE RACE TO THE SOUTH POLE’ appears in the surround with the denomination at the bottom.

The obverse of this coin consists of the uncoupled portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2010"

### Year of Minting 2011

#### a) **Lifetime of Service**

The design shows Princess Elizabeth and Prince Philip based on a photograph from their honeymoon. They are positioned above a large diamond from which rays of light are emanating. The denomination appears directly under the diamond. The wording 'QUEEN ELIZABETH II & PRINCE PHILIP' appears in the surround on the top and the wording 'A LIFETIME PARTNERSHIP' in the surround at the bottom.

The obverse of this coin consists of the uncoupled portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2011"

#### b) **Royal Wedding**

The Design features the Coat of Arms of H.R.H. Prince William of Wales. The wording 'PRINCE WILLIAM & CATHERINE MIDDLETON WEDDING – 29 APRIL 2011' appears in the surround with the denomination at the bottom.

The obverse of this coin consists of the uncoupled portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2011"

### **Part 2** **Specification, authorised quantity and authorised mint of coins**

| Type                   | Gold proof | Gold proof | Gold proof | Silver proof with crystal | Silver proof | Cupro Nickel (see note 2) |
|------------------------|------------|------------|------------|---------------------------|--------------|---------------------------|
| Denomination           | £20        | £4         | £2         | £2                        | £2           | £2                        |
| Weight (grams)         | 6.22       | 1.24       | 0.05       | 23.45                     | 28.28        | 28.28                     |
| Diameter (millimetres) | 22.0       | 13.92      | 11         | 38.60                     | 38.60        | 38.60                     |
| Fineness               | 0.999      | 0.999      | 0.999      | 925                       | 925          | 75% Cu<br>25% Ni          |
| Quality                | Proof      | Proof      | Proof      | Proof                     | Proof        | Uncirculated              |
| Shape                  | Round      | Round      | Round      | Round                     | Round        | Round                     |
| Edge                   | Milled     | Milled     | Milled     | Milled                    | Milled       | Milled                    |
| Quantity               | 2,000      | 5,000      | 10,000     | 5,000                     | 10,000       | Unlimited                 |
|                        |            |            |            |                           | (see note 1) |                           |

#### Footnotes:

1. In the case of the Lifetime of Service issue (2011) the quantity authorised to be minted of the £2 silver proof coin is 19,500.

2. Cupro nickel coins may be silver or gold plated.

Authorised mint: Pobjoy Mint Limited

Remedy Variations to be allowed to extent permitted by Pobjoy Mint Ltd

Made this 25<sup>th</sup> day of August 2011

N. R. Haywood C.V.O.,  
*Commissioner.*

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**SUBSIDIARY LEGISLATION**

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**HARBOURS**

**Harbours (Fees)(Amendment) Regulations 2011**

S. R. & O. No. 4 of 2011

*Made: ..... 9 September 2011*

*Published: ..... 9 September 2011*

*Coming into force: on publication*

I make these regulations under section 3 of the Harbours Ordinance<sup>(a)</sup>.

**1. Title**

These regulations are the Harbours (Fees)(Amendment) Regulations 2011.

**2. Commencement**

These regulations come into force on publication in the *Gazette*.

**3. Harbour (Fees) Regulations 2011 amended**

Regulation 6 of the Harbours (Fees) Regulations 2011 (SR&O No 2 of 2011) is revoked.

Made 9<sup>th</sup> September 2011

R. P. Nye,  
*Acting Commissioner.*

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**EXPLANATORY NOTE**

*(not part of the order)*

These regulations amend the Harbours (Fees) Regulations 2011 (SR&O No 2 of 2011) to revoke the entry and exit fee of £35 which applied to vessels other than yachts.

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<sup>(a)</sup> Cap. 30, Laws of the Falkland Islands (1950 Edition), as it applies to South Georgia and the South Sandwich Islands under the Application of Colony Laws Ordinance (Cap. 1, Dependencies Series).

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# **SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*7 May 2013*

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The following is published in this Gazette –

**Criminal Justice Ordinance 2013 (No 1 of 2013).**

**ELIZABETH II**



Territories of South Georgia  
and the South Sandwich Islands

SANDRA TYLER-HAYWOOD  
*Acting Commissioner.*

**CRIMINAL JUSTICE ORDINANCE 2013**

(No: 1 of 2013)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Powers of Police Officers

**ELIZABETH II**



Territories of South Georgia  
and the South Sandwich Islands

SANDRA TYLER-HAYWOOD  
*Acting Commissioner.*

**CRIMINAL JUSTICE ORDINANCE 2013**

(No: 1 of 2013)

*(assented to: 7 May 2013)*  
*(published: 7 May 2013)*  
*(commencement: on publication)*

**AN ORDINANCE**

To make provision in relation to police powers.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands —

**1. Title**

This Ordinance is the Criminal Justice Ordinance 2013.

**2. Commencement**

This Ordinance comes into force when it is published in the *Gazette*.

**3. Powers of Police Officers**

A police officer enrolled in the Territory's police force has the same powers in relation to the exercise of their duties in the Territory as a police officer in the Falkland Islands has in relation to the exercise of their duties in the Falkland Islands.

Enacted 7<sup>th</sup> May 2013

S. Tyler-Haywood,  
*Acting Commissioner.*

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# **SOUTH GEORGIA AND SOUTH SANDWICH ISLANDS GAZETTE**

**PUBLISHED BY AUTHORITY**

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*No. 1*

*25 July 2014*

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The following are published in this Gazette –

**Notices 1 to 7;**

**Supplementary Appropriation (2013) Ordinance 2014 (No 1 of 2014);**

**Appropriation (2014) Ordinance 2014 (No 2 of 2014); and**

**Commemorative Coins (2013) Order 2014 (SR&O No 1 of 2014).**

## NOTICES

No. 1

6 March 2014

### **United Kingdom Statutory Instruments**

Notice is hereby given that the following United Kingdom Statutory Instruments have been published in the United Kingdom by The Stationery Office Limited and are available to view at [www.legislation.gov.uk](http://www.legislation.gov.uk):

2013 No 2598 – The Syria (Restrictive Measures) (Overseas Territories) (Amendment) (No 2) Order 2013;

2013 No 2599 – The Democratic People's Republic of Korea (Sanctions) (Overseas Territories) (Amendment) (No 2) Order 2013; and

2014 No 497 – The Ukraine (Sanctions) (Overseas Territories) Order 2014.

Dated 6 March 2014

B. I. STEEN,  
*for Attorney General.*

No. 2

10 April 2014

### **South Georgia and South Sandwich Islands Order 1985 section 7**

#### **Appointment of Attorney General**

1. Section 7 of the South Georgia and South Sandwich Islands Order 1985 permits the Commissioner to constitute offices for the Territory.

2. In the exercise of my powers under section 7 of the South Georgia and South Sandwich Islands Order, and given the office of Attorney General for South Georgia and the South Sandwich Islands has been so constituted, I appoint **CHARLES PETER JUDGE** to be Attorney General for South Georgia and South Sandwich Islands.

3. This appointment has effect from 24 March 2014, and continues in effect until the completion of Charles Peter Judge's contract of employment with the Falkland Islands Government.

Dated 10 April 2014

J. S. DUNCAN O.B.E.,  
*Acting Commissioner.*

No. 3

11 July 2014

### **Public Holidays 2015**

The Commissioner has declared that the following will be Public Holidays for South Georgia and the South Sandwich Islands during 2015:

|             |  |
|-------------|--|
| 1 January   | New Year's Day                         |
| 19 January  | Possession Day (in lieu of 17 January) |
| 3 April     | Good Friday                            |
| 6 April     | Easter Monday                          |
| 27 April    | Liberation Day (in lieu of 26 April)   |
| 20 May      | Shackleton Day                         |
| 22 June     | Midwinter's Day (in lieu of 21 June)   |
| 4 September | Toothfish Day                          |
| 25 December | Christmas Day                          |
| 28 December | Boxing Day (in lieu of 26 December)    |

Dated 11 July 2014

C. ROBERTS C.V.O.,  
*Commissioner.*

No. 4

11 July 2014

### **Visitors Ordinance 1992**

#### *section 3*

#### **Notification of amount of passenger landing fee**

Section 3(1) of the Visitors Ordinance (No 2 of 1992), as amended by the Visitors (Amendment) Ordinance 2005 (No 1 of 2005), provides that a passenger landing fee must be paid for every visitor to South Georgia and the South Sandwich Islands and states that the amount of the fee is to be prescribed by the Commissioner and published in the Gazette.

The following passenger landing fees, in the currency of the United Kingdom, must be paid:

(a) for a short visit (one lasting less than 72 hours), the amount of the passenger landing fee is £120.

(b) for an extended visit (one lasting 72 hours or more), the amount of the passenger landing fee is £120 plus £20 per additional day to a maximum of £200.

(c) the maximum extended visit passenger landing fee (£200) is valid for one calendar month from the start of the visit. If the visitor remains in the Territory, a further passenger landing fee must be paid as if a new visit had started when the previous fee expired.

These apply from 1 July 2014.

Dated 11 July 2014

C. ROBERTS C.V.O.,  
*Commissioner.*

No.5

11 July 2014

**Fisheries (Conservation and Management) Ordinance 2000**  
*section 4*

**Appointment of Fisheries Protection Officers**

1. In exercise of my powers under section 4(4) of the Fisheries (Conservation and Management) Ordinance 2000, the following persons are appointed as Fisheries Protection Officers:

Andrew Miller  
Alan Henry  
Simon Browning  
Andrew Black  
Christopher Peck  
Katherine Ross  
Stueart Barlow  
Dominik Muller-Tolk

2. The appointments have effect from 1 July 2013, and continue in effect respectively whilst:

(a) Andrew Miller, Alan Henry or Christopher Peck is employed by the Falkland Islands Government as a Fishery Protection Officer and agreement between the Falkland Islands Government and the Government of South Georgia and the South Sandwich Islands for the provision of Fishery Protection Officers continues;

(b) Simon Browning, Andrew Black or Katherine Ross is employed by the Government of South Georgia and South Sandwich Islands;

(c) Stueart Barlow or Dominik Muller-Tolk is employed as an officer of the watch on a South Georgia and South Sandwich Islands Fishery Patrol Vessel.

unless terminated sooner.

Dated 11 July 2014

C. ROBERTS C.V.O.,  
*Commissioner.*

No. 6

11 July 2014

**South Georgia and South Sandwich Islands Order 1985**  
*section 7*

**Appointment of Acting Registrar General**

1. The office of Registrar General for South Georgia and the South Sandwich Islands was constituted under section 7 of the South Georgia and South Sandwich Islands Order 1985 (SI 1985/449). Section 7 empowers the Commissioner to make appointments to any office so constituted.

2. In exercise of my powers under section 7 for the purpose of registration under the laws of South Georgia and

the South Sandwich Islands, including but not limited to: Land Ordinance, Marriage Ordinance, Registrations Ordinance, and Registration of United Kingdom Patents Ordinance, and any other duties that may be required in the role of Registrar General, I appoint **Charles Peter Judge** to be Acting Registrar General whenever the substantive holder of the post of Registrar General Elizabeth Jayne Dent is unavailable to discharge those duties through absence from the Falkland Islands or inability to perform the functions and duties of the post.

3. This appointment has effect from the date given below, and continues in effect whilst Charles Peter Judge holds office as Attorney General for the Falkland Islands, unless terminated sooner.

Dated 11 July 2014

C. ROBERTS C.V.O.,  
*Commissioner.*

No. 7

25 July 2014

**Administration of Justice Ordinance (Cap 3)**  
*sections 3 and 29*

**Appointment of Senior Magistrate**

1. Section 3 of the Administration of Justice Ordinance 1949 (Cap 3) in its application to South Georgia and South Sandwich Islands provides that the Commissioner may appoint such magistrates as he may deem necessary.

2. In exercise of my powers under section 3, I appoint **Clare Faulds** to be Senior Magistrate for South Georgia and South Sandwich Islands. In accordance with section 29 every magistrate shall be the coroner of the district specified.

3. This appointment has effect from the date below, and continues in effect whilst Clare Faulds holds office as Senior Magistrate of the Falkland Islands, unless terminated sooner.

Dated 25 July 2014

C. ROBERTS C.V.O.,  
*Commissioner.*

**ELIZABETH II**



Territories of South Georgia  
and the South Sandwich Islands

COLIN ROBERTS C.V.O.,  
*Commissioner.*

**Supplementary Appropriation (2013) Ordinance 2014**

(No: 1 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Retrospective supplementary appropriation of £409,065 for 2013



# ELIZABETH II



Territories of South Georgia  
and the South Sandwich Islands

COLIN ROBERTS C.V.O.,  
*Commissioner.*

## SUPPLEMENTARY APPROPRIATION (2013) ORDINANCE 2014

(No: 1 of 2014)

*(enacted: 11 July 2014)*  
*(published: 25 July 2014)*  
*(commencement: on publication)*

### AN ORDINANCE

To retrospectively authorise further withdrawals from South Georgia and South Sandwich Islands funds of money for use during 2013.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands —

#### **1. Title**

This Ordinance is the Supplementary Appropriation (2013) Ordinance 2014.

#### **2. Commencement**

This Ordinance comes into force on publication in the *Gazette*.

#### **3. Retrospective supplementary appropriation of £409,065 for 2013**

(1) Subsection (2) applies to the withdrawals totalling £6,306,345 made from South Georgia and the South Sandwich Islands funds during 2013, as set out in the Schedule.

(2) To the extent that the withdrawals to which this subsection applies were not authorised by the Appropriation (2013) Ordinance (No 3 of 2013), they are deemed to have been made lawfully.

**SCHEDULE**

(section 3(1))

| <b>Purpose</b>      | <b>Amount (£)</b> |
|---------------------|-------------------|
| Personal Emoluments | 510,440           |
| Other charges       | 4,850,905         |
| Special expenditure | 945,000           |
| <b>TOTAL</b>        | <b>6,306,345</b>  |

Enacted 11<sup>th</sup> July 2014

C. Roberts C.V.O.,  
*Commissioner.*

**ELIZABETH II**



Territories of South Georgia  
and the South Sandwich Islands

COLIN ROBERTS C.V.O.,  
*Commissioner.*

**Appropriation (2014) Ordinance 2014**

(No: 2 of 2014)

ARRANGEMENT OF PROVISIONS

Section

1. Title
2. Commencement
3. Appropriation of £5,751,850 for 2014
4. Retrospective authority for pre-commencement withdrawals

Schedule

**ELIZABETH II**



**Territories of South Georgia  
and the South Sandwich Islands**

**COLIN ROBERTS C.V.O.,**  
*Commissioner.*

**APPROPRIATION (2014) ORDINANCE 2014**

(No: 2 of 2014)

*(enacted: 11 July 2014)*  
*(published: 25 July 2014)*  
*(commencement: on publication)*

**AN ORDINANCE**

To authorise withdrawals from South Georgia and South Sandwich Islands funds of money for use during 2014; and for connected purposes.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands —

**1. Title**

This Ordinance is the Appropriation (2014) Ordinance 2014.

**2. Commencement**

This Ordinance comes into force on publication in the *Gazette*.

**3. Appropriation of £5,751,850 for 2014**

(1) The Financial Secretary may withdraw sums of up to £5,751,850 in total from South Georgia and South Sandwich Island funds for use during 2014.

(2) Sums withdrawn under subsection (1) may be applied during 2014 in accordance with the Schedule.

**4. Retrospective authority for pre-commencement withdrawals**

(1) Subsection (2) applies to a withdrawal if—

- (a) it would have been authorised by section 3; but
- (b) it was made before this Ordinance comes into force.

(2) A withdrawal to which this subsection applies is to be treated as having been made lawfully.

**SCHEDULE**

(section 3(2))

| <b>Purpose</b>      | <b>Amount (£)</b> |
|---------------------|-------------------|
| Personal Emoluments | 469,420           |
| Other charges       | 4,928,680         |
| Special expenditure | 353,750           |
| <b>TOTAL</b>        | <b>5,751,850</b>  |

Enacted 11<sup>th</sup> July 2014

C. Roberts C.V.O.,  
*Commissioner.*

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## SUBSIDIARY LEGISLATION

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### CURRENCY

#### Commemorative Coins (2013) Order 2014

S. R. & O. No: 1 of 2014

*Made: ..... 11 July 2014*

*Published: ..... 25 July 2014*

*Coming into force: on publication*

IN EXERCISE of my powers under section 5(3) of the Currency Ordinance 2000<sup>(a)</sup> and of all other powers enabling me, I make the following Order —

#### **1. Title**

This Order is the Commemorative Coins (2013) Order 2014.

#### **2. Commencement**

This Order comes into force on publication in the *Gazette*.

#### **3. Interpretation**

In this Order, “new commemorative coins” means the coins described and specified in Part 1 of the Schedule.

#### **4. New commemorative coins**

(1) The minting and issue of the new commemorative coins are authorised.

(2) Paragraph (3) applies to new commemorative coins that were minted or issued before this Order comes into force.

(3) The minting and issue of the new commemorative coins to which this paragraph applies are to be treated as if they had been authorised at the time.

#### **5. Specifications**

Part 2 of the Schedule specifies —

(a) the denomination, fineness, weight, diameter, quality, shape, edge and number of the new commemorative coins;

(b) the tolerance or remedy which may be permitted in respect of variations from their standard weight, diameter and fineness; and

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<sup>(a)</sup> No 3 of 2000, as amended by the Currency (Amendment) Ordinance (No 1 of 2001)

(c) the design of their obverse and reverse.

#### **6. Deemed denomination of Crown coins and their value as legal tender**

(1) Part 2 of the Schedule also specifies the deemed denominations of the new commemorative coins.

(2) Those coins are legal tender in the Territory in the amount of their deemed denominations.

### **SCHEDULE**

articles 3, 5 and 6(1)

#### **Part 1**

#### **Description of the coins**

##### **Year of Minting 2013**

##### **a) Weddell Seal**

Design features a close up of a Weddell seal pup. The denomination appears on the base of the coin.

The obverse of this coin consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2013".

##### **b) Lifetime of Service**

Design features a Coronation image of Her Majesty above a Diamond with reflections running through. The wording 'HER MAJESTY QUEEN ELIZABETH II' appears in the surround at the top and 'CORONATION' in the surround at the base. The denomination appears directly under the Diamond.

The obverse of this coin consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2013".

##### **c) The Duke and Duchess of Cambridge**

Design features an image of the Balcony Kiss between the Duke and Duchess of Cambridge following their wedding on 29th April 2011. Wording 'T.R.H. THE DUKE & DUCHESS OF CAMBRIDGE' appears in the surround with the value at the base.

The obverse of this coin consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2013".

##### **d) Centenary of Grytviken Church**

Design features an image of the church at Grytviken. The denomination appears at the base of the coin under the wording 'CENTENARY OF GRYTVIKEN CHURCH'.

The obverse of this coin consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2013".

**e) Blue Whale**

Design features a Blue Whale and Calf. The denomination appears at the base of the coin.

The obverse of this coin consists of the uncouped portrait of Her Majesty Queen Elizabeth II by Ian Rank-Broadley surrounded by the inscription "SOUTH GEORGIA AND THE SOUTH SANDWICH ISLANDS 2013".

**Part 2**  
**Specification, authorised quantity and authorised mint of coins**

| Type                   | Gold proof | Gold proof | Gold proof | Titanium | Silver proof | Silver proof | Cupro Nickel (see note 1) |
|------------------------|------------|------------|------------|----------|--------------|--------------|---------------------------|
| Denomination           | £20        | £4         | £2         | £2       | £1           | £2           | £2                        |
| Weight (grams)         | 6.22       | 1.24       | 0.05       | 10.00    | 12.00        | 28.28        | 28.28                     |
| Diameter (millimetres) | 22.0       | 13.92      | 11         | 36.10    | 38.60        | 38.60        | 38.60                     |
| Fineness               | 0.999      | 0.999      | 0.999      | 910      | 999          | 925          | 75% Cu<br>25% Ni          |
| Quality                | Proof      | Proof      | Proof      | Proof    | Proof        | Proof        | Uncirculated              |
| Shape                  | Round      | Round      | Round      | Round    | Round        | Round        | Round                     |
| Edge                   | Milled     | Milled     | Milled     | Milled   | Milled       | Milled       | Milled                    |
| Quantity               | 2,000      | 5,000      | 10,000     | 7,500    | 10,000       | 10,000       | Unlimited                 |

Footnotes:

1. Cupro nickel coins may be silver or gold plated.

Authorised mint: Pobjoy Mint Limited.

Remedy Variations to be allowed to extent permitted by Pobjoy Mint Ltd.

Made 11<sup>th</sup> July 2014

C. Roberts C.V.O.,  
*Commissioner.*

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