

THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

No. 1.

28th JANUARY 1987

No. 1

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 28th January 1987, was in fact published on 12th June 1987.

No. 2.

D. G. LANG, Attorney General.

Appointments

Robin William Simpson Bell, Police Constable, Falkland Islands Police Force, 7.1.87.

Miss Nicola Buckett, Clerk, Public Service, 23.1.87. Mrs. Margaret Elizabeth Cheesman, Nursing Sister, Medical Department, 23.1.87.

Confirmation of Appointment

Andrew Samuel Brownlee, Assistant Secretary, Secretariat, 1.12.85.

Promotion

Miss Alison Mary Harrod from Clerk, Justice Department to Legal Assistant, Justice Department, 17.1.87.

Completion of Contract

Mrs. Eileen Wynne Davies *nee* Evans, Teacher, Education Department, 17.12.86.

Peter Donald Naylor, Teacher, Education Department, 16.1.87.

Determination of Contract

Simon John Pickhaver, Teacher, Education Department, 17.1.87.

NOTICES

30th December 1986.

In accordance with Section 80 (1) of the Constitution His Excellency The Governor has appointed Gerard Carmel Byrne to act as a Judge of the Supreme Court in the matter of Regina v. Neil McKay.

12th January 1987. School Terms 1987

Stanley Schools and recognised Camp Schools

1st Term - 5th February to 20th May (to include a holiday of one week to coincide with Camp Sports Week)

2nd Term - 4th June to 2nd September

3rd Term - 24th September to 16th December -

Provided that the number of days worked is not less than that specified above, term dates for recognised Camp Schools may be modified to meet the convenience of farms.

Public Holidays

These apply to Stanley Schools, recognised Camp Schools and Classes held by Travelling Teachers —

Good Friday	17th April
Her Majesty The Queen's Birthday	21st April
Liberation Day	15th June
Spring Holiday	5th October
Battle Day	8th December.

Holidays for Itinerant Assistant Teachers

Tuition shall take place except during Public Holidays and the following periods —

19th December 1986 - 8th January 1987 Camp Sports Week.

Three additional days (to be taken by arrangement with the Chief Education Officer)

18th December 1987 - 7th January 1988,

Ref. LEG/19/5.

No. 3

In accordance with Section 29 (2) of the Administration of Justice Ordinance (Cap. 3) His Excellency The Governor has appointed -

ROSEMARY McILROY

to be a Deputy Coroner for a period of one month from the 5th day of January 1987 and -

GERARD CARMEL BYRNE

to be a Deputy Coroner for a period of six months from the 12th day of January 1987.

Ref. LEG/19/3.

No. 4 12th January 1987.

In accordance with Section 21 (1) of the Legislative Council (Elections) Ordinance (Cap. 37) I hereby appoint -

OWEN HORACE McPHEE

to be Presiding Officer and -

LINDA MARGARET LYSE &

CANDY JOY BLACKLEY

to be Deputy Presiding Officers at the polling station, Stanley Constituency, for the poll to be held on the 20th day of January 1987.

Dated this 12th day of January 1987.

G. W. JEWKES, Governor.

Ref. LEGCO/20/10.

No. 5

No. 6

13th January 1987.

BY - ELECTION

STANLEY CONSTITUENCY 1987

In accordance with Section 22 of the Legislative Council (Elections) Ordinance (Cap. 37) His Excellency The Governor has approved the following hours of polling in the Stanley Constituency -

9 am. to 6 pm.

G. W. JEWKES, Governor.

Ref. LEGCO/20/10.

13th January 1987.

The Legislative Council (Elections) Ordinance (Cap. 37) and the Constitutional (Qualification, Nomination and Election of Candidates) Regulations 1985.

NOTICE OF ELECTION

In accordance with Section 19 of the Legislative Council (Elections) Ordinance (Cap. 37) I give notice that a poll will be taken on Tuesday, 20th January 1987, at the Town Hall, Stanley, for the election of a member to Legislative Council for Stanley Constituency.

The Candidates for election are as follows -

- Candidate : Harold BENNETT Laurence Jonathan Butler Proposer : Seconder : Vernon Thomas King Supporters : Orlanda Betty Butler Derek Smith Celia Joyce Turner Robert Stewart William Henry Goss **Richard William Hills** Heather Hills Candidate : Terence Severine BETTS
- Proposer : Jeannette May Macaskill

Seconder : Robert Ernest Peart

Supporters : Fraser Barrett Wallace Barry Marwood Neilson Julia Thain Bernard Peck Susan Whitney Charles Ronald Buckland Leslie Frederick Biggs

- Candidate : Catherine Anne ROWLANDS Proposer : Nicola Luxton
- Seconder : John Smith

Supporters : Ileen Smith Freda Alazia Ellen Larsen Joan Eliza Middleton Evelyn Edna Halliday Gladys Robson Hilary Maud Pauloni.

> D. G. P. TAYLOR, Chief Executive.

> > Ref. LEGCO/20/10.

No. 7

22nd January 1987.

In accordance with Section 80 (1) of the Constitution, David George Pendleton Taylor, Acting Governor, has appointed Gerard Carmel Byrne to act as Judge of the Supreme Court in the matter of F.I.D.C. v. Clanwood (Falklands) Ltd.

Ref. LEG/19/5.

No. 8

23rd January 1987.

The findings of the Cost of Living Committee for the guarter ended 31st December 1986 are published for general information -

Quarter Ended Percentage Increase over 1971 Prices 31st December 1986 457.17%

Hourly paid employees in Stanley qualify for an increase of 2p per hour with effect from 1st January 1987.

BY THE QUEEN A PROCLAMATION

DETERMINING THE SPECIFICATIONS AND DESIGN FOR, AND GIVING

CURRENCY TO, ONE POUND COINS IN THE FALKLAND ISLANDS

ELIZABETH R.

We, in exercise of the powers conferred by section 11 of the Coinage Act 1870, section 2 (3) of the Decimal Currency Act 1967, and all other powers enabling Us in that behalf, do hereby, by and with the advice of Our Privy Council, proclaim, direct and ordain as follows —

1. This Proclamation shall be published in the Official Gazette of the Falkland Islands and shall come into force there on the date of such publication.

2. (1) A new coin of mixed metal of the denomination of one pound shall be made, being a coin of a standard weight of 9.5 grammes, a standard diameter of 22.5 millimetres, a standard composition of seventy per centum copper, five and one half per centum nickel and twenty-four and one half per centum zinc and being circular in shape.

(2) In the making of the said mixed metal coin a remedy (that is, a variation from the standard weight, diameter or composition specified above) shall be allowed of an amount not exceeding the following, that is to say —

(a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.05 grammes;

(b) a variation from the said standard diameter of 0.1 millimetres per coin; and

(c) a variation from the said standard composition of two per centum copper, three quarters per centum nickel and two per centum zinc.

3. (1) A new coin of silver of the denomination of one pound shall be made, being a coin of a standard weight of 9.5 grammes, a standard diameter of 22.5 millimetres and a standard composition of thirty-seven fortieths fine silver and three fortieths alloy; or millesimal fineness 925, and being circular in shape

(2) In the making of the said silver coin a remedy (that is, a variation from the standard weight, diameter or composition specified above) shall be allowed of an amount not exceeding the following, that is to say —

(a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.05 grammes;

(b) a variation from the said standard diameter of 0.1 millimetres per coin; and

(c) a variation from the said standard composition of five per mille.

4. (1) A new coin of the denomination of one pound shall be made, being a coin of a standard weight of 19 grammes, a standard diameter of 22.5 millimetres and a standard composition of thirty-seven fortieths fine silver and three fortieths alloy; or millesimal fineness 925, and being circular in shape.

(2) In the making of the said silver coin a remedy (that is, a variation from the standard weight, diameter or composition specified above) shall be allowed of an amount not exceeding the following, that is to say —

(a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.1 grammes;

(b) a variation from the said standard diameter of 0.1 millimetres per coin; and

(c) a variation from the said standard composition of five per mille.

5. (1) A new coin of gold of the denomination of one pound shall be made, being a coin of a standard weight of 19.65 grammes, a standard diameter of 22.5 millimetres and a standard composition of eleven twelfths fine gold and one twelfth alloy; or millesimal fineness 916.66 and being circular in shape.

(2) In the making of the said gold coin a remedy (that is, a variation from the standard weight, diameter or composition specified above) shall be allowed of an amount not exceeding the following, that is to say --

(a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.12 grammes; and

(b) a variation from the said standard diameter of 0.1 millimetres per coin; and

(c) a variation from the said standard composition of two per mille.

6. The design for each coin shall be as follows --

(a) For the obverse impression Our effigy with the inscription "QUEEN ELIZABETH THE SECOND".

(b) For the reverse impression the Ensigns Armorial of Our Colony of the Falkland Islands, encircled by the words "FALKLAND ISLANDS" and the date of the year and the words "ONE POUND".

(c) The coins shall have a graining upon the edge and in incuse letters the inscription " DESIRE THE RIGHT ".

7. The said coins shall be current within Our Colony of the Falkland Islands.

Given at Our Court at Buckingham Palace, this sixteenth day of December in the year of our Lord One thousand nine hundred and eighty-six and in the thirty-fifth year of Our Reign.

GOD SAVE THE QUEEN



THE FALKLAND ISLANDS GAZETTE (Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCVI

30th JANUARY 1987

No. 2

5

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 30th January 1987, was in fact published on 12th June 1987. D. G. LANG,

Attorney General.

NOTICE

The following is published in this Gazette --

The Fisheries (Conservation and Management) Ordinance (No. 2) Commencement Order 1987 (No. 1 of 1987).

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Conservation and Management) Ordinance (No. 2) Commencement Order

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. The bringing into force of some sections of Ordinance No. 11 of 1986.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

The Fisheries (Conservation and Management) Ordinance (No. 2) Commencement Order 1987

(S. R. & O. 1 of 1987)

In accordance with Section 1 of the Fisheries (Conservation and Management) Ordinance 1986 the Acting Governor makes the following Order -

1. This Order may be cited as the Fisheries (Conservation and Management) Ordinance (No. 2) Commencement Order 1987 and shall come into force on the first day of February 1987.

2. Sections 4 (2) and (6), 5, 6, 10, 11, 12, 14, 15, 16, 17, 18, 19 and 21 of the Fisheries (Conservation and Management) Ordinance 1986 shall come into force with effect from the first day of February 1987.

Made this twenty ninth day of January 1987.

D. G. P. TAYLOR, Acting Governor.

Citation and commencement.

The bringing into force of some sections of Ordinance No. 11 of 1986.

> Printed at the Government Printing Office, Stanley, Falkland Islands. Price : Twenty pence.



THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

27th FEBRUARY 1987

No. 3

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 27th February 1987, was in fact published on 4th September 1987. D. G. LANG,

D. G. LANG, Attorney General.

Appointments	Mrs. Janet Clifton, House Parent, Education Depart-
Mrs. Eileen Mary Murphy, M.A., B.Litt., Chief Educa-	ment, 6.2.87.
tion Officer, Education Department, 1.2.87.	Patrick Alex Field Davy, Engineman, Power Station,
Zane Hirtle, Storeman, Central Store, Treasury	Electricity Supply Branch, Public Works Department,
Department, 2.2.87.	13.2.87.
Miss Penelope Jane Ballinger, Teacher, Education Department, 2.2.87.	James Peck, Storeman, Central Store, Treasury Department, 22.2.87.
Peter Burnard, Teacher, Education Department, 3.2.87.	Paul Julian Williams, Police Constable, Falkland Islands Police Force, 24.2.87.
Nigel Arthur Shorrock, Teacher, Education Depart-	Completion of Contract
ment, 3.2.87.	John Purvis Sherwood, Teacher, Education Depart-
Mrs. Elizabeth Carol Simonite, Teacher, Education	ment, 1.2.87.
Department, 3.2.87.	Mrs. Joan Margaret Plows, Chief Nursing Officer,
Arthur John Barton, Senior Fisheries Resources	Medical Department, 6.2.87.
Assessment Officer, Fisheries Department, 6.2.87.	Dennis Lampard, B.V.M.S., M.R.C.V.S., Veterinary
Mrs. Janette Mary Vincent, S.R.N., Commissioning	Officer, Agricultural Department, 17.2.87.
Officer, Medical Department, 23.2.87.	NOTICES
Acting Appointments	No. 9. 30th January 1987.
Mrs. Phyllis Mary Rendell, Acting Chief Education	Marriage Ordinance (Cap. 43) Section 5
Officer, Education Department, 31.10.86 - 31.1.87.	The following are registered as Ministers for
Richard John Edwin Fogerty, Acting Education	celebrating marriages -
Officer (Camp Education), Education Department,	The Reverend MICHAEL BROTHERTON, Chaplain,
31.10.86 — 31.1.87. Promotion	Royal Navy.
	The Reverend ANDREW JOLLY, Chaplain, 1 Bn.
Mrs. Wendy Joan Fitzgerald, from Nursing Sister,	Argyll and Sutherland Highlanders.
Medical Department, to Nursing Officer, Medical	The Right Reverend Monsignor ANTONY AGREITER,
Department, 6.2.87. Resignations	Prefect Apostolic of the Falkland Islands.
_	The Reverend Father AUGUSTINE MONAGHAN,
Lee Oliver Small, Police Constable, Falkland Islands	Priest, St Mary's Church.
Police Force, 31.1.87.	Ref. INT/39/1.

8

23rd February 1987. No. 13

Appointment of President of the Court of Appeal

Having received Instructions from Her Majesty The Queen through a Secretary of State, His Honour David George Pendleton Taylor, Esquire, Acting Governor of the Colony of the Falkland Islands in accordance with Section 79 (1) of the Constitution —

Hereby Appoints —

No. 10

Sir Alistair Forbes Kt., to be President of the Court of Appeal from the 1st July 1986 to the 30th June 1987.

Given under my hand and the Public Seal this twenty third day of February 1987.

D. G. P. TAYLOR, Acting Governor.

Ref. LEG/19/9.

No. 11

1

23rd February 1987.

Appointment of Justice of Appeal

Having received Instructions from Her Majesty The Queen through a Secretary of State, His Honour David George Pendleton Taylor, Esquire, Acting Governor of the Colony of the Falkland Islands in accordance with Section 79 (1) of the Constitution —

Hereby Appoints -

Sir Lionel Brett Kt., to be a Justice of Appeal from the 1st July 1986 to the 30th June 1987.

Given under my hand and the Public Seal this twenty third day of February 1987.

D. G. P. TAYLOR, Acting Governor.

Ref. LEG/19/9.

No. 12

23rd February 1987.

Appointment of Justice of Appeal

Having received Instructions from Her Majesty The Queen through a Secretary of State, **His Honour David George Pendleton Taylor, Esquire, Acting** Governor of the Colony of the Falkland Islands in accordance with Section 79 (1) of the Constitution —

Hereby Appoints —

John Charles Rowell Fieldsend, Esquire, to be a Justice of Appeal from the 1st July 1986 to the 30th June 1987.

Given under my hand and the Public Seal this twenty third day of February 1987.

D. G. P. TAYLOR, Acting Governor.

Ref. LEG/19/9.

23rd February 1987.

Appointment of Chief Justice

Having received Instructions from Her Majesty The Queen through a Secretary of State, **His Honour David George Pendleton Taylor**, **Esquire**, Acting Governor of the Colony of the Falkland Islands in accordance with Section 79 (1) of the Constitution —

Hereby Appoints —

Sir Dermot Renn Davis Kt., Officer of the Most Excellent Order of the British Empire, to be Chief Justice of the Supreme Court from the first day of January 1987.

Given under my hand and the Public Seal this twenty third day of February 1987.

D. G. P. TAYLOR, Acting Governor. Ref. LEG/19/3.

In accordance with Section 76 of the Constitution the Acting Governor, David George Pendleton Taylor, appointed Derek Fernyhough, Esquire, M.B.E., to act as Chief Executive for the purpose of the meeting of Standing Finance Committee held on 4th February 1987.

> M. C. LI. GAIGER, Attorney General.

In accordance with Section 9 (1) of the Fisheries (Conservation and Management) Ordinance 1986, His Excellency The Governor has appointed **David George Pendleton Taylor, Esquire,** to be **Director of Fisheries** with effect from the 5th December 1986.

> M. C. Ll. GAIGER, Attorney General.

Customs Ordinance (Cap. 16)

In exercise of the powers conferred by Section 4 of the Customs Ordinance, I hereby appoint -

CORPORAL I. J. HENDERSON, R.A.F.,

to be a temporary Customs Officer with effect from 15th January 1987 to the 15th May 1987.

L. J. HALLIDAY, Collector of Customs.

Customs Ordinance (Cap. 16)

In exercise of the powers conferred by Section 4 of the Customs Ordinance, I hereby appoint -

MAJOR G. R. G. HOWARD,

to be a temporary Customs Officer, South Georgia, with effect from the 24th February 1987 to the 27th June 1987.

L. J. HALLIDAY, Collector of Customs.

NOTICE

The following are published in this Gazette -

The Old Age Pensions (Amendment) (No. 2) Ordinance 1986;

The Family Allowances (Amendment) (No. 2) Ordinance 1986;

The Litter Ordinance 1986;

The Falkland Islands Development Corporation (Amendment) Ordinance 1986;

The Consular Relations Ordinance 1986;

The Income Tax (Amendment) Ordinance 1986;

The Fisheries (Fishing) Regulations (Amendment) Order 1987;

The Fisheries (Administrative Penalty Forms) Order 1987;

The Pioneer Enterprise (Consultancy Services Falklands Limited) Order 1987;

Proclamation Determining Specifications and Design of Fifty Pence Silver Coin.

The Old Age Pensions (Amendment) (No. 2) Ordinance 1986

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Amendment of Ordinance No. 3 of 1952.
- 3. Validation of payments.

ELIZABETH II



Colony of the Falkland Islands

DAVID GEORGE PENDLETON TAYLOR Acting Governor.

The Old Age Pensions (Amendment) (No. 2) Ordinance 1986.

No. 12 of 1986

An Ordinance to amend the Old Age Pensions Ordinance 1952.

(Assented to : 13th February 1987) (Commencement : on Assent retrospectively as per Section 1) (Published : 4th September 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Old Age Pensions (Amendment) (No. 2) Ordinance 1986 and shall have effect from the 1st day of January 1986.

2. The Old Age Pensions Ordinance 1952 is amended -

- (a) in Section 6 (6) by the deletion of the words "on or before his fiftieth birthday";
- (b) in Section 6B (f) by the deletion of the words "on or before his fiftieth birthday".

3. Every payment made under Sections 6 (6) and 6B (f) prior to the coming into force of this Ordinance shall be valid and effective although made on behalf of a contributor or a female contributor who was over the age of fifty years at the time of every such payment.

commencement. Amendment of Ordinance No. 3

Citation and

of 1952.

Validation of payments.

Passed by the Legislature of the Colony of the Falkland Islands this 12th day of November 1986.

A. S. BROWNLEE, Acting Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> A. S. BROWNLEE, Acting Clerk of Councils.

Ref: TRE/2/1.

Printed by the Government Printer. FALKLAND ISLANDS.

The Family Allowances (Amendment) (No. 2) Ordinance 1986

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Amendment of Ordinance No. 9 of 1960.

ELIZABETH II



Colony of the Falkland Islands

DAVID GEORGE PENDLETON TAYLOR Acting Governor.

The Family Allowances (Amendment) (No. 2) Ordinance 1986.

No. 13 of 1986

An Ordinance to amend the Family Allowances Ordinance 1960.

(Assented to : 13th February 1987) (Commencement : on Assent retrospectively as per Section 1) (Published : 4th September 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Family Allowances (Amendment) (No. 2) Ordinance 1986 and shall come into force on the 1st day of January 1987.

2. The Family Allowances Ordinance 1960 is amended in Section 4 (1) by the substitution for paragraph (c) of the following -

"(c) subject to subsection (2), being unmarried, is awaiting admission to or receiving full time instruction at any university, college, school or other educational establishment whether in the Falkland Islands or not. "

Passed by the Legislature of the Colony of the Falkland Islands this 12th day of November 1986.

A. S. BROWNLEE, Acting Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: TRE/10/1.

A. S. BROWNLEE, Acting Clerk of Councils.

Printed by the Government Printer. FALKLAND ISLANDS. Citation and commencement.

Amendment of Ordinance No. 9 of 1960.

The Litter Ordinance 1986

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Offence of leaving litter and penalty therefor.

ELIZABETH II



Colony of the Falkland Islands

DAVID GEORGE PENDLETON TAYLOR Acting Governor.

The Litter Ordinance 1986.

No. 14 of 1985

An Ordinance to make provision for the abatement of litter.

(Assented to : 13th February 1987) (Commencement : 1st December 1986) (Published : 4th September 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Litter Ordinance 1986 and shall come into force on the 1st day of December 1986.

2. (1) If any person throws down, drops or otherwise deposits in, into or from any place in the open air to which the public are entitled or permitted to have access without payment, and leaves any thing whatsoever in such circumstances as to cause, contribute to, or tend to lead to, the defacement by litter of any place in the open air, then, unless that depositing and leaving was authorised by law or was done with the consent of the owner, occupier or other person or authority having the control of the place in or into which that thing was deposited, he shall be guilty of an offence and be liable on conviction to a fine not exceeding fifty pounds.

(2) For the purposes of this section any covered place open to the air on at least one side and available for public use shall be treated as being a place in the open air.

Passed by the Legislature of the Colony of the Falkland Islands this 12th day of November 1986.

A. S. BROWNLEE, Acting Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/61.

A. S. BROWNLEE, Acting Clerk of Councils. Citation and commencement.

Offence of leaving litter and penalty therefor.

Printed by the Government Printer. FALKLAND ISLANDS. The Falkland Islands Development Corporation (Amendment) Ordinance 1986

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
 - 2. Amendment of Ordinance No. 1 of 1983.



Colony of the Falkland Islands

DAVID GEORGE PENDLETON TAYLOR Acting Governor.

Falkland Islands Development Corporation (Amendment) Ordinance 1986.

No. 15 of 1986

An Ordinance to amend the Falkland Islands Development Corporation Ordinance 1983. (Assented to : 13th February 1987)

(Assented to: 13th February 1987) (Commencement: on Assent retrospectively as per Section 1) (Published: 4th September 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Falkland Islands Development Corporation (Amendment) Ordinance 1986 and shall come into force on the 1st day of December 1986.

- 2. The Falkland Islands Development Corporation Ordinance 1983 is amended -
 - (a) by the substitution for paragraph (d) in Section 13 of the following -
 - "(d) three members of the Corporation elected by the Corporation who shall each serve on the Executive for three years or for such period as each of them remains a member of the Corporation, whichever period is the shorter, and may be re-elected thereto. ";
 - (b) in Section 14 by the substitution
 - (i) of the word "four" for the word "three" in subsection (3);
 - (ii) of the word "four" for the words "of the other" in subsection (4); and
 - (iii) the words "two vacancies" for the words "one vacancy" in subsection (7).

Passed by the Legislature of the Colony of the Falkland Islands this 12th day of November 1986.

A. S. BROWNLEE, Acting Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/57.

A. S. BROWNLEE, Acting Clerk of Councils. Citation and commencement.

Amendment of Ordinance No. 1 of 1983.

Printed by the Government Printer. FALKLAND ISLANDS.

The Consular Relations Ordinance 1986

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Application of provisions of Vienna Convention on Consular Relations (1963).
- 3. Restriction of privileges and immunities.
- 4. Agreements providing for additional or reduced privileges and immunities.
- 5. Civil jurisdiction concerning service on board ship or aircraft.
- 6. Jurisdiction over offences committed on board ship.
- 7. Detention on board ship for disciplinary offences.
- 8. Ship and aircraft belonging to a State.
- 9. Right of diplomatic agents and consular officers to administer oaths and do notarial acts in certain cases.
- 10. Evidence.
- 11. Privileges and immunities of official representatives of Commonwealth countries and the Republic of Ireland.
- 12. Application of specified Articles in the Vienna Convention on Diplomatic Relations (1961).
- 13. Repeal.
- Schedule 1. Provisions of Vienna Convention on Consular Relations (1963) having the force of law in the Colony.
- Schedule 2. Provisions for giving effect to other agreements.
- Schedule 3. Provisions of the Vienna Convention on Diplomatic Relations (1961) having the force of law in the Colony.

ELIZABETH II



Colony of the Falkland Islands

DAVID GEORGE PENDLETON TAYLOR, Acting Governor.

The Consular Relations Ordinance 1986.

No. 16 of 1986

An Ordinance to give effect to the Vienna Convention on Consular Relations and to other agreements entered into by Her Majesty's Government in the United Kingdom concerning consular relations and to make other provision with respect to consular relations and consular officers within the Colony and for other matters connected therewith or incidental thereto.

> (Assented to : 13th February 1987) (Commencement : 1st January 1988) (Published : 4th September 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows --

1. This Ordinance may be cited as the Consular Relations Ordinance 1986 and shall come into force on a day to be appointed by the Governor by notice in the Gazette, and notices under this section may appoint different days for different provisions of this Ordinance.

2. (1) Subject to section 3 and to section 4 (2) the Articles or parts of Articles of the Vienna Convention on Consular Relations signed in 1963 set out in Schedule 1 shall have the force of law in the Colony and shall be construed in accordance with subsections (2) to (10).

(2) In the provisions referred to in subsection (1) –

"authorities of the receiving state" shall include any police officer and any person exercising a power of entry to any premises under any enactment;

"grave crime" shall mean any offence punishable, on a first conviction, with imprisonment for a term that may extend to five years or with a more severe sentence;

"Ministry for Foreign Affairs" shall mean the Foreign and Commonwealth Office;

"national of the receiving state" shall be construed as meaning -

- (a) a British citizen, a British Dependent Territories citizen or a British Overseas citizen; or
- (b) a person who under the British Nationality Act 1981 is a British subject; or
- (c) a British protected person (within the meaning of that Act).

Citation and commencement.

Application of provisions of Vienna Convention on Consular Relations (1963). (3) The reference in paragraph 2 of Article 17 to any privileges and immunities accorded by customary international law or by international agreements shall be construed as a reference to any privileges and immunities conferred in the Colony under the Diplomatic Privileges (Extension) Ordinance or any statutory modification or re-enactment thereof.

(4) The references in Article 44 to matters connected with the exercise of the functions of members of a consular post shall be construed as references to matters connected with the exercise of consular functions by consular officers or consular employees.

(5) For the purposes of Article 45 and that Article as applied by Article 58 a waiver shall have been expressed by a State if it has been expressed by the head, or any person for the time being performing the functions of head, of the superintending diplomatic mission of that State or of the consular post concerned.

(6) The exemption granted by Article 48 with respect to Social Security provisions shall be exemption in respect of contributions required to be paid under the Old Age Pensions Ordinance 1952 or any statutory modification or re-enactment thereof.

(7) Articles 50, 51, 52, 54, 52 and 67 shall be construed as granting any privilege or immunity which they require to be granted.

(8) The reference in Article 57 to the privileges and immunities provided in Chapter II shall be construed as referring to those provided in Section II of that Chapter.

(9) The reference in Article 70 to the rules of international law concerning diplomatic relations shall be construed as a reference to the provisions of the Diplomatic Privileges Act 1964.

(10) The reference in Article 7i to additional privileges and immunities that may be granted by the receiving State or to privileges and immunities so far as these are granted by the receiving State shall be construed as referring to such privileges and immunities as may be specified by the Governor by Order in Council.

3. If it appears to the Governor that the privileges and immunities accorded to a consular post of the United Kingdom in a territory of any State, or to persons connected with such a consular post, are less than those conferred by this Ordinance on a consular post of that State or on persons connected with such a consular post, the Governor may by Order in Council withdraw such of the privileges and immunities so conferred from all or any of the consular posts of that State or from such persons connected therewith as appears to the Governor to be proper.

4. (1) Where any agreement made, whether before or after the commencement of this Ordinance, between the United Kingdom and any State provides for according to consular posts and persons connected with them privileges and immunities not accorded to them by the other provisions of this Ordinance, the Governor may by Order in Council exercise, with respect to the consular posts of that State and persons connected with them, the powers specified in Schedule 2 so far as may be necessary to give effect to that agreement.

(2) Where any agreement made, whether before or after the commencement of this Ordinance, between the United Kingdom and any State provides for according to consular posts and persons connected with them some but not all of the privileges and immunities accorded to them by the other provisions of this Ordinance, the Governor may by Order in Council provide for excluding, with respect to consular posts of that State and persons connected with them, any of those privileges and immunities which are not provided for by the agreement.

5. The Governor may by Order in Council provide for excluding or limiting the jurisdiction of any court in the Colony to entertain proceedings relating to the remuneration or any contract of service of the master or commander or a member of the crew of any ship or aircraft belonging to a State specified in the Order, except where a consular officer of that State has been notified of the intention to invoke the jurisdiction of that court and has not objected within such time as may be specified by or under the Order. Restriction of privileges and immunities.

Agreements providing for additional or reduced privileges and immunities.

Civil jurisdiction concerning service on board ship or aircraft. 6. (1) The Governor may by Order in Council provide for securing that, where an offence is alleged to have been committed on board any ship by the master or a member of the crew and the ship belongs to a State specified in the Order, proceedings for the offence instituted otherwise than at the request or with the consent of a consular officer of that State shall not be entertained by a court in the Colony unless -

- (a) the offence is alleged to have been committed by or against a national of the receiving State within the meaning of section 2 (2) or against a person other than the master or a member of the crew; or
- (b) the offence is one involving the tranquility or safety of a port, or the law relating to safety of life at sea, public health, oil pollution, wireless telegraphy, immigration or customs or is of any other description specified in the Order; or
- (c) the offence is one comprised in the definition of "grave crime" in section 2 (2).

(2) For the purposes of this section, an offence which affects the property of any person shall have been committed against him.

(3) For the purposes of this section, any document purporting to be signed by or on behalf of a consular officer and stating that he has requested or consented to the institution of any proceedings shall be sufficient proof of that fact unless the contrary is shown.

7. The Governor may by Order in Council designate any State for the purposes of this section; and where a State is so designated a member of the crew of a ship belonging to that State who is detained in custody on board for a disciplinary offence shall not be unlawfully detained unless -

- (a) his detention is unlawful under the laws of that State or the conditions of detention are inhumane or unjustifiably severe; or
- (b) there is reasonable cause for believing that his life or liberty will be endangered for reasons of race, nationality, political opinion or religion, in any country to which the ship is likely to go.

8. For the purposes of section 5, 6 or 7 a ship and for the purposes of section 5 an aircraft, shall be treated as belonging to a State in such circumstances as may be specified by an order made under that section; and different circumstances may be so specified with respect to different States and different classes of ship or aircraft.

9. (1) A diplomatic agent or consular officer of any State may, if authorised to do so under the laws of that State, administer oaths, take affidavits and do notarial acts —

- (a) required by a person for use in that State or under the laws thereof; or
- (b) otherwise required by a national of that State but not for use in the Colony except under the laws of some other country.

(2) The Governor may by Order exclude or restrict the provisions of subsection (1) in relation to the diplomatic agents or consular officers of any State in the Colony if it appears to him that in any territory of that State diplomatic agents or consular officers of the United Kingdom are not permitted to perform functions corresponding in nature and extent to those authorised by that subsection.

(3) In this section "diplomatic agent" has the same meaning as in the Diplomatic Privileges Act 1964.

10. Where any question arises as to whether or not any person is entitled to any privilege or immunity under this Ordinance, a certificate issued by the Chief Executive stating any fact relating to that question shall be conclusive evidence of that fact.

11. (1) The Governor may by Order in Council direct that any person in the service of a Commonwealth country or of the Republic of Ireland or in the service of a State or Province of any such country holding such office or class of office as are or may be specified in the order, being such an office or class of office as appears to the Governor to involve the performance of duties substantially corresponding to those which, in the case of a sovereign foreign power, would be performed in the Colony by a consular officer within the meaning of this Ordinance shall have all such privileges and immunities as are or may be conferred upon a consular officer under the provisions of this Ordinance.

Jurisdiction over offences committed on board ship.

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Detention on board ship for disciplinary offences.

Ship and aircraft belonging to State.

Right of diplomatic agents and consular officers to administer oaths and do notarial acts in certain cases.

Evidence.

Privileges and immunities of official representatives of Commonwealth countries and the Republic of Ireland. (2) Where the Governor in Council has made an order under subsection (1) in respect of any person -

- (a) the members of the staff of such person shall have such privileges and immunities as are conferred upon the staff of a consular officer under the provisions of this Ordinance; and
- (b) the provisions of Articles 31 to 39 and 51 in Schedule 1 shall apply to the premises, official archives, communications, documents and personal property of any such person.

(3) Any Order made by the Governor in Council under subsection (1) may exclude from any privilege or immunity conferred under it any person who is permanently resident in the Colony or who is a person within the definition of "national of the receiving State" in section 2 (2).

(4) Any Order made by the Governor in Council under subsection (1) may apply the provisions of Schedule 2 to the persons specified in the Order and to the premises, residences and communications of such persons.

12. For the purposes of paragraphs 4, 5 and 6 of Schedule 2, paragraphs 1, 2, 3, 4 and 5 of Schedule 3 (being Articles 29, 31, 22, paragraph 1 of Article 30 and Article 27, respectively, of the Vienna Convention on Diplomatic Relations signed in 1961) shall have the force of law in the Colony.

Application of specified Articles in the Vienna Convention on Diplomatic Relations 1961.

(Section 2)

Repeal.

13. Section 3 of the Consular Conventions Ordinance Cap. 14 is repealed.

SCHEDULE 1

PROVISIONS OF VIENNA CONVENTION ON CONSULAR RELATIONS (1963)

HAVING THE FORCE OF LAW IN THE COLONY

ARTICLE 1

DEFINITIONS

1. For the purposes of the present Convention, the following expressions shall have the meanings hereunder assigned to them -

- (a) "consular post" means any consulate-general, consulate, vice-consulate or consular agency;
- (b) "consular district" means the area assigned to a consular post for the exercise of consular functions;
- (c) "head of consular post" means the person charged with the duty of acting in that capacity;
- (d) "consular officer" means any person, including the head of a consular post entrusted in that capacity with the exercise of consular functions;
- (e) "consular employee" means any person employed in the administrative or technical service of a consular post;
- (f) "member of the service staff" means any person employed in the domestic service of a consular post;
- (g) "member of the consular post" means consular officers, consular employees and members of the service staff;
- (h) "members of the consular staff" means consular officers, other than the head of a consular post, consular employees and members of the service staff;
- (i) "member of the private staff" means a person who is employed exclusively in the private service of a member of the consular post;
- (j) "consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of the consular post;
- (k) "consular archives" includes all the papers, documents, correspondence, books, films, tapes and registers of the consular post, together with the ciphers and codes, the card-indexes, and any articles of furniture intended for their protection or safekeeping.

2. Consular officers are of two categories, namely career consular officers and honorary consular officers. The provisions of Chapter II of the present Convention apply to consular posts headed by career consular officers; the provisions of Chapter III govern consular posts headed by honorary consular officers.

3. The particular status of members of the consular posts who are nationals or permanent residents of the receiving State is governed by Article 71 of the present Convention.

CONSULAR FUNCTIONS

Consular functions consist in -

- (a) protecting in the receiving State the interests of the sending State and of its nationals, both individuals and bodies corporate, within the limits permitted by international law;
- (b) furthering the development of commercial, economic, cultural and scientific relations between the sending State and the receiving State and otherwise promoting friendly relations between them in accordance with the provisions of the present Convention;
- (c) ascertaining by all lawful means conditions and developments in the commercial, economic, cultural and scientific life of the receiving State, reporting thereon to the Government of the sending State and giving information to persons interested;
- (d) issuing passports and travel documents to nationals of the sending State and visas or appropriate documents to persons wishing to travel to the sending State;
- (e) helping and assisting nationals, both individuals and bodies corporate, of the sending State;
- (f) acting as notary and civil registrar and in capacities of a similar kind, and performing certain functions of an administrative nature, provided that there is nothing contrary thereto in the laws and regulations of the receiving State;
- (g) safeguarding the interests of nationals, both individuals and bodies corporate, of the sending State in cases of succession mortis causa in the territory of the receiving State, in accordance with the laws and regulations of the receiving State;
- (h) safeguarding, within the limits imposed by the laws and regulations of the receiving State, the interests of minors and other persons lacking full capacity who are nationals of the sending State, particularly where any guardianship or trusteeship is required with respect to such person;
- (i) subject to the practices and procedures obtaining in the receiving State, representing or arranging appropriate representation for nationals of the sending State before the tribunals and other authorities of the receiving State, for the purpose of obtaining, in accordance with the laws and regulations of the receiving State, provisional measures for the preservation of the rights and interests of these nationals where, because of absence or any other reason, such nationals are unable at the proper time to assume the defence of their rights and interests;
- (j) transmitting judicial and extra-judicial documents or executing letters rogatory or commissions to take evidence for the courts of the sending State in accordance with international agreements in force or, in the absence of such international agreements, in any other manner compatible with the laws and regulations of the receiving State;
- (k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;
- (l) extending assistance to vessels and aircraft mentioned in sub-paragraph (k) of this Article and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen in so far as this may be authorised by the laws and regulations of the sending State;
- (m) performing any other function entrusted to a consular post by the sending State which are not prohibited by the laws and regulations of the receiving State or to which no objection is taken by the receiving State or which are referred to in international agreements in force between the sending State and the receiving State.

ARTICLE 15

TEMPORARY EXERCISE OF THE FUNCTIONS OF THE HEAD OF A CONSULAR POST

1. If the head of a consular post is unable to carry out his functions or the position of head of consular post is vacant, an acting head of post may act provisionally as head of the consular post.

2. The full name of the acting head of post shall be notified either by the diplomatic mission of the sending State or, if that State has no such mission in the receiving State, by the head of the consular post, or, if he is unable to do so, by any competent authority of the sending State, to the Ministry for Foreign Affairs of the receiving State or to the authority designated by that Ministry. As a general rule, this notification shall be given in advance. The receiving State may make the admission as acting head of post of a person who is neither a diplomatic agent nor a consular officer of the sending State in the receiving State conditional on its consent.

3. The competent authorities of the receiving State shall afford assistance and protection to the acting head of post. While he is in charge of the post, the provisions of the present Convention shall apply to him on the same basis as to the head of the consular post concerned. The receiving State shall not however be obliged to grant to an acting head of post any facility, privilege or immunity which the head of the consular post enjoys only subject to conditions not fulfilled by the acting head of post.

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4. When, in the circumstances referred to in paragraph 1 of this Article, a member of the diplomatic staff of the diplomatic mission of the sending State in the receiving State is designated by the sending State as an acting head of post, he shall, if the receiving State does not object thereto, continue to enjoy diplomatic privileges and immunities.

ARTICLE 17

PERFORMANCE OF DIPLOMATIC ACTS BY CONSULAR OFFICERS

1. In a State where the sending State has no diplomatic mission and is not represented by a diplomatic mission of a third state, a consular officer may, with the consent of the receiving State, and without affecting his consular status, be authorised to perform diplomatic acts. The performance of such acts by consular officer shall not confer upon him any right to claim diplomatic privileges and immunities.

2. A consular officer may, after notification addressed to the receiving State, act as representative of the sending State to any intergovernmental organisation. When so acting, he shall be entitled to enjoy any privileges and immunities accorded to such a representative by customary international law or by international agreements; however, in respect of the performance by him of any consular function, he shall not be entitled to any greater immunity from jurisdiction than that to which a consular officer is entitled under the present Convention.

Chapter II — Facilities, Privileges and Immunities relating to consular posts, career consular officers and other members of a consular post

SECTION I - FACILITIES, PRIVILEGES AND IMMUNITIES RELATING TO A CONSULAR POST

ARTICLE 31

INVIOLABILITY OF THE CONSULAR PREMISES

1. Consular premises shall be inviolable to the extent provided in this Article.

2. The authorities of the receiving State shall not enter that part of the consular premises which is used exclusively for the purpose of the work of the consular post except with the consent of the head of the consular post or his designee or of the head of the diplomatic mission of the sending State. The consent of the head of the consular post may, however, be assumed in case of fire or other disaster requiring prompt protective action.

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4. The consular premises, their furnishings, the property of the consular post and its means of transport shall be immune from any form of requisition for porposes of national defence or public utility. If expropriation is necessary for such purposes, all possible steps shall be taken to avoid impeding the performance of consular functions, and prompt, adequate and effective compensation shall be paid to the sending State.

ARTICLE 32

EXEMPTION FROM TAXATION OF CONSULAR PREMISES

1. Consular premises and the residence of the career head of consular post of which the sending State or any person acting on its behalf is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specific services rendered.

2. The exemption from taxation referred to in paragraph I of this Article shall not apply to such dues and taxes if, under the law of the receiving State, they are payable by the person who contracted with the sending State or with the person acting on its behalf.

ARTICLE 33

INVIOLABILITY OF THE CONSULAR ARCHIVES AND DOCUMENTS

The consular archives and documents shall be inviolable at all times and wherever they may be,

ARTICLE 35

FREEDOM OF COMMUNICATION

1. The receiving State shall permit and protect freedom of communication on the part of the consular post for all official purposes. In communicating with the Government, the diplomatic missions and other consular posts, wherever situated, of the sending State, the consular post may employ all approriate means, including diplomatic or consular couriers, diplomatic or consular bags and messages in code or cipher. However, the consular post may install and use a wireless transmitter only with the consent of the receiving State.

2. The official correspondence of the consular post shall be inviolable. Official correspondence means all correspondence relating to the consular post and its functions.

3. The consular bag shall be neither opened nor detained. Nevertheless, if competent authorities of the receiving State have serious reason to believe that the bag contains something other than correspondence, documents or articles referred to in paragraph 4 of this Article, they may request the bag be opened in their presence by an authorised representative of the sending State. If this request is refused by the authorities of the sending State, the bag shall be returned to the place of origin.

4. The packages constituting the consular bag shall bear visible external marks of their character and may contain only official correspondence and documents or articles intended exclusively for official use.

5. The consular courier shall be provided with an official document indicating his status and the number of packages constituting the consular bag. Except with the consent of the receiving State he shall be neither a national of the receiving State nor, unless he is a national of the sending State, a permanent resident of the receiving State. In the performance of his functions he shall be protected by the receiving State. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

6. The sending State, its diplomatic mission and its consular posts may designate consular couriers ad hoc. In such cases the provisions of paragraph 5 of this Article shall also apply except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the consular bag in his charge.

7. A consular bag may be entrusted to the captain of a ship or of a commercial aircraft scheduled to land at an authorised port of entry. He shall be provided with an official document indicating the number of packages constituting the bag, but he shall not be considered to be a consular courier. By arrangement with the appropriate local authorities, the consular post may send one of its members to take possession of the bag directly and freely from the captain of the ship or of the aircraft.

ARTICLE 39

CONSULAR FEES AND CHARGES

1. The consular post may levy in the territory of the receiving State the fees and charges provided by the laws and regulations of the sending State for consular acts.

2. The sums collected in the form of fees and charges referred to in paragraph 1 of this Article, and the receipts for such fees and charges, shall be exempt from all dues and taxes in the receiving State.

Section II – Facilities, Privileges and Immunities Relating to Career Consular Officers and other Members of a Consular Post

ARTICLE 41

PERSONAL INVIOLABILITY OF CONSULAR OFFICERS

1. Consular officers shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by the competent judicial authority.

2. Except in the case specified in paragraph 1 of this Article, consular officers shall not be committed to prison or liable to any other form of restriction on their personal freedom save in execution of a judicial decision of final effect.

ARTICLE 43

IMMUNITY FROM JURISDICTION

1. Consular officers and consular employees shall not be amenable to the jurisdiction of the judicial or administrative authorities of the receiving State in respect of acts performed in the exercise of consular functions.

2. The provisions of paragraph 1 of this Article shall not, however, apply in respect of a civil action either -

- (a) arising out of a contract concluded by a consular officer or a consular employee in which he did not contract expressly or impliedly as an agent of the sending State; or
- (b) by a third party for damage arising from an accident in the receiving State caused by a vehicle, vessel or aircraft.

ARTICLE 44

LIABILITY TO GIVE EVIDENCE

 Members of a consular post may be called upon to attend as witnesses in the course of judicial or administrative proceedings. A consular employee or a member of the service staff shall not, except in the cases mentioned in paragraph 3 of this Article, decline to give evidence. If a consular officer should decline to do so, no coercive measure or penalty may be applied to him.

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2. The authority requiring the evidence of a consular officer shall avoid interference with the performance of his functions. It may, when possible, take such evidence at his residence or at the consular post or accept a statement from him in writing.

3. Members of a consular post are under no obligation to give evidence concerning matters connected with the exercise of their functions or to produce official correspondence and documents relating thereto. They are also entitled to decline to give evidence as expert witnesses with regard to the law of the sending State.

ARTICLE 45

WAIVER OF PRIVILEGES AND IMMUNITIES

1. The sending State may waive, with regard to a member of the consular post, any of the privileges and immunities provided for in Article 41, 43 and 44.

2. The waiver shall in all cases be express, except as provided in paragraph 3 of this Article, and shall be communicated to the receiving State in writing.

3. The initiation of proceedings by a consular officer or a consular employee in a matter where he might enjoy immunity from jurisdiction under Article 43 shall preclude him from invoking immunity from jurisdiction in respect of any counterclaim directly connected with the principal claim.

4. The waiver of immunity from jurisdiction for the purposes of civil or administrative proceedings shall not be deemed to imply the waiver of immunity from the measures of execution resulting from the judicial decision; in respect of such measures, a separate waiver shall be necessary.

ARTICLE 48

SOCIAL SECURITY EXEMPTION

1. Subject to the provisions of paragraph 3 of this Article, members of the consular post with respect to services rendered by them for the sending State, and members of their families forming part of their households, shall be exempt from social security provisions which may be in force in the receiving State.

2. The exemption provided for in paragraph 1 of this Article shall apply also to members of the private staff who are in the sole employ of members of the consular post on condition -

- (a) that they are not nationals of or permanently resident in the receiving State; and
- (b) that they are covered by the social security provisions which are in force in the sending State or a third State.

3. Members of the consular post who employ persons to whom the exemption provided for in paragraph 2 of this Article does not apply shall observe the obligations which the social security provisions of the receiving State impose upon employers.

4. The exemption provided for in paragraphs 1 and 2 of this Article shall not preclude voluntary participation in the social security system of the receiving State, provided that such participation is permitted by that State.

ARTICLE 49

EXEMPTION FROM TAXATION

1. Consular officers and consular employees and members of their families forming part of their households shall be exempt from all dues and taxes, personal or real, national, regional or municipal, except —

- (a) indirect taxes of a kind which are normally incorporated in the price of goods or services;
- (b) dues or taxes on private immovable property situated in the territory of the receiving State, subject to the provisions of Article 32;
- (c) estate, succession or inheritance duties, and duties on transfers, levied by the receiving State, subject to the provisions of paragraph (b) of Article 51;
- (d) dues and taxes on all private income, including capital gains, having its source in the receiving State and capital taxes relating to investments made in commercial or financial undertakings in the receiving State;
- (e) charges levied for specific services rendered;
- (f) registration, court or record fees, mortgage dues and stamp duties, subject to the provisions of Article 32.

2. Members of the service staff shall be exempt from dues and taxes on the wages which they receive for their services.

3. Members of the consular post who employ persons whose wages or salaries are not exempt from income tax in the receiving State shall observe the obligations which the laws and regulations of that State impose upon employers concerning the levying of income tax.

EXEMPTION FROM CUSTOMS DUTIES AND INSPECTION

1. The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of and grant exemption from all customs duties, taxes and related charges other than charges for storage, cartage and similar services on -

- (a) articles for the official use of the consular post;
- (b) articles for the personal use of a consular officer or members of his family forming part of his household, including articles intended for his establishment. The articles intended for consumption shall not exceed the quantities necessary for direct utilisation by the persons concerned.

2. Consular employees shall enjoy the privileges and exemptions specified in paragraph 1 of this Article in respect of articles imported at the time of first installation.

3. Personal baggage accompanying consular officers and members of their families forming part of their households shall be exempt from inspection. It may be inspected only if there is serious reason to believe that it contains articles other than those referred to in sub-paragraph (b) of paragraph 1 of this Article, or articles the import or export of which is prohibited by the laws and regulations of the receiving State or which are subject to its quarantine laws and regulations. Such inspection shall be carried out in the presence of the consular officer or member of his family concerned.

ARTICLE 51

ESTATE OF A MEMBER OF THE CONSULAR POST OR OF A MEMBER OF HIS FAMILY

In the event of the death of a member of the consular post or of a member of his family forming part of his household the receiving State -

- (a) shall permit the export of the movable property of the deceased, with the exception of any such property acquired in the receiving State the export of which was prohibited at the time of his death;
- (b) shall not levy national, regional or municipal estate, succession or inheritance duties, and duties on transfers, on movable property the presence of which in the receiving State was due solely to the presence in that State of the deceased as a member of the consular post or as a member of the family of a member of the consular post.

ARTICLE 52

EXEMPTION FROM PERSONAL SERVICES AND CONTRIBUTIONS

The receiving State shall exempt members of the consular post and members of their families forming part of their households from all personal services of any kind whatsoever, and from military obligations such as those connected with requisitioning, military contributions and billeting.

ARTICLE 53

BEGINNING AND END OF CONSULAR PRIVILEGES AND IMMUNITIES

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters his duties with the consular post.

2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this Article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.

3. When the functions of a member of the consular post have come to an end his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict.

In the case of the persons referred to in paragraph 2 of this Article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.

4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.

5. In the event of the death of a member of the consular post the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner.

OBLIGATIONS OF THIRD STATES

1. If a consular officer passes through or is in the territory of a third State which has granted him a visa if a visa was necessary, while proceeding to take up or return to his post or when returning to the sending State, the third State shall accord to him all immunities provided for by the other Articles of the present Convention as may be required to ensure his transit or return. The same shall apply in the case of any member of his family forming part of his household or to return to the sending State.

2. In circumstances similar to those specified in paragraph 1 of this Article third States shall not hinder the transit through their territory of other members of the consular post or of members of their families forming part of their households.

3. Third States shall accord to official correspondence and to other official communications in transit, including messages in code or cipher, the same freedom and protection as the receiving State is bound to accord under the present Convention. They shall accord to consular couriers who have been granted a visa, if a visa was necessary, and to the consular bags in transit, the same inviolability and protection as the receiving State is bound to accord under the present Convention.

4. The obligations of third States under paragraphs 1, 2 and 3 of this Article shall also apply to the persons mentioned respectively in those paragraphs, and to official communications and to consular bags, whose presence in the territory of the third State is due to majeure.

ARTICLE 55

RESPECT FOR THE LAWS AND REGULATIONS OF THE RECEIVING STATE

2. The consular premises shall not be used in any manner incompatible with the exercise of consular functions.

3. The provisions of paragraph 2 of this Article shall not exclude the possibility of offices of other institutions or agencies being installed in part of the building in which the consular premises are situated, provided that the premises assigned to them are separate from those used by the consular post. In that event the said offices shall not, for the purposes of the present Convention, be considered to form part of the consular premises.

Article 57

SPECIAL PROVISIONS CONCERNING PRIVATE GAINFUL OCCUPATION

2. Privileges and immunities provided in this Chapter shall not be accorded -

- (a) to consular employees or to members of the service staff who carry on any private gainful occupation in the receiving State;
- (b) to members of the family of a person referred to in sub-paragraph (a) of this paragraph or to members of his private staff:
- (c) to members of the family of a member of a consular post who themselves carry on any private gainful occupation in the receiving State.

Chapter III — Regime relating to Honorary Consular Officers and Consular Posts headed by such officers

ARTICLE 58

GENERAL PROVISIONS RELATING TO FACILITIES, PRIVILEGES AND IMMUNITIES

1. Articles 35 and 39, paragraph 3 of Article 54 and paragraphs 2 and 3 of Article 55 shall apply to consular posts headed by an honorary consular officer. In addition the facilities, privileges and immunities of such consular posts shall be governed by Articles 60, 61 and 62.

2. Article 43, paragraph 3 of Article 44, Articles 45 and 53 shall apply to honorary consular officers. In addition the facilities, privileges and immunities of such consular officer shall be governed by Articles 66 and 67.

3. Privileges and immunities provided in the present Convention shall not be accorded to members of the family of an honorary consular officer or of a consular employee employed at a consular post headed by an honorary consular officer.

EXEMPTION FROM TAXATION OF CONSULAR PREMISES

1. Consular premises of a consular post headed by an honorary consular officer of which the sending State is the owner or lessee shall be exempt from all national, regional or municipal dues and taxes whatsoever, other than such as represent payment for specified services rendered.

2. The exemption from taxation referred to in paragraph 1 of this Article shall not apply to such dues and taxes if, under the laws and regulations of the receiving State, they are payable by the person who contracted with the sending State.

ARTICLE 61

INVIOLABILITY OF CONSULAR ARCHIVES AND DOCUMENTS

The consular archives and documents of a consular post headed by an honorary consular officer shall be inviolable at all times and wherever they may be, provided that they are kept separate from other papers and documents and, in particular, from the private correspondence of the head of a consular post and of any person working with him, and from the materials, books or documents relating to their profession or trade.

ARTICLE 62

EXEMPTION FROM CUSTOMS DUTIES

The receiving State shall, in accordance with such laws and regulations as it may adopt, permit entry of, and grant exemption from all customs duties, taxes and related charges other than charges for storage, cartage and similar services on the following articles, provided that they are for the official use of a consular post headed by an honorary consular officer: coats-of-arms, flags, signboards, seals and stamps, books, official printed matter, office furniture, office equipment and similar articles supplied by or at the instance of the sending State to the consular post.

ARTICLE 66

EXEMPTION FROM TAXATION

An honorary consular officer shall be exempt from all dues and taxes on the remuneration and emoluments which he receives from the sending State in respect of the exercise of consular functions.

ARTICLE 67

EXEMPTION FROM PERSONAL SERVICES AND CONTRIBUTIONS

The receiving State shall exempt honorary consular officers from all personal services and from all public services of any kind whatsoever and from military obligations such as those connected with requisitioning, military contributions and billeting.

Chapter IV — General provisions

ARTICLE 70

EXERCISE OF CONSULAR FUNCTIONS BY DIPLOMATIC MISSIONS

1. The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission.

2. The names of members of a diplomatic mission assigned to the consular section or otherwise charged with the exercise of the consular functions of the mission shall be notified to the Ministry of Foreign Affairs of the receiving State or to the authority designated by that Ministry.

4. The privileges and immunities of the members of a diplomatic mission referred to in paragraph 2 of this Article shall continue to be governed by the rules of international law concerning diplomatic relations.

ARTICLE 71

NATIONALS OR PERMANENT RESIDENTS OF THE RECEIVING STATE

1. Except in so far as additional facilities, privileges and immunities may be granted by the receiving State, consular officers who are nationals of or permanently resident in the receiving State shall enjoy immunity from jurisdiction and personal inviolability in respect of official acts performed in the exercise of their functions, and the privilege provided in paragraph 3 of Article 44.

2. Other members of the consular post who are nationals of or permanently resident in the receiving State and members of their families, as well as members of the families of consular officers referred to in paragraph 1 of this Article, shall enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving State. Those members of the families of members of the consular post and those members of the private staff who are themselves nationals or permanently resident in the receiving State shall likewise enjoy facilities, privileges and immunities only in so far as these are granted to them by the receiving state.

SCHEDULE 2

(Sections 4 and 11)

PROVISIONS FOR GIVING EFFECT TO OTHER AGREEMENTS

1. The like exemption from dues and taxes may be extended to the residence of any member of a consular post as is accorded under Article 32 in Schedule 1 to the residence of the career head of a consular post.

2. Paragraph 1 of Article 49 in that Schedule may be extended to members of the service staff.

3. Paragraph 2 of Article 50 in that Schedule may be applied as if it were among the Articles mentioned in paragraph 2 of Article 58 in that Schedule, as if the reference to consular employees included members of the service staff and also such members of the families of consular employees or of members of the service staff as form part of their households, and as if the words "in respect of articles imported at the time of first installation" were omitted.

4. Paragraphs 1 and 2 of Schedule 3 (inviolability and immunity from jurisdiction and arrest of diplomatic agents and exemption from duty to give evidence) may be extended to members of a consular post and members of their families forming part of their households.

5. Paragraph 3 of Schedule 3 (inviolability and protection of mission) may be extended to consular premises; and paragraph 4 of that Schedule (inviolability of private residence) may be extended to the residence of consular officers.

6. Paragraph 5 of Schedule 3 (freedom of communications) may be extended to the communications of a consular post.

SCHEDULE 3

(Section 12)

PROVISIONS OF THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS (1961)

HAVING THE FORCE OF LAW IN THE COLONY

1. The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

2. (1) A diplomatic agent shall enjoy immunity from the criminal jurisdiction of the receiving State. He shall also enjoy immunity from its civil and administrative jurisdiction, except in the case of —

- (a) a real action relating to private immovable property situated in the territory of the receiving State, unless he holds it on behalf of the sending State for the purposes of the mission;
- (b) an action relating to succession in which the diplomatic agent is involved as executor, administrator, heir or legatee as a private person and not on behalf of the sending State;
- (c) an action relating to any professional or commercial activity exercised by the diplomatic agent in the receiving State outside his official functions.

(2) A diplomatic agent is not obliged to give evidence as a witness.

(3) No measures of execution may be taken in respect of a diplomatic agent except in the cases coming under subparagraphs (a), (b) and (c) of paragraph 1 of this Article, and provided that the measures concerned can be taken without infringing the inviolability of his person or of his residence.

(4) The immunity of a diplomatic agent from the jurisdiction of the receiving State does not exempt him from the jurisdiction of the sending State.

3. (1) The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.

(2) The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.

(3) The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immunue from search, requisition, attachment or execution.

4. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission.

5. (1) The receiving State shall permit and protect free communication on the part of the mission for all official purposes. In communicating with the Government and other missions and consulates of the sending State, wherever situated, the mission may employ all appropriate means, including diplomatic couriers and messages in code or cipher. However, the mission may install and use a wireless transmitter only with the consent of the receiving State.

(2) The official correspondence of the mission shall be inviolable. Official correspondence means all correspondence relating to the mission and its functions.

(3) The diplomatic bag shall not be opened or detained.

(4) The packages constituting the diplomatic bag must bear visible marks of their character and may contain only diplomatic documents or articles intended for official use.

(5) The diplomatic courier, who shall be provided with an official document indicating his status and the number of packages constituting the diplomatic bag, shall be protected by the receiving State in the performance of his functions. He shall enjoy personal inviolability and shall not be liable to any form of arrest or detention.

(6) The sending State or the mission may designate diplomatic couriers ad hoc. In such cases the provisions of paragraph (5) of this Article shall also apply, except that the immunities therein mentioned shall cease to apply when such a courier has delivered to the consignee the diplomatic bag in his charge.

(7) A diplomatic bag may be entrusted to the captain of a commercial aircraft scheduled to land at an authorised port of entry. He shall be provided with an official document indicating the number of packages constituting the bag but he shall not be considered to be a diplomatic courier. The mission may send one of its members to take possession of the diplomatic bag directly and freely from the captain of the aircraft.

Passed by the Legislature of the Colony of the Falkland Islands this 12th day of November 1986.

A. S. BROWNLEE, Acting Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

A. S. BROWNLEE, Acting Clerk of Councils.

Ref: FOR/10/2.

Printed by the Government Printer. FALKLAND ISLANDS.

The Income Tax (Amendment) Ordinance 1986

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Amendment of Cap. 32.

ELIZABETH II



Colony of the Falkland Islands

DAVID GEORGE PENDLETON TAYLOR Acting Governor.

The Income Tax (Amendment) Ordinance 1986.

No. 17 of 1986

An Ordinance to amend the Income Tax Ordinance Cap. 32.

(Assented to : 13th February 1987) (Commencement : on Assent retrospectively as per Section 1) (Published : 4th September 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance 1986 and shall come into force on the 1st day of January 1987.

- 2. The Income Tax Ordinance is amended
 - (a) in Section 2 by -
 - (i) substituting "£15,000" for "£10,000" in the definition of "housing loan";
 - (ii) adding the following after the definition of "ordinary resident" ---

""" "maintenance payments" mean payments under an order of a court in the Falkland Islands —

- (a) by one of the parties to a marriage (whether subsisting, dissolved or annulled) for the maintenance of the other party; or
- (b) to any person for the benefit, maintenance or education of a person under the age of 21 years not being a payment mentioned in paragraph
 (a); '
- (b) in Section 5 by the addition at the end thereof of the following -

"(g) maintenance payments";

- (c) in Section 10 (1) by -
 - (i) the insertion after paragraph (e) of the following -

"(f) maintenance payments"; and

- (ii) the relettering of the existing paragraph "(f)" as "(g)";
- (d) in Section 14 (1) by substituting "£2,100" for "£2,000";
- (e) in Section 15 by substituting -
 - (i) "£1,200" for "£1,150" in subsection (1);
 - (ii) "£2,100" for "£2,000" in subsection (4);

commencement.

Citation and

Amendment of Cap. 32.

(f) by the addition after Section 56 of the following section -

"Appointment and duties of agent.

56A. In this section —

"agent" means a person appointed as such under subsection (2);

"appointment notice" means a notice issued by the Commissioner under subsection (2) appointing an agent;

"moneys" includes salary, wages and pensions payments and any other remuneration whatsoever;

"principal" means the person in respect of whom an agent is appointed.

(2) The Commissioner may, in his discretion, by written notice addressed to any person —

- (a) appoint him to be the agent of another person for the purposes of the collection and recovery of tax due from such other person; and
- (b) specify the amount of such tax to be collected and recovered.

(3) An agent shall pay the tax specified in his appointment notice out of any moneys which may, at any time during the twelve months following the date of the notice, be held by him for, or due from him to, his principal.

(4) Where an agent claims to be, or to have become, unable to comply with subsection (3) by reason of the lack of moneys held by, or due from him, he shall, as soon as may be practicable, notify the Commissioner accordingly in writing setting out fully the reasons for his inability so to comply, and the Commissioner may -

- (a) accept the notification and cancel or amend the appointment notice accordingly; or
- (b) if he is not satisfied by such reasons, reject the notification in writing.

(5) Unless and until a notification is given by an agent under subsection (4) -

- (a) sufficient moneys for the payment of the tax specified in his appointment notice shall be presumed to be held by him for, or due from him to, his principal; and
- (b) in any proceedings for the collection or recovery of such tax, he shall be estopped from asserting the lack of such moneys.

(6) For the purposes of this section, the Commissioner may, by notice in writing, at any time require any person to furnish him within a reasonable time, not being less than thirty days from the date of service of such notice, with a return showing any moneys which may be held by such person for, or due by him to, any other person from whom tax is due.

(7) Where an agent fails to pay any amount of tax specified in his appointment notice within thirty days ---

- (a) of the date of service of such notice on him; or
- (b) of the date on which any moneys come into his hands for, or become due by him to, his principal,

whichever is the later; and -

- (i) he has not given a notification under subsection(4); or
- (ii) he has given such notification which has been rejected by the Commissioner,

the provisions of this Ordinance relating to the collection and recovery of tax shall apply to the collection and recovery of such amount as if it were tax due and payable by the agent, the due date for the payment of which was the date upon which such amount should have been paid to the Commissioner under this subsection.

(8) An agent who has made any payment of tax under this section shall for all purposes be deemed to have acted therein with the authority of his principal and of all other persons concerned, and shall be indemnified in respect of such payment made against all proceedings, civil or criminal, and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement. "

Passed by the Legislature of the Colony of the Falkland Islands this 12th day of November 1986.

A. S. BROWNLEE, Acting Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

A. S. BROWNLEE, Acting Clerk of Councils.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Fishing) Regulations (Amendment) Order 1987

ARRANGEMENT OF REGULATIONS

Regulation

- 1. Citation and commencement.
- 2. Amendment of Order No. 20 of 1986.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Fishing) Regulations (Amendment) Order 1987

(S. R. & O. 2 of 1987)

1. This Order may be cited as the Fisheries (Fishing) Regulations (Amendment) Order 1987 and shall be in force with effect from the 1st day of February 1987.

- 2. The Fisheries (Fishing) Regulations Order 1986 is amended by
 - (a) the substitution for Regulation 6 (3) of -

"(3) the licence shall be issued to the Master of the fishing boat at Stanley or at such other place as the Director of Fisheries may agree. ";

(b) the substitution for Regulation 7 (4) of the following --

"(4) A licensee may at the discretion of the Director surrender a fishing licence either temporarily or permanently on payment to the licensee by the Falkland Islands Government of a refund of the part of the licence fee paid for the unused term of the licence for units of not less than one calendar month with a deduction therefrom of the administrative fee referred to in sub-regulation (3). ";

- (c) the substitution in Regulation 19 (2) of the word "forty" for the words "twenty-five";
- (d) the addition at the end of Regulation 23 (1) of the following —
 "The aforesaid frequencies shall be used as calling and distress call frequencies only. They shall not be used for intership communications.";
- (e) the insertion in paragraph (a) (ii) of the Schedule after the word "sea" of the words "or internal waters".

Made this 4th day of February 1987.

D. G. P. TAYLOR, Acting Governor. Amendment of Order No. 20 of

Commencement.

Citation and

1986.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Administrative Penalty Forms) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. Prescribed forms.

Schedule

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Administrative Penalty Forms) Order 1987

(S. R. & O. 3 of 1987)

In accordance with Section 20 of the Fisheries (Conservation and Management) Ordinance 1986 the Acting Governor makes the following Order -

1. This Order may be cited as the Fisheries (Administrative Penalty Forms) Order 1987 and shall be in force with effect from the first day of February 1987.

Citation and commencement.

The prescribed forms for the purpose of Section 18 of the Ordinance shall be those Prescribed 2. forms. set out in the Schedule hereto.

SCHEDULE

Form A

З.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

Notice of Alleged Offence

No.

IN THE MATTER of Section 18 of the Fisheries (Conservation and Management) Ordinance 1986.

То:

TAKE NOTICE that I have reasonable cause to believe that on _____ day the _____ day of _____ at 1. (specify brief details of alleged offence), being an offence relating to fishing within the exclusive economic zone which I consider appropriate to be dealt with under Section 18 of the Fisheries (Conservation and Management) Ordinance 1986.

.....

The following is a summary of the facts on which this allegation is based — 2.

...... (Specify a sufficient summary to fully and fairly inform recipient of allegation against him.)

I consider the following matters to be relevant to the imposition of a penalty in this case -

**********

.....

4. This notice is served on you pursuant to Section 18 of the Fisheries (Conservation and Management) Ordinance 1986. The provisions of that section are attached to this notice.

Governor.

(Provisions of Section 18 to be attached or endorsed on notice.)

Form B

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 Notice requiring proceedings to be Dealt with in Court

To : The Governor, Stanley.

(Signature)

Form C

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1987

Section 18 (4)

Notice to the Governor admitting offence.

1. I refer to the notice No. dated the day of 19 that you have caused to be served upon me in accordance with Section 18 (1) of the Fisheries (Conservation and Management) Ordinance 1986.

I admit the offence set out in the said notice.

.....

2. I consider that you should take the following into account in imposing a penalty ---

Signed

Date

Form D

THE FISHERIES (CONSERVATION AND MAMAGEMENT) ORDINANCE 1986

Section 18 (7)

Notice of Imposition of Administrative Penalty

	NO
IN THE MATTER of Section 18 (7) of the Fisheries	
(Conservation and Management) Ordinance.	
To :	
1. TAKE NOTICE that I have on the day of 19 imposed on you a penalty of in respect of the offence committed by you on the day of 19	
(Specify section or regulation applicable.)	
2. This penalty must be paid to the Crown within 28 days after this notice is served on you.	
3. Payment should be made to the Treasury, Stanley.	
Dated this day of	

Governor.

Made this 4th day of February 1987.

D. G. P. TAYLOR, Acting Governor.

Printed by the Government Printer. FALKLAND ISLANDS.

THE INCOME TAX ORDINANCE (Cap. 32)

The Pioneer Enterprise (Consultancy Services Falklands Limited) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement.

2. Declaration of pioneer enterprise.

THE INCOME TAX ORDINANCE (Cap. 32)

The Pioneer Enterprise (Consultancy Services Falklands Limited) Order 1987

(S. R. & O. 4 of 1987)

In accordance with Section 8A of the Income Tax Ordinance Cap. 32 the Acting Governor in Council makes the following order —

1. This Order may be cited as the Pioneer Enterprise (Consultancy Services Falklands Limited) Order 1987 and shall come into force with effect from the 1st day of June 1986.

2. Consultancy Services Falklands Limited is declared a pioneer enterprise for the purposes of Section 8A of the Ordinance.

commencement. Declaration of

pioneer enterprise.

Citation and

Made this 1st day of February 1987.

D. G. P. TAYLOR, Acting Governor.

Ref: INC/29/1.

Printed by the Government Printer. FALKLAND ISLANDS.



BY THE QUEEN

A PROCLAMATION

DETERMINING THE SPECIFICATIONS AND DESIGN FOR, AND GIVING CURRENCY TO, A FIFTY PENCE SILVER COIN IN THE FALKLAND ISLANDS.

ELIZABETH R.

We, in exercise of the powers conferred by Section 11 of the Coinage Act 1870, section 2 (3) of the Decimal Currency Act 1967, and all other powers enabling Us in that behalf, do hereby, by and with the advice of Our Privy Council, proclaim, direct and ordain as follows —

1. This Proclamation shall be published in the Official Gazette of the Falkland Islands and shall come into force there on the date of such publication.

2. A new silver coin shall be made of the denomination of fifty pence, being a coin of a standard weight of 28.2759 grammes, a standard diameter of 38.608 millimetres, millesimal fineness 925 and circular in shape.

3. In the making of the said coin a remedy (that is, a variation from the standard weight, diameter or millesimal fineness specified above) shall be allowed of an amount not exceeding the following, that is to say -

- (a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 0.1296 grammes;
- (b) a variation from the said standard diameter of 0.125 millimetres per coin; and
- (c) a variation from the said millesimal fineness of 5.
- 4. The design of the said coin shall be as follows -
 - (a) For the obverse impression Our effigy with the inscription "QUEEN ELIZABETH THE SECOND".
 - (b) For the reverse impression two King Penguins with the inscription "FALKLAND ISLANDS 1987" and at the bottom "50".
 - (c) Every coin shall have a graining upon the edge.
- 5. The said coin shall be current within Our Colony of the Falkland Islands.

Given at Our Court at Buckingham Palace, this tenth day of February in the year of our Lord One thousand nine hundred and eighty-seven and in the thirty-sixth year of Our Reign.

GOD SAVE THE QUEEN

Printed by the Government Printer. FALKLAND ISLANDS. Price: Three pounds and fifty pence.



THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

31st MARCH 1987

No. 4

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 31st March 1987, was in fact published on 14th September 1987.

D. G. LANG, Attorney General.

Appointments

Miss Anya Smith, Nurse, Medical Department, 17.10.83.

Miss Jennifer Ethel Smith, Woman Police Constable, Falkland Islands Police Force, 2.3.87.

Mrs. Joyce Shorrock, Teacher, Education Department, 3.3.87.

John Teggart, Meter Reader/Clerk, Public Works Department, 5.3.87.

Stephen Mark Wright, Teacher, Education Department, 10.3.87.

Miss Rose Mary Short, Clerk, Public Service, 11.3.87. Promotion

Andrez Peter Short, from Tradesman, Power Station, Public Works Department, to Foreman, Power Station, Public Works Department, 1.3.87.

Completion of Contract

Miss Alison Mary Sutton, Teacher, Education Department, 5.3.87.

Retirement

Terence Reive, Hangar Assistant, Aviation Department, 1.3.87.

Resignations

Frederick John Ford, Fireman, Police, Fire and Rescue Service, 2.3.87.

Miss Katrina Clarke, Clerk, Public Service, 6.3.87. Mrs. Jeanette Berntsen Cook/Housekeeper, Govern-

ment House, 12.3.87.

No. 14.

26th March 1987.

Marriage Ordinance (Cap. 43) Section 5 With reference to Gazette Notice No. 9/87 of 30th January 1987 the following name is added to the list of Ministers for celebrating marriages —

NOTICES

The Reverend Canon JOHN GERVASE MAURICE WALKER MURPHY, LV.O., M.A., Rector of Christ Church Cathedral.

Ref. INT/39/1.

In the Supreme Court of the Falkland Islands NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE

IN THE MATTER OF MICHAEL RAYMOND CAREY, deceased of Stanley, Falkland Islands, who died at Stanley on the 10th day of February 1987, intestate.

WHEREAS Trudi Ann Carey has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

NOTICE IS HEREBY GIVEN pursuant to Section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

> S. HALFORD, Registrar.

Stanley, Falkland Islands. 20th March 1987. PRO/1/1987.

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE

(Cap. 10)

IN THE MATTER OF ANN GLEADELL, deceased of Stanley, Falkland Islands, who died at Stanley on the 22nd day of September 1986, intestate.

WHEREAS Charles Alexander Albert John McKenzie has applied for Letters of Administration to administer the estate of the said deceased in the Colony. NOTICE IS HEREBY GIVEN pursuant to Section 4 of the administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

> S. HALFORD, Registrar.

Stanley, Falkland Islands. 25th March 1987. PRO/21/86.

Application for licence under the provisions of the Licensing Ordinance (Vol. 1 Cap. 38)

in accordance with the provisions of the Licensing Ordinance an application has been made by -

Mrs. M. A. Goodwin

for a Restaurant Licence for the premises known as Goodwin's Guest House, 46 John Street, Stanley. Provided that no objection be taken to the granting of the licence before 27 February 1987 the same will be granted.

> H. T. ROWLANDS, Financial Secretary.

The Treasury, Stanley. 6th February 1987.

> Printed by the Government Printer. FALKLAND ISLANDS. Price: Twenty pence.



THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

30th APRIL 1987

No. 5

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 30th April 1987, was in fact published on 28th September 1987.

D. G. LANG, Attorney General.

Appointment

David Harriman, Teacher, Education Department, 21.4.87.

Acting Appointment

Owen Horace McPhee, Acting Superintendent, Posts and Telecommunications Department, 17.4.87. — 14.5.87.

Promotions

Tony Pettersson, from Assistant Printer, Printing Office, Secretariat, to Head Printer, Printing Office, Justice Department, 1.4.87.

Simon Peter Miller Goss, from Assitant Income Tax Officer, Treasury Department, to Assistant Secretary, Secretariat, 13.4.87.

Derek Richard Pettersson, from Technical Assistant, Posts and Telecommunications Department, to Senior Technician, Posts and Telecommunications Department, 28.4.87.

Retirement

William Duncan, Mate, M.V. Forrest, Customs and Harbour Department, 15.4.87.

Resignations

Andrew Samuel Brownlee, Assistant Secretary, Secretariat, 16.4.87.

Mrs. Carol Wendy Teggart (formerly Buckland), Junior Broadcasting Assistant, Posts and Telecommunications Department, 21.4.87.

Miss Nicola Buckett, Clerk, Public Service, 30.4.87.

NOTICES

No. 15.

3rd April 1987.

Prison Ordinance 1966

Appointment of Board of Visiting Justices

In accordance with Section 7 of the Prisons Ordinance, I, Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoint -

Gerard Carmel Byrne, J.P. (Senior Member)

Janet Lynda Cheek, J.P.

Terence George Spruce, J.P.,

to be members of the Board of Visiting Justices for one year with effect from the first day of January 1987.

Made this third day of April 1987.

G. W. JEWKES, Governor.

Ref. POL/19/1.

No. 16.

Appointment of Director of Fisheries

In accordance with Section 9 (1) of the Fisheries (Conservation and Management) Ordinance 1986, **I**, **Gordon Wesley Jewkes, Esquire,** Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoint —

Peter John Derham, to be Director of Fisheries with effect from the 1st day of April 1987.

Given under my hand this 6th day of April 1987.

G. W. JEWKES,

Governor.

No. 17.

Ref. P/1854.

10th April 1987

The Electricity Supply Regulations 1969 (Regulation 10)

Notice is hereby given that the rate charged for the supply of electrical energy by the Government has been reviewed by the Governor in Council in accordance with Regulation 10 of the Electricity Supply Regulations 1969 and fixed at 13p per unit with effect from quarter ending 30th June 1987.

Until further notice consumers who are in receipt of an Old Age Pension under the provisions of the Old Age Pensions Ordinance 1952 or Non-Contributory Old Age Pensions Ordinance 1961 will qualify for a rebate of 2p per unit with effect from quarter ending 30th June 1987 up to the following limits —

	Summer Units	Winter Units	
	per Quarter	per Quarter	
Married pensioners	300	400	
Single pensioners	200	300	
(including widows and w	vidowers)		

PLEASE NOTE Consumers who receive the pensioners' rebate will be charged 11p per unit up to the above mentioned limits, and the full rate of 13p per unit on units consumed above those limits.

No. 18.

20th April 1987.

Appointment of Acting Judge

In accordance with Section 80 (1) of the Constitution, His Excellency Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoints —

Michael Charles Lloyd Gaiger, to act as a Judge of the Supreme Court in the matter of F.I.D.C. v Clanwood (Falklands) Ltd.

Given under my hand and the Public Seal this 20th day of April 1987.

Ref. LEG/19/5.

G. W. JEWKES, Governor. No. 19.

23rd April 1987.

In accordance with Section 2 (2) of the Commissioners for Oaths Ordinance 1969, David Geoffrey Lang, is appointed Commissioner for Oaths.

G. W. JEWKES,

Governor.

Ref. LEG/19/5 & P/1860.

No. 20.

23rd April 1987.

Appointment of Senior Magistrate

In accordance with Section 7B of the Administration of Justice Ordinance, I, Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoint —

David Geoffrey Lang, a Senior Magistrate with effect from the 23rd day of April 1987.

Given under my hand and the Public Seal at Stanley this 23rd day of April 1987.

G. W. JEWKES, Governor.

No. 21.

23rd April 1987.

Appointment of Deputy Coroner

In accordance with Section 29 (2) of the Administration of Justice Ordinance Cap. 3 His Excellency Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoints —

David Geoffrey Lang, to be a Deputy Coroner until the 2nd day of June 1987.

Given under my hand this 23rd day of April 1987.

G. W. JEWKES, Governor.

No. 22.

23rd April 1987.

Appointment of Notary Public

In accordance with Section 43 of the Administration of Justice Ordinance His Excellency Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoints --

David Geoffrey Lang, to be a Notary Public. Given under my hand this 23rd day of April 1987.

> G. W. JEWKES, Governor.

THE ROAD TRAFFIC ORDINANCE

Road Traffic Declaration and Designation (Mount Pleasant) Roads Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. Declaration and designation of roads at Mount Pleasant.
- 3. Saving of Order No. 6 of 1986 and exclusion therefrom. Schedule

THE ROAD TRAFFIC ORDINANCE

Road Traffic Declaration and Designation (Mount Pleasant) Roads Order 1987 (S. R. & O. 5 of 1987)

In accordance with Sections 2 and 8 (3) (b) of the Road Traffic Ordinance Cap. 60 the Governor in Council makes the following order -

1. This Order may be cited as the Declaration and Designation (Mount Pleasant) Roads Order 1987 and shall come into force on the 14th day of April 1987.

2. (1) The roads and places in the vicinity of Mount Pleasant Airport referred to in the Schedule hereto are declared to be roads for the purposes of the Road Traffic Ordinance.

(2) The roads referred to in Part 1 of the Schedule are designated as restricted roads and the roads and places referred to in Part 2 of the Schedule are designated as urban roads.

(3) The place referred to in Part 3 of the Schedule is designated as a restricted road and the speed limit thereon is prescribed as fifteen miles per hour.

3. The Declaration and Designation (Stanley — Darwin) Road Order 1986 shall remain aplicable to the Stanley Darwin Road except to that part that proceeds along Mare Harbour Road and the Mount Pleasant Ring Road to the junction with the Darwin Road.

commencement. Declaration and

designation of roads at Mount Pleasant.

Saving of Order No. 6 of 1986 and exclusion therefrom.

SCHEDULE

PART 1 — Restricted Roads

- (a) That part of Mare Harbour Road from the paso libre at the guardroom entrance to the junction with Batt and North Road. That part of Batt Road from the junction with Mare Harbour and North Road to the northern edge of Sephton Square.
- (b) Woodhead Road.

PART 2 - Urban Roads

- (a) That part of Mare Harbour Road from the paso libre at the guardroom entrance to the junction with the Mount Pleasant Ring Road.
- (b) That part of the Mount Pleasant Ring Road from Upland Goose Road to the junction with the Darwin Road. (c) Johnston Rise.
- (d) Upland Goose Road.
- (c) Letsby Avenue.
- (f) Fulmar Road.
- (g) Grebe Road.
- (h) Sanderling Road.

(i) Langworthy Road.(j) Balsam Crescent.

(k) Sephton Square.
(l) Road from the southern edge of Sephton Square to Mare Harbour Jetty Head.

PART 3

The car park adjacent to the southern side of the air terminal building.

Made this 6th day of April 1987.

G. W. JEWKES, Governor.

Ref: LEG/10/58.

Printed by the Government Printer. FALKLAND ISLANDS.

THE CO-OPERATIVE SOCIETIES ORDINANCE 1985

The Co-operative Societies (Exemptions) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement.

2. Exemption.

THE CO-OPERATIVE SOCIETIES ORDINANCE 1985 The Co-operative Societies (Exemptions) Order 1987 (S. R. & O. 6 of 1987)

In accordance with Sections 53 and 56 of the Co-operative Societies Ordinance 1985 the Governor in Council makes the following Order -

1. This Order may be cited as the Co-operative Societies (Exemptions) Order 1987 and shall be in force with effect from 1st April 1987.

Citation and commencement.

Exemption.

2. The Stanley Co-operative and the Home Industries Co-operative are, until the 31st October 1987 exempted from the provisions in the Co-operative Societies Ordinance concerning registration and are authorised to use the word Co-operative as part of their business or trade names.

Made this 6th day of April 1987.

G. W. JEWKES, Governor.

Ref: POL/10/5.

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THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

29th MAY 1987

No. 6

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 29th May 1987, was in fact published on 19th October 1987.

D. G. LANG, Attorney General.

Appointments	Retirement				
Frederick Martin, Teacher, Education Department, 1.5.87.	Owen Horace McPhee, Senior Clerk, Posts and Telecommunications Department, 8.5.87.				
Tony Summers, Assistant Aircraft Engineer, Aviation	Completion of Contract				
Department, 1.5.87.	Andrew Joseph Clarke, Teacher, Education Depart-				
Mrs. Alison Kay Goodman, Teacher, Education Department, 5.5.87.	ment, 31.5.87. Resignations				
Dr. Jeffrey Phillip Goodman, Teacher, Education Department, 5.5.87.	Ronald Clifton, House Parent, Education Depart- ment, 28.5.87.				
Phillip John Middleton, Printer, Printing Office, Justice Department, 11.5.87.	Miss Sheena Newman, Clerk, Public Service, 28.5.87.				
John Smith, Curator, Falkland Islands Museum,	NOTICE No. 23. 29th May 1987				
Secretariat, 11.5.87.	No. 23. 29th May 1987. Prison Ordinance 1966				
Zachary Stephenson, Assistant Printer, Printing Office, Justice Department, 13.5.87.	Appointment of Board of Visiting Justices				
Miss Caroline Ford, Clerk, Public Service, 18.5.87.	In accordance with Section 7 of the Prisons				
Anthony Thomas Sykes, Senior Plumber, Public Works Department, 19.5.87.	Ordinance, I, Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony				
John Lennon, Engineman, Power Station, Public	of the Falkland Islands —				
Works Department, 21.5.87.	Hereby Appoint —				
Mrs. Enid Anthony, Scnior Nurse, Medical Depart- ment, 27.5.87.	Jessie Booth, J.P.				
Mrs. Margaret Fowler, Senior Nurse, Medical Depart- ment, 27.5.87.	to be the senior member of the Board of Visiting Justices in place of Mr. Gerard Carmel Byrne, J.P. for one year with effect from the first day of January				
Promotion	1987.				
Mrs. Rose Ann Shirley Hirtle, from Clerk, Public	Made this 29th day of May 1987.				
Service, to Assistant Income Tax Officer, Treasury Department, 13.5.87.	G. W. JEWKES,				
	Courses				

Ref. POL/19/1.

Governor.

PROCLAMATION

No. 1 of 1987

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 Commonwealth, Defender of the Faith.

BY HIS EXCELLENCY GORDON WESLEY JEWKES, ESQUIRE, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands.

WHEREAS it is provided by Section 32 (2) of the Constitution that each session of the Legislative Council shall terminate when the Council is Prorogued;

AND WHEREAS it is provided by Section 32 (1) of the Constitution that each session of the Legislative Council shall be held at such place and shall begin at such time as the Governor may appoint by proclamation published in the Gazette:

NOW, THEREFORE, I, GORDON WESLEY JEWKES, do hereby PROCLAIM that the Legislative Council shall be prorogued on Tuesday the 19th day of May 1987;

AND THAT the next session of the Legislative Council shall be held at the Court and Council Chamber of the Town Hall, Stanley, and shall begin at 10 a.m. in the forenoon on Tuesday the 26th day of May 1987.

GIVEN under my hand and the Public Seal of the Colony of the Falkland Islands at Government House, Stanley, this 1st day of May in the year of our Lord One Thousand Nine Hundred and Eighty Seven.

> G. W. JEWKES, Governor.

GOD SAVE THE QUEEN

Ref: LEC/35/1.

Printed by the Government Printer. FALKLAND ISLANDS.

The Supplementary Appropriation (1985-86) Ordinance 1987

Arrangement of Sections

Section

- 1. Citation.
- 2. Appropriation in excess of expenditure for the year 1985-86.

Schedule.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Supplementary Appropriation (1985-86) Ordinance 1987.

No. 1 of 1987

An Ordinance to allow and confirm certain expenditure incurred in the year 1985-86.

(Assented to : 11th May 1987) (Commencement : as publication) (Published : 19th October 1987)

WHEREAS expenditure was necessarily incurred during the financial year 1985-86 on certain services although not provided for in the Appropriation (1985-86) Ordinance 1985.

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited for all purposes as the Supplementary Appropriation Citation. (1985-86) Ordinance 1987.

2. The expenditure during the financial year 1985-86 to the amount of three hundred and nine thousand and twenty-nine pounds set forth in the Schedule hereto and not provided for or fully provided for by the Appropriation (1985-86) Ordinance 1985 is hereby allowed and confirmed.

Appropriation in excess of expenditure for the year 1985-86.

SCHEDULE

Number		Head of Service						£
100	Aviation							24,305
390	Fox Bay Village			***				13,787
550	Police and Prisons							6,736
800	Legislature	***						359
870	Transfer to Development	Fund						200,000
					Ordinar	y Expense	diture	£ 245,187
951	Development Expenditure	e to be	met froi	n Local	Funds			63,842
						т	DTAL	£ 309,029

Passed by the Legislature of the Colony of the Falkland Islands this 1st day of April 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: TRE/14/22.

Printed by the Government Printer. FALKLAND ISLANDS.

The Fisheries (Conservation and Management) (Amendment) Ordinance 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- I. Citation and commencement.
- 2. Amendment of Ordinance No. 11 of 1986.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

Fisheries (Conservation and Management) (Amendment) Ordinance 1987.

No. 2 of 1987

An Ordinance to amend the Fisheries (Conservation and Management) Ordinance 1986.

(Assented to : 11th May 1987) (Commencement : 1st May 1987) (Published : 19th October 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows ---

1. This Ordinance may be cited as the Fisheries (Conservation and Management) (Amendment) Ordinance 1987, and shall come into force on the first day of May 1987.

- 2. The Fisheries (Conservation and Management) Ordinance 1986 is amended by --
 - (a) the substitution for the proviso to Section 7 (2) of the following —

"provided that in any proceedings pursuant to this subsection in respect of transhipment or receiving of fish it shall be a defence unless the said transhipment or receiving of fish took place in the territorial sea or internal waters, if the person charged satisfies the court that the fish to which the charge relates was not taken caught or captured in the fishing waters."

- (b) the substitution for Section 15 (1) of the following -
 - "(1) Any person who -
 - (a) when lawfully required under this Ordinance or any regulation made hereunder to make notification or give information gives false or misleading information or in an application under this Ordinance or any regulation made hereunder makes a statement or furnishes information which is false or misleading in any particular; or
 - (b) contravenes any provision of this Ordinance or any regulation made hereunder where no offence is specifically provided

commits an offence"

Ref: F1S/29/8.

Passed by the Legislature of the Colony of the Falkland Islands this 1st day of April 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Printed by the Government Printer. FALKLAND ISLANDS. Citation and commencement.

Amendment of Ordinance No. 11 of 1986.

The Dangerous Goods Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Licensing Authority.
- 4. Application.
- 5. Power of Governor to give directions.
- 6. Licence required for manufacture of dangerous goods.
- 7. Prohibited goods.
- 8. Licence required for supplying labour etc. for handling dangerous goods on vessels.
- 9. Grant, variation and revocation of licences.
- 10. Marking of dangerous goods and giving of notice of their character.
- 11. Removal of dangerous goods in contravention of regulations.
- 12. Search warrants.
- 13. Search without warrant.
- 14. Report of accident by explosion or fire.
- 15. Government explosives depots.
- 16. Offences and penalties.
- 17. Liability of licence holder for offences committed by his employees and agents.
- 18. Cancellation of licence on conviction.
- 19. Forfeiture.
- 20. Regulations.
- 21. Repeals.
- 22. Saving for other enactments.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Dangerous Goods Ordinance 1987.

No. 3 of 1987

An Ordinance to control dangerous goods

(Assented to : 14th May 1987) (Commencement : to be fixed) (Published : 19th October 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Dangerous Goods Ordinance 1987, and shall come into force on such day as the Governor shall appoint by Order published in the Gazette and the Governor may appoint different days for the bringing into force of different provisions.

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

Interpretation.

Citation and commencement.

"carrier" includes all persons carrying goods or passengers for hire by land, water or air; "dangerous goods" means any of the goods or substances to which this Ordinance applies under Section 4;

"explosive" includes any substance used or manufactured with a view to producing a practical effect by explosion or a pyro-technic effect;

"licensed premises" means any premises in which dangerous goods are permitted to be manufactured or stored by virtue of a licence issued under this Ordinance;

"licensing authority" means the person appointed by the Governor as such under Section 3; "manufacture" includes process, compress, liquefy or otherwise alter the nature or form of any substance;

"occupier" includes any number of persons and a body corporate and, in the case of any manufacture, includes any person carrying on such manufacture;

"owner" in respect of any vessel or aircraft includes a charterer and any person acting as agent for the owner or charterer;

"owner" in respect of dangerous goods, includes any person acting as agent for the owner; "petroleum" includes crude petroleum, oil made from petroleum or from coal, shale, peat or other bituminous substance, and other products of petroleum or of any of the abovementioned oils, and mixtures containing petroleum or any of the above mentioned oils; "prohibited goods" means any dangerous goods declared by any regulation made under Section 20 to be prohibited goods for the purposes of this Ordinance;

"store", when used as a verb, includes to have possession or custody of or control over that to which the verb relates;

"warehouse owner" includes any person owning or mana $_{b^{(1)}b^{(2)}}$ any warehouse, store, quay, pier or other premises in which goods are deposited.

3. The Governor shall appoint a person to be the Licensing Authority for the purposes Licensing Authority for the purposes Licensing Authority

4. This Ordinance shall apply to all explosives, compressed gases, petroleum and other substances giving off inflammable vapours, substances giving off poisonous gas or vapour, corrosive substances, substances which become dangerous by interaction with water or air, substances liable to spontaneous combustion or of a readily combustible nature, radio-active material and to such other substances to which it is applied by regulations made under Section 20:

Provided that this Ordinance shall not apply -

- (a) to any dangerous goods carried in any vessel or aircraft of Her Majesty's armed forces or of the armed forces of any foreign nation;
- (b) subject to Section 15, to any dangerous goods in the possession and control of the Crown;
- (c) subject to any regulations made under Section 20, to dangerous goods (other than explosives and radioactive material) normally used for domestic, office, light industrial, farming or horticultural purposes or as fuels, lubricants or cleaning materials in vehicles, vessels or aircraft, in quantities reasonably required by the user for such use; or
- (d) to any goods exempted from the operation of this Ordinance or any provision hereof by regulations made under Section 20.

5. (1) The Governor may, subject to the Constitution, give such directions as he thinks fit (either generally or in any particular case) with respect to the exercise or performance by any public officer of any powers, functions and duties under this Ordinance.

(2) A public officer shall, in the exercise or performance of any powers, functions and duties under this Ordinance, comply with any directions given by the Governor under sub-Section (1).

6. (1) Except under and in accordance with a licence granted under this Ordinance, no person shall manufacture, store, convey or use any dangerous goods:

(2) Subject to any regulations made under Section 20 to the contrary subsection (1) shall not be construed to apply to any dangerous goods -

- (a) while in the course of transit as cargo in any vessel, aircraft or vehicle;
- (b) while being loaded into or discharged from any vessel by any person or his servants or agents, licensed for that purpose under this Ordinance;
- (c) while being loaded onto or discharged from any aircraft or vehicle; or
- (d) in respect of which any valid licence or permit authorizing possession thereof and issued pursuant to any Ordinance relates, or in respect of which any exemption from the provisions of any Ordinance has been granted.

7. No person shall manufacture or cause to be manufactured any prohibited goods or the have any prohibited goods in his possession, custody or control or in the possession, custody or control of any servant, agent or warehouse owner.

8. No person shall hire out or supply labour, vessels or equipment for loading, discharging or moving dangerous goods on vessels except under and in accordance with a licence issued under this Ordinance.

9. (1) A licence for the purposes of Section 6 or 8 may be obtained on application to the Licensing Authority and on payment of the appropriate fee and shall be in the prescribed form or, if no form is prescribed, in such form as the Licensing Authority may consider appropriate.

(2) Such licence shall be an annual licence expiring on the anniversary of the day on which it is issued, and an annual fee shall be prescribed:

Provided that on payment in advance of the appropriate fee the Licensing Authority may issue a licence valid for a period of up to five years.

Power of Governor to give directions.

Licence for manufacture of dangerous goods.

Prohibited goods.

Licence for supplying labour, vessels or equipment for handling dangerous goods on vessels. Grant, variation and revocation of licences.

Authority.

(3) The Licensing Authority may require such information as he shall consider necessary from any applicant for a licence.

(4) Any person who knowingly makes a false statement in or in connection with an application for a licence shall be guilty of an offence and liable to a fine of £500 or to imprisonment for six months or to both such fine and such imprisonment.

(5) The Licensing Authority shall grant an application for a licence if he is satisfied that -

- (a) the applicant has good reason for requiring the licence;
- (b) defence, internal security, public safety, public order and the peace will not be endangered by the grant of the licence; and
- (c) the applicant is not of intemperate habits or unsound mind or for any other reason not fit to hold the licence.

(6) The Licensing Authority may include in any licence such conditions as he shall consider necessary in the interest of defence, internal security, public safety, public order and the peace, and may during the currency of a licence introduce, add to, delete or vary any such conditions and for such purpose he may give the holder of the licence written notice to deliver his licence to the licencing authority within 21 days for amendment.

(7) Any holder of a licence who fails to comply with any condition therein shall commit an offence and be liable to a fine of ± 1000 or to imprisonment for six months or to both such fine and such imprisonment.

- (8) The Licensing Authority may revoke a licence if
 - (a) due to a change of circumstances or the acquisition of new information he is no longer satisfied concerning the matters specified in subsection (5); or
 - (b) the holder of the licence fails to comply with a notice given under subsection (6).

(9) When he revokes a licence the Licensing Authority shall give written notice to the holder requiring him to surrender his licence to the Licensing Authority within 21 days, and if the holder fails to comply with such notice he shall be guilty of an offence and liable to a fine of ± 50 .

(10) Any person aggrieved by a refusal of the Licensing Authority to grant him a licence or renew his licence, or by the conditions included in his licence or by the revocation of his licence may appeal to the Senior Magistrate.

10. No person shall deliver to any warehouse owner or carrier, or send or carry or cause to be sent or carried to or from any part of the Falkland Islands by land, water, or air, or sell or expose for sale, or store any dangerous goods, or deposit any dangerous goods in or on any warehouse, wharf or quay unless —

- (a) the true name or description of such goods is distinctly written, printed or marked in English on the outside of the drum, tin, case or other package containing such goods;
- (b) the prescribed label, if any, is attached to the outside of the drum, tin, case or other package containing such goods; and
- (c) in the case of delivery to any warehouse owner or carrier, notice in writing has been given to such warehouse owner or carrier of the true name or description of such goods and the dangerous nature thereof.

11. Where any dangerous goods are possessed, landed, shipped, transhipped, stored or are otherwise dealt with, or where any vessel or aircraft carrying any dangerous goods is berthed or has anchored or landed or stopped contrary to any regulations made under Section 20, the Licensing Authority, the Harbour Master or any other person acting under the orders of either of those officers, may cause such dangerous goods, or such vessel or aircraft to be removed, at the expense of the owner thereof, to such place as may be in conformity with the said regulations, and all expenses incurred in such removal may be recovered from the owner thereof in like manner, in all respects, as a sum of money due or payable to the Crown in respect of a fee is recoverable.

12. (1) Any judge, magistrate or justice of the peace may, if satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Ordinance has been, is being or is about to be committed, grant a search warrant authorising any police officer -

Marking of dangerous goods and giving of notice of their character.

Removal of dangerous goods in contravention of regulations,

Search warrants.

- (a) to enter at any time any premises, place or vessel named in the warrant, if necessary by force, and to search the premises, place or vessel and every person found therein;
- (b) to seize and detain any dangerous goods which he may find on the premises, place or vessel or on any such person in respect of which he has reasonable grounds for suspecting that an offence under this Ordinance has been, is being or is about to be committed; and
- (c) if the premises are those of a licensed dangerous goods manufacturer, to examine any books or records relating to the business.
- 13. Any police officer may stop and search -
 - (a) for dangerous goods any person whom he may find in any public place at any time who acts in a suspicious manner or whom he may suspect of having any dangerous goods in his possession; and
 - (b) seize and detain any dangerous goods that he may find upon such person.

14. Whenever there occurs any accident by explosion or fire in or about or in connection with any premises licensed under Section 6, the occupier of such premises shall forthwith report such accident, and any loss of life or personal injury occasioned thereby, to the Officer in Charge of Police.

15. (1) The Governor may, by notice published in the Gazette, designate any place or vessel as a Government explosives depot for the storage of explosives.

(2) Any place so designated shall be placed under the control of the Director of Public Works, and any vessel so designated shall be placed under the control of the Harbour Master.

(3) Regulations made under Section 20 may provide for the management, safety and security of any such depot.

16. (1) Any person who contravenes any of the provisions of Section 6, 7, 8 or 10 shall commit an offence and be liable to a fine of £1000 or to imprisonment for six months or to both such fine and such imprisonment:

Provided that any person accused of having contravened any of the provisions of Section 10 shall not be liable to be convicted thereof if he shows to the satisfaction of the court that he did not know the nature of the goods to which the charge relates, and that he could not, with reasonable diligence, have obtained such knowledge.

(2) The occupier of any premises who fails to report an accident in contravention of the provisions of Section 14 shall commit an offence and shall be liable to a fine of £100.

(3) Any person who -

- (a) obstructs or delays any officer in the exercise of any of the powers conferred upon him by this Ordinance; or
- (b) wilfully or recklessly gives false information or withholds information, as to the source from which any dangerous goods were obtained or as to the manufacture, conveyance, storage, packing, labelling or use of any dangerous goods,

shall commit an offence and be liable to a fine of ± 500 or to imprisonment for six months or to both such fine and imprisonment.

17. Whenever it is proved to the satisfaction of the court that an offence against this Ordinance has been committed by any employee or agent of any person holding a licence issued under this Ordinance, such person shall be held to be liable for such offence and to the penalty provided therefor, unless he proves that the offence was committed without his knowledge or consent and that he had exercised all due diligence to prevent the commission of the offence:

Provided that -

- (a) no such person shall be sentenced to imprisonment (except in default of payment of a fine) for any offence under this Section;
- (b) this Section shall not exempt the employee or agent from the penalties provided for the offence committed by him.

Search without warrant.

Report of accident by explosion or fire.

Government explosives depots.

Offences and penalties.

Liability of licence holder for offences committed by his employees and agents. 18. (1) On the conviction of any person for an offence against this Ordinance, the court may, in addition to any other penalty, order that any licence issued under this Ordinance held by such person shall be cancelled and any licence in respect of which any such order is made shall be forthwith delivered by the holder thereof to the Licensing Authority for cancellation.

(2) A person required to deliver a licence under subsection (1) who fails to do so commits an offence and shall be liable on conviction to a fine of £50.

19. A court may order to be forfeited to the Crown any dangerous goods and any Forfeiture. container thereof with respect to which any offence against this Ordinance has been committed, whether any person has been charged with such offence or not.

20. The Governor may by Order in Council make regulations providing for anything that may be prescribed under this Ordinance or otherwise for the better carrying out of the provisions hereof.

21. Sections 15, 16, 17, 18 and 22 of the Harbour Ordinance, Cap. 30, are repealed and Repeals. the Explosives Act 1875 shall not apply in the Falkland Islands.

22. The provisions of this Ordinance shall be in addition to and not in derogation of the provisions of any other enactments relating to dangerous goods.

Passed by the Legislature of the Colony of the Falkland Islands this 1st day of April 1987.

P. T. KING. Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Rcf: LEG/10/64.

Printed by the Government Printer. FALKLAND ISLANDS.

Cancellation of licence on conviction.

Regulations.

Saving for other enactments

The Firearms and Ammunition Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Register of firearms and licences.
- 4. Grant, variation and revocation of licences.
- 5. Firearms and ammunition import licence.
- 6. Firearms and ammunition export licence.
- 7. Declaration of importation or exportation.
- 8. Penalties for wrongful importation or exportation.
- 9. Firearms and ammunition dealer's licence.
- 10. Records, returns and inspection.
- 11. Cancellation of firearms and ammunition dealer's licence by the Court.
- 12. Registration of firearms.
- 13. Firearm licence.
- 14. Offence of possession of firearm without a licence.
- 15. Exemptions.
- 16. Procedure on transfer.
- 17. Temporary loans.
- 18. Restrictions on possession by young persons.
- 19. Prohibition of transfer to intoxicated or insane person.
- 20. Prohibited weapons and ammunition.
- 21. Prohibited modifications.
- 22. Manufacture of firearms and ammunition.
- 23. Possession of firearms or ammunition with intent to injure.
- 24. Use of firearm or imitation firearm to effect unlawful purpose.
- 25. Restrictions on discharge of firearms.
- 26. Forfeiture of firearms and ammunition and cancellation of licence.
- 27. Loss of firearms and ammunition to be reported.
- 28. Production of licence.
- 29. Search warrants.
- 30. Search without warrant.
- 31. Presumption of possession.
- 32. Regulations.
- 33. Repeal of Ordinance No. 12 of 1965.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Firearms and Ammunition Ordinance 1987.

No. 4 of 1987

An Ordinance to control firearms and ammunition

(Assented to : 14th May 1987) (Commencement : to be fixed) (Published : 19th October 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Firearms and Ammunition Ordinance 1987, and shall come into force on such day as the Governor shall appoint by Order published in the Gazette and the Governor may appoint different days for the bringing into force of different provisions.

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

Interpretation.

Citation and

commencement.

"airgun" means any firearm which is operated solely by compressed air, and includes an air rifle and an air pistol;

"ammunition" means ammunition for any firearm except an air gun and includes bullets, shot, shells, cartridges or anything designed or adapted for or capable of use in discharging any firearm, and any prohibited ammunition;

"firearm" means any lethal barrelled weapon of any description from which any bullet, shot, shell or other missile can be discharged, and includes any prohibited weapon whether it is a lethal weapon or not, any component part of such lethal or prohibited weapon and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon, but does not include a weapon designed to discharge a spear under water by means of a spring or compressed air for the purpose of killing fish;

"firearm licence" means a licence issued under Section 13;

"firearms and ammunition dealer's licence" means a licence issued under Section 9;

"firearms and ammunition export licence" means a licence issued under Section 6;

"firearms and ammunition import licence" means a licence issued under Section 5;

"identifying marks" means the manufacturer's serial number or other marks enabling a firearm to be positively identified;

"imitation firearm" means anything which has the appearance of a firearm whether or not it is capable of discharging any bullet, shot, shell, or other missile;

"licence" includes firearm licence, firearms and ammunition dealer's licence, firearms and ammunition export licence and firearms and ammunition import licence;

"licensed firearms dealer" means the holder of a current firearms and ammunition dealer's licence, and includes any employee of such holder acting in the course of his employment; "prohibited ammunition" means any ammunition containing or designed or adapted to contain any noxious liquid, gas or other thing;

"prohibited weapon" means any firearm which is so designed or adapted that if pressure is applied to the trigger, missiles continue to be discharged until presure is removed from the trigger or the magazine containing the missiles is empty, or any weapon of whatever description designed or adapated for the discharge of any noxious liquid, gas or other thing; "public place" means any building, street, road, footway or open space to which the public has or is permitted to have access.

3. (1) The Officer in Charge of Police shall maintain a register of -

- (a) licensed firearms dealers;
- (b) holders of firearm licences;
- (c) holders of firearms and ammunition import licences;
- (d) holders of firearms and ammunition export licences;
- (e) firearms,

and shall record therein all issues and cancellations of licences and all movements and changes of ownership of firearms notified to him under Sections 5 (3), 6 (3), 10 (2) and 16 (2) or otherwise coming to his notice.

(2) The register shall not be open to public inspection, but the Officer in Charge of Police may reveal information contained therein at his discretion.

4. (1) The Officer in Charge of Police may require such information as he shall consider necessary from any applicant for a licence.

Grant, variation and revocation of licences.

Register of firearms and

licences.

(2) Any person who knowingly makes a false statement in or in connection with any application for a licence shall commit an offence and be liable to a fine of £200 or to imprisonment for three months or to both such fine and imprisonment.

(3) The Officer in Charge of Police shall grant an application for a licence if he is satisfied that -

- (a) the applicant has good reason for requiring the licence;
- (b) defence, internal security, public safety, public order and the peace will not be endangered by the grant of the licence; and
- (c) the applicant is not of intemperate habits or of unsound mind or for any other reason unfitted to hold the licence.

(4) The Officer in Charge of Police may include in any licence such conditions as he shall consider necessary in the interests of defence, internal security, public safety, public order and the peace, and may during the currency of any licence introduce, add to, delete or vary any such conditions, for which purpose he may give the holder of the licence written notice to deliver his licence to the Officer in Charge of Police within 21 days for amendment.

(5) Any holder of a licence who fails to comply with any condition therein shall commit an offence and be liable to a fine of ± 500 or to imprisonment for three months or to both such fine and imprisonment.

(6) The Officer in Charge of Police may revoke any licence if -

- (a) due to a change of circumstances or the acquisition of new information he is no longer satisfied concerning the matters specified in subsection (3); or
- (b) the holder of the licence fails to comply with a notice given under subsection (4).

(7) When he revokes a licence the Officer in Charge of Police shall give written notice to the holder requiring him to surrender his licence within 21 days, and if the holder fails to comply with such notice he shall commit an offence and be liable to a fine of £50.

(8) Any person aggrieved by a refusal of the Officer in Charge of Police to grant him a licence or renew his licence or by the conditions included in his licence or by the revocation of his licence may appeal to the Senior Magistrate.

5. (1) No person shall import any firearm or ammunition into the Falkland Islands unless he holds a firearms and ammunition import licence authorising such importation:

Firearms and ammunition import licence.

Provided that this subsection shall not be contravened while firearms or ammunition in respect of which no licence has been issued are left in the possession of a customs officer or police officer acting in the course of his duty or with the Department of Posts and Telecommunications.

(2) A firearms and ammunition import licence may be obtained on application to the Officer in Charge of Police and on payment of the prescribed fee and shall be in the prescribed form or, if no form is prescribed, in such form as the Officer in Charge of Police may consider appropriate.

(3) Every holder of such licence shall endorse thereon the description and identifying marks of all firearms and the description of all ammunition imported thereunder, and shall return the licence to the Officer in Charge of Police within 14 days from taking delivery of all the firearms and ammunition authorised to be imported.

6. (1) No person shall export any firearm or ammunition from the Colony unless he holds a firearms and ammunition export licence authorising such exportation.

(2) A firearms and ammunition export licence may be obtained on application to the Officer in Charge of Police and on payment of the prescribed fee and shall be in the prescribed form or, if no form is prescribed, in such form as the Officer in Charge of Police may consider appropriate.

(3) Every holder of such licence shall endorse thereon the description and identifying marks of all firearms and the description of all ammunition exported thereunder, and shall return the licence to the Officer in Charge of Police within 14 days from exporting all the firearms and ammunition authorised to be exported.

7. Every person entering or leaving the Falkland Islands who has in his possession or among his baggage any firearm or ammunition and every consignee receiving any firearm or ammunition imported into the Falkland Islands shall make a declaration thereof to a customs officer on arrival, departure or receipt of the consignment, and before clearing such firearm or ammunition through the customs shall produce to such customs officer a firearms and ammunition import licence or a firearms and ammunition export licence authorising the importation or exportation of the firearm or ammunition.

8. (1) Any person who contravenes Section 5 (1) or 6 (1) shall commit an offence and be liable to a fine of £500 or to imprisonment for three months or to both such fine and such imprisonment.

(2) Any person who contravenes Section 5 (3), 6 (3) or 7 shall be guilty of an offence and liable to a fine of \pounds 50.

9. (1) No person except a licensed firearms dealer acting in conformity with his licence shall by way of trade or business sell, transfer or expose or possess for sale or transfer any firearm or ammunition.

(2) A firearms and ammunition dealer's licence may be obtained on application to the Officer in Charge of Police and on payment of the prescribed fee and shall be in the prescribed form or, if no form is prescribed, in such form as the Officer in Charge of Police may consider appropriate.

(3) Such licence shall be an annual licence expiring on the anniversary of the day on which it was issued, and an annual fee for such licence shall be prescribed:

Provided that on payment in advance of the appropriate fees the Officer in Charge of Police may issue a licence valid for a period of two years.

(4) The Officer in Charge of Police may endorse any licence issued under this section with authority to manufacture firearms or ammunition.

(5) Every licence issued under this section shall specify the place or places at which the licensed business is to be carried on and the store or stores therein for the safe custody of firearms and ammunition, and a licensed firearms dealer shall not carry on the licensed business otherwise than at the place or places specified and shall secure all firearms and ammunition in the specified store or stores at all times except when it is necessary to remove them therefrom in the course of his business.

(6) Any person who contravenes subsection (1) or (5) shall commit an offence and be liable to a fine of £500 or to imprisonment for three months or to both such fine and imprisonment.

Firearms and ammunition export licence.

Declaration on importation or exportation.

Penalties for wrongful importation or exportation.

Firearms and ammunition dealer's licence. 10. (1) Every licensed firearms dealer shall keep a book or books containing an accurate record of -

- (a) the description and identifying marks of all firearms and the description of all ammunition imported, manufactured or received by him in the course of his business, the date of importation, manufacture or receipt and the name and address of the person from whom they were imported or received;
- (b) the description and identifying marks of all firearms and the description of all ammunition sold or transferred by him in the course of his business, the date of sale or transfer and the name and address and firearms licence number of the purchaser or transferee.

(2) Every licensed firearms dealer shall within the first seven days of each quarter furnish to the Officer in Charge of Police in the prescribed form or, if no form is prescribed, in such form as the Officer in Charge of Police may consider expedient, particulars of his opening and closing stock of firearms and ammunition and the same particulars as are required by subsection (1) (a) and (b), in respect of the previous quarter.

(3) Every licensed firearms dealer shall on demand -

- (a) produce the book or books required by subsection (1) for the inspection of any police officer at such place and time as such officer may reasonably require; and
- (b) point out to any police officer all firearms and ammunition in his possession and permit such officer to inspect the same.

(4) Any licensed firearms dealer who fails to comply with any provision of this section or makes a false entry in any book or return required by this section to be kept or made shall commit an offence and be liable to a fine of $\pounds 200$ or to imprisonment for three months or to both such fine and imprisonment.

11. (1) If a licensed firearms dealer is convicted of an offence against this Ordinance relating to the import or export of firearms the court may order that his firearms and ammunition dealer's licence be cancelled and that any stock of firearms and ammunition in hand in the business be forfeit or disposed of by sale or otherwise as the court may direct.

(2) Any person aggrieved by an order made under subsection (1) may appeal to the Senior Magistrate and the Senior Magistrate may suspend the order pending the appeal.

12. (1) Every firearm except those owned by the Crown for use of the Armed Forces or the Falkland Islands Defence Force in course of their duties shall be registered by the owner with the Officer in Charge of Police within seven days of its acquisition.

(2) Any person who acquires a registered firearm whether by purchase, gift or any other means shall apply to be registered as the owner of the firearm within seven days of such acquisition.

(3) Application for registration of a firearm or registration of ownership of a registered firearm shall be made to the Officer in Charge of Police in the prescribed form or if no form is prescribed such form as the Officer in Charge of Police shall consider appropriate.

(4) A person who fails to comply with any provision of this section shall commit an offence and shall be liable to;

(a) a fine of £500 in respect of an offence against subsection (1);

(b) a fine of £50 for an offence against subsection (2).

13. (1) A licence to hold a firearm and ammunition therefor may be obtained on application to the Officer in Charge of Police and on payment of the prescribed fee and shall be in the prescribed form or, if no form is prescribed, in such form as the Officer in Charge of Police may consider appropriate.

(2) Such licence shall be an annual licence expiring on 31st December of the year in respect of which it is issued, and an annual fee for such licence shall be prescribed provided that a licence may be issued for less than a year calculated in multiples of three months on payment of a proportionate part of the annual fee.

(3) A firearm licence shall specify the type or types of firearm or firearms to which it relates.

(4) The Officer in Charge of Police may endorse any licence issued under this section with authority to manufacture firearms or ammunition.

Cancellation of firearm's and ammunition dealer's licence by the Court.

Registration of firearms.

Records, returns and inspection.

14. Subject to Section 15, any person who has in his possession any firearm or ammunition and does not hold -

- (a) a firearms and ammunition dealer's licence;
- (b) a firearms and ammunition import licence; or
- (c) a firearm licence issued under Section 13,

authorising such possession shall commit an offence and be liable to a fine of ± 500 or to imprisonment for three months or to both such fine and imprisonment.

- 15. The following persons shall be exempt from the requirements of Section 14
 - (a) any member of Her Majesty's Forces, the Police Force or the Falkland Islands Defence Force in respect of any firearms and ammunition entrusted to him in the course of his official duties;
 - (b) any person in the service of the Crown or the British Antarctic Survey in respect of any firearms and ammunition entrusted to him in the course of his official duties by the special authorisation of his Head of Department with the written concurrence of the Officer in Charge of Police;
 - (c) any member of a rifle, small bore rifle, pistol or shotgun club or association approved by the Officer in Charge of Police, in respect of any firearms and ammunition owned by the club or association and kept and used at such place or places and in accordance with such conditions as shall have been specified by the Officer in Charge of Police;
 - (d) any person participating in a shooting competition or practice organised with the written approval of the Officer in Charge of Police:

Provided that the competition or practice is conducted at the place and in accordance with any conditions specified by the Officer in Charge of Police in granting such approval;

- (e) any person holding a permit from the Officer in Charge of Police to possess any instrument or apparatus for slaughtering, firing bolts into walls and the like or marine or air rescue or signalling, in respect of such instrument or apparatus and the ammunition appropriate therefor;
- (f) carriers, warchousemen and their employees having in their possession in the ordinary course of their business, and not for use, firearms and ammunition for which, except in the case of first importation, a licence has been issued and is in force, in respect of such possession only;
- (g) the owners, master or captain, crew and passengers of any vessel or aircraft which is in writing exempted from Section 12 by the Officer in Charge of Police, or of any vessel or aircraft operated by a shipping line or airline, other than a vessel or aircraft solely engaged in carrying goods or passengers within the Colony, in respect of firearms and ammunition aboard such vessel or aircraft and included in the manifest as ship's or aircraft's stores;
- (h) any person possessing an antique or unserviceable firearm in respect of which a certificate of exemption has been issued by the Officer in Charge of Police and is in force, in respect of such possession;
- (i) any person holding a temporary permit from the Officer in Charge of Police to possess and use a specified firearm and ammunition on specified conditions in connection with an athletic or sports meeting or theatrical performance, in respect of such possession and use.

16. (1) Subject to Sections 17, 18 and 19, any person who sells, transfers or otherwise parts with the possession of any firearm or ammunition to any other person except a licensed firearms dealer, unless that other person produces a firearm licence authorising him to possess that firearm or ammunition or shows that, in respect of that firearm or ammunition, he is exempted under Section 15, shall commit an offence and liable to a fine of $\pounds 50$.

(2) Any person except a licensed firearms dealer who has sold or permanently transferred any firearm to any other person shall, within seven days of the sale or transfer, notify the Officer in Charge of Police of the name and address of the purchaser or transferee and shall deliver to the Officer in Charge of Police his certificate of ownership of the firearm concerned.

Procedure on transfer.

Offence of possession of firearm without a licence.

Exemptions.

17. Notwithstanding Section 16 but subject to Sections 18 and 19, the holder of a current firearm licence may, unless prohibited by a condition included in his licence, lend any firearm referred to therein for a period not exceeding one month to any other holder of a current firearm licence, and may supply him with ammunition for such firearm.

18. (1) No person under the age of 17 years shall possess or use any firearm other than an airgun, or any ammunition, and no person shall sell, transfer or otherwise part with the possession of any firearm other than an airgun, or any ammunition, to any person whom he knows or has reasonable grounds for believing to be under the age of 17 years.

(2) No person under the age of 14 years shall possess or use any firearm, including an airgun, or any ammunition, and no person shall sell, transfer or otherwise part with the possession of any firearm, including an airgun, or any ammunition, to any person whom he knows or has reasonable grounds for believing to be under the age of 14 years.

(3) Notwithstanding subsections (1) and (2) any person over the age of 12 years being a member of a youth organisation approved by the Officer in Charge of Police may use a firearm in the presence and under the supervision of an officer of the organisation for target practice at a place approved by the Officer in Charge of Police.

(4) Any person who contravenes any provision of this section shall commit an offence and liable to a fine of \pounds 500 or to imprisonment for three months or to both such fine and such imprisonment.

19. Any person who sells, transfers or otherwise parts with the possession of any firearm or ammunition to any person whom he knows or has reasonable grounds for believing to be under the influence of alcohol or a drug or to be of unsound mind shall commit an offence and be liable on first conviction to a fine of £50 and on a second or subsequent conviction to a fine of £500 or to imprisonment for three months or to both such fine and imprisonment.

20. Any person not exempted by Section 15 who manufactures, sells, transfere procures or has in his possession any prohibited weapon or ammunition without the written permission of the Governor or who fails to comply with any condition therein shall commit an offence and be liable to a fine of $\pounds1000$ or to imprisonment for six months or to both such fine and imprisonment.

21. Any person who —

- (a) shortens the barrel of a rifle or shotgun to a length of less than 20 inches; or
- (b) converts into a firearm any thing which though having the appearance of being a firearm is so constructed as to be incapable of discharging any missile through its barrel,

shall commit an offence and be liable to a fine of £500 or to imprisonment for three months or to both such fine and imprisonment.

- 22. (1) No person shall manufacture any firearm or ammunition unless -
 - (a) he is a licensed firearms dealer or a holder of a firearm licence;
 - (b) his licence bears an endorsement by the Officer in Charge of Police authorising him to manufacture firearms or ammunition; and
 - (c) he complies with any conditions included in such endorsement.

(2) No person except a licensed firearms dealer acting in compliance with his licence shall by way of trade or business assemble, clean, repair, modify, test or prove any firearm or ammunition.

(3) Any person who contravenes any provision of this section shall commit an offence and be liable to a fine of \pounds 500 or to imprisonment for three months or to both such fine and imprisonment.

23. Any person who has in his possession any firearm or ammunition with intent by means thereof to endanger life or cause serious injury to property or to enable any other person by means thereof to endanger life or cause serious injury to property shall, whether or not any injury to person or property has been caused, shall commit an offence and be liable to imprisonment for seven years or to a fine of £2,000 or to both such fine and imprisonment.

Temporary loans.

> Restrictions on possession by young persons.

Prohibition of transfer to intoxicated or insane person.

Prohibited weapons and ammunition.

Prohibited modifications.

Manufacture of firearms and ammunition.

Possession of firearms or ammunition with intent to injure. 24. Any person who makes or attempts to make any use whatever of a firearm or imitation firearm with intent to effect any unlawful purpose shall commit an offence and be liable to imprisonment for seven years or to a fine of £2,000 or to both such fine and imprisonment.

- 25. (1) No person shall discharge -
 - (a) any firearm in a public place; or
 - (b) any firearm on Stanley Common that is to say land outside Stanley to the east of a line drawn from Moody Brook Bridge to the Stone Corral, thence to the estuary of Mullet Creek Stream.

Provided that this subsection shall not apply to -

- (i) any member of Her Majesty's Forces, the Police Force or the Falkland Islands Defence Force acting in the course of his duties; or
- (ii) any person participating in organised practice or competition at a rifle, small bore rifle, pistol or shotgun range approved by the Officer in Charge of Police;
- (iii) any person or class of persons granted exemption by the Governor by Order in Council.

(2) Any person who contravenes any provision of this section shall commit an offence and be liable on first conviction to a fine of £50 and on second or subsequent conviction to a fine of £500 or to imprisonment for three months or to both such fine and imprisonment.

26. (1) When a person is convicted of any offence against this Ordinance the court convicting him may make such order as to the forfeiture and disposal of any firearm or ammunition in respect of which the offence was committed as it may consider fit, and may cancel any licence held by the person convicted.

(2) Whenever the court cancels a licence the Officer in Charge of Police shall give the holder of the licence written notice to surrender it within 21 days, and if the holder fails to comply with such notice he shall be guilty of an offence and liable to a fine of ± 50 .

27. Any person possessing any firearm or ammunition, whether or not he holds a licence therefor, shall, if such firearm is lost, stolen or destroyed, report such loss, theft or destruction as soon as possible after its occurrence to a police officer, and if he fails to do so he shall be guilty of an offence and liable to a fine of £50.

28. (1) Any police officer or customs officer may demand the production of a licence from any person whom he finds in possession of a firearm or ammunition.

(2) If any person upon whom such demand is made fails -

- (a) to produce his licence;
- (b) to permit the police officer or customs officer to read his licence; or
- (c) to show that he is exempt under Section 15,

the police or customs officer may seize and detain the firearm or ammunition and may require that person to declare to him immediately his name and address.

(3) Any person who refuses so to declare his name and address or gives a false name or address shall be guilty of an offence and liable to a fine of £50, and the police officer or customs officer may arrest without warrant any person who refuses so to declare his name or address or whom he suspects of intending to abscond.

29. (1) Any judge, magistrate or justice of the peace may, if satisfied by information on oath that there is reasonable ground for suspecting that an offence against this Ordinance has been, is being or is about to be committed, grant a search warrant authorising any police officer -

- (a) to enter at any time any premises, place or vessel named in the warrant, if necessary by force, and to search the premises, place or vessel and every person found therein;
- (b) to seize and detain any firearms or ammunition which he may find on the premises, place or vessel or on any such person in respect of which he has reasonable grounds for suspecting that an offence under this Ordinance has been, is being or is about to be committed; and

Use of firearm or imitation firearm to effect unlawful purpose.

Restrictions on discharge of firearms.

Forfeiture of firearms and ammunition and cancellation of licence.

Loss of firearms and ammunition to be reported.

Production of licence.

Search warrants.

(c) if the premises are those of a licensed firearms dealer, to examine any books or records relating to the business.

30. Any police officer may stop and search for firearms or ammunition any person whom he may find in any public place at any time who acts in a suspicious manner or whom he may suspect of having any firearms or ammunition in his possession and may seize and detain for the purposes of proceedings under this Ordinance any firearm or ammunition found in the course of the search.

31. The occupier of any building or structure or the master or other person in charge of any vessel or any person having in his possession any thing in which any firearm or ammunition is found shall be deemed, until the contrary is proved, to be in possession of such firearm or ammunition for the purposes of this Ordinance.

32. (1) The Governor may by Order in Council make regulations for the better carrying Reinto effect of this Ordinance.

(2) Without derogating from the generality of subsection (1) regulations hereunder may prohibit the exportation of firearms or ammunition to any country or any place.

33. (1) The Firearms Ordinance 1965 is repealed.

(2) Notwithstanding subsection (1) any licence issued under the said Ordinance shall have full force and effect until the day of the expiry thereof as if it had been issued under this Ordinance.

Repeal of Ordinance No. 12 of 1965 and savings.

Passed by the Legislature of the Colony of the Falkland Islands this 1st day of April 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/62.

P. T. KING, Clerk of Councils. Search without warrant.

Presumption of possession.

Regulations.

The Registration of United Kingdom Trade Marks (Extension to Service Marks) Ordinance 1987

Arrangement of Sections

Section

- 1. Citation and commencement.
- 2. Amendment of Cap. 59.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Registration of United Kingdom Trade Marks (Extension to Service Marks) Ordinance 1987.

No. 5 of 1987

An Ordinance to extend the application of the registration of United Kingdom Trade Marks Ordinance to Service Marks

> (Assented to : 11th May 1987) (Commencement : 1st May 1987) (Published : 19th October 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Registration of United Kingdom Trade Marks Cit (Extension to Service Marks) Ordinance 1987, and shall come into force on the first day of May 1987.

2. The Registration of United Kingdom Trade Marks Ordinance shall have effect with A regard to service marks as defined in the Trade Marks (Amendment) Act 1984 as it has a effect with respect to trade marks and reference to goods shall in relation to service marks have effect as reference to services.

Passed by the Legislature of the Colony of the Falkland Islands this 1st day of April 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/51.

P. T. KING, Clerk of Councils.

Printed by the Government Printer. FALKLAND ISLANDS. Citation and commencement.

Amendment of Cap. 59.

The Companies and Private Partnership (Amendment) Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Amendment of Cap. 13.



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Companies and Private Partnership (Amendment) Ordinance 1987.

No. 6 of 1987

An Ordinance to amend the Companies and Private Partnership Ordinance Cap. 13 (Assented to : 11th May 1987)

(Assentea to : 11th May 1987) (Commencement : 1st May 1987) (Published : 19th October 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Companies and Private Partnership (Amendment) Ordinance 1987, and shall come into force on the first day of May 1987.

Citation and commencement. Amendment of

Cap. 13.

2. The Companies and Private Partnership Ordinance Cap. 13 is amended by renumbering Section 2 as Section 2 (1) and adding the following subsection thereto —

"(2) For the purposes of this Ordinance the Companies Act 1948 shall mean the said Act as at the 24th day of July 1950 and Section 78 of the Interpretation and General Clauses Ordinance 1977 shall have no application thereto."

Passed by the Legislature of the Colony of the Falkland Islands this 1st day of April 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/63.

P. T. KING, Clerk of Councils.

The Merchant Shipping (Registry) Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Powers to refuse registry of ships and to close registry.
- 4. Transfer of registry.
- 5. Repeals.



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Merchant Shipping (Registry) Ordinance 1987.

No. 7 of 1987

An Ordinance to confer certain powers on the Governor in Council in respect of the registry relating to ships

(Assented to : 11th May 1987) (Commencement : to be fixed) (Published : 19th October 1987)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Merchant Shipping (Registry) Ordinance 1987, and Citation and shall come into force on such day as the Governor may appoint by order, published in the commencement. Gazette.

2. In this law -

"Act" means the Merchant Shipping Act, 1894 of the United Kingdom; "Governor", except in Section 1, means the Governor in Council; "Registrar" means the Registrar of British Ships.

3. Notwithstanding the provisions of Part 1 of the Act relating to the registration of ships, the Governor may -

- (a) direct the Registrar to refuse to register any ship in respect of which an application for registration has been received unless the Governor is satisfied that
 - (i) every share in the ship is owned by a British Citizen resident in the Falkland Islands; or
 - (ii) every share in the ship is owned by a company incorporated under the laws of the Falkland Islands which is resident in and has its principal place of business in the Falkland Islands; or

(iii) that the ship has a clear economic connection with the Falkland Islands; and

also having regard to the safety of the ship and to the safety, health and welfare of the persons employed or engaged in any capacity on board the ship, the Governor is satisfied that it is not detrimental to the interests of the Falkland Islands or international merchant shipping for the ship to be registered at Stanley.

- (b) direct the Registrar to close the registry of any ship currently in the register book that does not meet the conditions for registry set out in paragraph (a) of this section; and
- (c) prescribe by order in Council classes of ships which the Registrar shall refuse to register under that Part.

Powers to refuse registry of ships and close registry.

Interpretation.

4. Notwithstanding Section 53 of the Act, an application made for transfer of the registry Transfer of of a ship to which that Act applies from any port of registry outside of the Falkland Islands registry. to Stanley, shall not be granted except with the approval of the Governor.

5. (1) In the event of any inconsistency between this Ordinance and Part 1 of the Act relating Repeals. to the registration of ships, the provisions of that Part are repealed to the extent of such inconsistency.

(2) Part IV of the Act is repealed.

Passed by the Legislature of the Colony of the Falkland Islands this 1st day of April 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: LEG/10/26.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Fishing) Regulations (Amendment) Order 1987

ARRANGEMENT OF REGULATIONS

Regulation

- 1. Citation and commencement.
- 2. Amendment of Order No. 20 of 1986.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Fishing) Regulations (Amendment) Order 1987

(S. R. & O. 7 of 1987)

In accordance with Section 20 of the Fisheries (Conservation and Management) Ordinance 1986 the Governor in Council makes the following Order -

1. This Order may be cited as the Fisheries (Fishing) Regulations (Amendment) Order 1987 and have effect from the 12th day of May 1987.

- 2. The Fisheries (Fishing) Regulation Ordinance 1986 is amended -
 - (a) by the addition to Regulation 3 of the following sub-regulations -
 - "(6) The Director may require that the application -
 - (a) be lodged by a certain date; and
 - (b) be accompanied by a deposit of not more than 10 per centum of the licence fee that would be payable if a licence were granted to the applicant.
 - (7) The deposit shall be payable in such manner as the Director of Fisheries in his discretion shall consider acceptable.
 - (8) A deposit paid under sub-regulation (6) shall not be refundable if a licence is allocated under Regulation 6 (5). The Director of Fisheries in his discretion may refund a part of the deposit."
 - (b) in regulation 6 by -
 - (i) the insertion in sub-regulation (1) of the words "or a part thereof" after the word "season";
 - (ii) the addition of the following sub-regulations -
 - "(5) The Director of Fisheries may allocate a licence to an applicant who has applied for a licence under Regulation 3 and complied with the requirements of that Regulation and may stipulate in the notice of allocation
 - (a) the last day on which notification of acceptance of the allocation shall be given by the applicant to the Director; and
 - (b) the last day on which the Master of the fishing boat specified in the licence shall be entitled to be issued with and collect the licence.

Amendment of Order No. 20 of 1986.

Citation and

commencement.

- (6) If an applicant fails -
 - (a) to notify acceptance of allocation to the Director by the day stipulated by the Director; or

(b) a master fails to collect a licence in accordance with sub-regulation (5),

the allocation shall be automatically cancelled."

Made this 19th day of May 1987.

G. W. JEWKES, Governor.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Conservation and Management) Ordinance (No. 3) (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation.

2. The bringing into force of Section 7 of Ordinance No. 11 of 1986.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Conservation and Management) Ordinance (No. 3) (Commencement) Order 1987

(S. R. & O. 8 of 1987)

In accordance with Section 1 of the Fisheries (Conservation and Management) Ordinance 1986 the Governor makes the following Order -

1. This Order may be cited as the Fisheries (Conservation and Management) Ordinance Citation. (No. 3) (Commencement) Order 1987.

2. Section 7 of the Fisheries (Conservation and Management) Ordinance 1986 shall come into force on the thirtieth day of June 1987.

The bringing into force of Section 7 of Ordinance No. 11 of 1986.

Made this 19th day of May 1987.

G. W. JEWKES, Governor.

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

RESOLUTION AS TO RECONSTITUTION OF THE EDUCATION COMMITTEE

No. 1 of 1987

RESOLVED by The Legislative Council, on the 28th day of May 1987, in accordance with Standing Order 40 of the Legislative Council Standing Rules and Orders, that the Education Committee be reconstituted and that the members shall be -

The Honourable J. E. Cheek(Chairman)The Honourable C. D. KeenleysideThe Honourable R. M. LeeThe Honourable E. M. Goss, M.B.F.The Honourable T. S. Betts;

and that the quorum for meetings of the Committee shall be three: provided that there be present a member of the Committee to represent the Camp Constituency; and provided further that the absence of a member representing the Camp does not delay the work of the Committee.

> P. T. KING, Clerk of Councils.

THE FISHERIES (FISHING) REGULATIONS ORDER 1987

Declaration By The Governor In Council

In accordance with Regulation 6 of the Fisheries (Fishing) Regulations Order 1986 the Governor in Council makes the following declaration -

Schedule of Fishing Licence Fees

1. The fee calculations described in this Schedule apply to the second season for 1987 which is 1st July to 31st December.

2. For the purpose of granting licences and charging fees therefor the Fishing Waters are divided into two areas namely --

- (a) the area in the fishing waters west of 60° W Longitude (the West area),
- (b) the area in the fishing waters cast of 60° W Longitude (the East area).
- 3. Only trawlers will be licenced for the second season.
- 4. The fees for fishing in the two areas which are payable in pounds sterling shall be calculated as follows
 - (a) The fees for trawlers are given below as a sum in pounds sterling for every 100 gross registered ton (as calculated under the International Tonnage Rules hereafter called "GRT"),
 - (b) Where a boat has a GRT that is not specifically set out in the table the fee shall be calculated on a pro rata basis,
 - (c) Fees will vary according to whether a licence permits fishing for all species of fish, fin fish only and whether a licenced trawler carries surimi processing equipment,
 - (d) The maximum licence fees shall be -
 - (i) West and East Areas all species £9722 per month,
 - (ii) West and East Areas Finfish only, surimi equipment permitted £7000 per month,
 - (iii) West Area Finfish only, surimi equipment not permitted £4611 per month.

Fees for Trawlers in pounds sterling

	А	В	С		
GRT	WEST AND EAST AREAS ALL SPECIES	WEST AND EAST AREAS FINFISH ONLY SURIMI EQUIPMENT PERMITTED	WEST AREA FINFISH ONLY SURIMI EQUIP- MENT NOT PERMITTED		
200	2327	1434	932		
300	3288	1786	1160		
400	4136	2128	1383		
500	4884	2458	1597		
600	5544	2778	1805		
700	6126	3086	2005		
800	6639	3384	2199		
900	7091	3672	2386		
1000	7490	3948	2566		
1100	7842	4214	2739		
1200	8152	4468	2904		
1300	8426	4712	3064		
1400	8667	4946	3230		
1500	8880	5168	3489		
1600	9068	5380	3766		
1700	9233	5580	4045		
1800	9379	5770	4183		
1900	9508	5948	4461		
2000	9622	6116	4611		
2100	9722	6274	4611		
2200	9722	6420	4611		
2300	9722	6556	4611		
2400	9722	6680	4611		
2500	9722	6794	4611		
2600	9722	6896	4611		
Maximum	9722	7000	4611		

5. No licence will be given for less than two months.

- 6. If a licence is taken out for the whole season the total fee payable will be the appropriate monthly licence fee for the boat and area multiplied by four.
- 7. The administrative fee for surrender and exchange of a licence shall be £200 sterling.
- 8. A rotation licence issued in accordance with Regulation 7 shall be given for a period of two months and a fee calculated at the rate of three times the monthly licence fee for the boat and area specified in the licence shall be payable.

Declared this 12th day of May 1987.

G. W. JEWKES, Governor.

Printed by the Government Printer. FALKLAND ISLANDS. Price: Six pounds and forty pence.



THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

30th JUNE 1987

No. 7

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 30th June 1987, was in fact published on 14th January 1988.

D. G. LANG, Attorney General.

Appointments					
Mrs. Madeleine Jean McLeod, House Parent, Stanley School Hostel, Education Department, 29.5.87.	Anton Livermore, C.P.M., Acting Immigration Officer, 27.6.87.				
David Geoffrey Lang, Q.C., Attorney General, Justice Department, 6.6.87. Miss Christine Anne Bennett, Nursing Sister, Medical Department, 9.6.87. David Ford, Fireman, Police Fire and Rescue Service,	Completion of Contracts Michael Charles Lloyd Gaiger, LL.B., Attorney General, Justice Department, 5.6.87. Miss Audrey Gwen Mulholland, Teacher, Education Department, 10.6.87.				
 15.6.87. Miss Judith Margaret Bolton, Senior Nurse, Medical Department, 16.6.87. David Arbuthnott Mann, Hospital Engineer, Public Works Department, 23.6.87. Acting Appointments 	NOTICES No. 24. 11th June 1987. Air Navigation (Overseas Territories) Order 1977 With reference to Gazette Notice No. 6 dated 17th February 1984, His Excellency The Governor has				
Mrs. Marie Cheek, Acting Chief Clerk, Treasury Department, 6.6.87. Mrs. Kathleen Gay Clarke, Acting Chief Finance Officer, Treasury Department, 17.6.87. Anton Livermore, C.P.M., Acting Officer in Charge of Police, Falkland Island Police Force, 27.6.87.	issued aerodrome licences to — Messrs. Robin and Rodney Lee, Port Howard (North Strip), 27.1.87. Mr. K. J. McPhee, Brookfield Farm, 9.6.87. Ref: AIR/1/4C.				

No. 25.

The Falkland Islands Development Corporation Ordinance 1983

In accordance with Section 6 (1) of the Falkland Islands Development Corporation Ordinance 1983, **I, Gordon Wesley Jewkes, Esquire,** Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoint —

William Robert Luxton,

(being the person appointed as representing the interests of farmers in the Falkland Islands)

Terence Severine Betts,

Stuart Barratt Wallace,

(being persons appointed as having had experience in matters relating to trade and industry)

Ewan Alastair Lindsey Keith Cameron,

David Geoffrey Lang,

(being persons holding public office in the Falkland Islands)

to be members of the Falkland Islands Development Corporation with effect from the 15th day of June 1987.

Made under my hand this 8th day of June 1987.

Ref: DC/L

G. W. JEWKES, Governor.

No. 26.

29th June 1987.

It is with regret that His Excellency The Governor learned of the death on 16 June 1987 of Mr. David Smith Emsley, Senior Clerk in the Central Store, Treasury Department.

Ref: P/1413.

South Georgia and the South Sandwich Islands Appointment of Magistrate

In accordance with Section 3 of the Administration of Justice Ordinance, **His Excellency Gordon Wesley** Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands and Commissioner for South Georgia and the South Sandwich Islands —

Hereby Appoints -

Anthony John Trevis, of the 1st Battalion The Devonshire and Dorset Regiment to be Magistrate for South Georgia and the South Sandwich Islands with effect from the 24th day of June 1987.

Given under my hand and the Public Seal at Stanley this 24th day of June 1987.

G. W. JEWKES, Commissioner.

Customs Ordinance (Cap. 16)

In exercise of the powers conferred by section 4 of the Customs Ordinance I Hereby Appoint —

CORPORAL C. BODDY, R.A.F.,

to be a temporary Customs Officer with effect from the 20th March, 1987, to the 20th July, 1987.

> L. J. HALLIDAY, Collector of Customs.

Customs Ordinance (Cap. 16)

In exercise of the powers conferred by Section 4 of the Customs Ordinance I Hereby Appoint —

CORPORAL J. A. SKILLEN, R.A.F.,

to be a temporary Customs Officer with effect from the 19th May, 1987, to the 19th September, 1987.

L. J. HALLIDAY, Collector of Customs.

84

The Appropriation (1987-88) Ordinance 1987

ARRANGEMENT OF SECTIONS

1

ie -

Section

- 1. Citation.
- 2. Appropriation of £29,428,460 for the service of the year 1987-88.

Schedule.



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor,

The Appropriation (1987-88) Ordinance 1987.

Nc. 8 of 1987

An Ordinance to provide for the service of the year 1987-88.

(Assented to : 5th June 1987) (Commencement : on publication) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited for all purposes as the Appropriation (1987-88) Ordinance (1987.

2. The Financial Secretary may cause to be issued out of the Public Revenue and other funds of the Colony and applied to the service of the period 1st July 1987 to 30th June 1988, a sum not exceeding twenty nine million, four hundred and twenty eight thousand, four hundred and sixty pounds, which 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 will come in course of payment during the year 1987-88.

Citation.

Appropriation of £29,428,460 for the service of the year 1987-88.

SCHEDULE

Number			Head	of Servi	e				£
100	Aviation								644,500
150	Posts and Teleco	mmunicat	ions						546,370
200	Medical								982,330
250	Education and 7	raining			•-•	•••			789,540
300	Customs and Ha	rbour					1+1	!	158,950
320	Fisheries								8,349,110
350	Public Works								3,648,660
390	Fox Bay Village								50,010
400	Agriculture								88,170
450	Justice								80,680
500	Military								98,130
550	Police, Fire and	Rescue Ser	vice						298,290
600	Secretariat, Treas	sury and C	Central 3	Store					625,810
650	Pensions and Gr	atuities							116,310
700	Social Welfare								1,168,600
750	Governor					•••			84,430
800	Legislature								29,980
850	Falkland Islands Government Office								104,920
860	Agricultural Rese	earch Cent	те						83,360
900	Income Tax Refu	inds							20,000
									17,968,150
870	Transfer to Devel	lopment F	und						4,000,000
			т	OTAL O	RDIN	ARY EX	PENDIT	URE	21,968,150
950	DEVELOPMEN	Т							
951	Expenditure to b	e met fror	n Local	Funds					5,915,310
952	Expenditure to b								1,545,000
	r				-		PENDIT	UDE	£29.428.460

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: TRE/14/23.

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Printed by the Government Printer. FALKLAND ISLANDS.

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The Old Age Pensions (Amendment) Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

1

1. Citation and commencement.

1

2. Amendment of Ordinance No. 3 of 1952.

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Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Old Age Pensions (Amendment) Ordinance 1987.

No. 9 of 1987

An Ordinance to amend the Old Age Pensions Ordinance 1952.

(Assented to : 5th June 1987) (Commencement : 29th June 1987) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows --

1. This Ordinance may be cited as the Old Age Pensions (Amendment) Ordinance 1987, and shall come into force on the 29th day of June 1987.

2. The Old Age Pensions Ordinance 1952 is amended in the Schedule by substituting the sums "£50.00" and "£33.00" respectively for the sums "£36.00" and "£24.00".

Citation and commencement.

Amendment of Ordinance No. 3 of 1952,

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Ref: TRE/2/1.

The Non-Contributory Old Age Pensions (Amendment) Ordinance 1987

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ARRANGEMENT OF SECTIONS

1

14

Section

£

- 1. Citation and commencement.
- 2. Amendment of Schedule to Ordinance No. 6 of 1961.



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Non-Contributory Old Age Pensions (Amendment) Ordinance 1987.

No. 10 of 1987

An Ordinance to amend the Non-Contributory Old Age Pensions Ordinance 1961.

(Assented to: 5th June 1987) (Commencement: 29th June 1987) (Published: 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Non-Contributory Old Age Pensions (Amendment) Ordinance 1987, and shall come into force on the 29th day of June 1987.

2. The Schedule to the Non-Contributory Old Age Pensions Ordinance 1961 is amended by substituting the sums "£43.00" and "£31.00" respectively for the sums "£31.00" and "£22.50" where they occur.

Citation and commencement.

Amendment of Schedule to Ordinance No. 6 of 1961,

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Ref: TRE/2/2.

The Family Allowances (Amendment) Ordinance 1987

ARRANGEMENT OF SECTIONS

í.

Section

- 1. Citation and commencement.
- 2. Amendment of Ordinance No. 9 of 1960.



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Family Allowances (Amendment) Ordinance 1987. No. 11 of 1987

An Ordinance to amend the Family Allowances Ordinance 1960.

(Assented to : 5th June 1987) (Commencement : 1st January 1988) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Family Allowances (Amendment) Ordinance 1987, and shall come into force on the 1st day of January 1988.

2. The Family Allowances Ordinance 1960 is amended in Section 3 by the substitution -

(i) of the words "twenty-five" for the word "twenty" in subsection (2); and

(ii) of the word "twenty" for the word "fifteen" in subsection (3).

Citation and commencement.

Amendment of Ordinance No. 9 of 1960

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: TRE/10/1.

11

The Estate Duty (Repeal) Ordinance 1987

ARRANGEMENT OF SECTIONS

1

į.

Section

1. Citation and commencement.

X.

1

2. Repeal of Cap. 25.



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Estate Duty (Repeal) Ordinance 1987.

No. 12 of 1987

An Ordinance to abolish Estate Duty.

(Assented to : 5th June 1987) (Commencement : 26th June 1987) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows --

1. This Ordinance may be cited as the Estate Duty (Repeal) Ordinance 1987, and shall come into force with effect from the 26th day of June 1987.

2. The Estate Duty Ordinance Cap. 25 is repealed.

Citation and commencement.

Repeal of Cap. 25,

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: TRE/10/6.

The Banking Ordinance 1987

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY

Section

- 1. Citation and commencement.
- 2. Interpretation.

PART 2

LICENSING OF FINANCIAL INSTITUTIONS

3. Necessity for licence.

4. Application for licence.

- 5. Granting and revocation of licence.
- 6. Reconstructions and similar arrangements by licensed financial institutions incorporated in the Falkland Islands.
- 7. Reconstructions and similar arrangements by financial institutions incorporated outside the Falkland Islands.

PART 3

CAPITAL AND RESERVES

- 8. Minimum capital of a financial institution.
- 9. Maintenance of reserve fund.

PART 4

RESTRICTIONS ON BUSINESS

- 10. Restriction of dividends.
- 11. Persons debarred from management.
- 12. Restrictions on use of title "bank".
- 13. Restriction on certain activities by licensed financial institutions.
- 14. Restriction of activities of a licensed bank.
- 15. Ceasing of existing restricted activities.
- 16. Minimum holdings of liquid assets.
- 17. Establishment of branches.

PART 5

RETURNS AND ACCOUNTS

- 18. Returns.
- 19. Publication of balance sheet.

PART 6

EXAMINATION AND AUDIT

- 20. Examinations.
- 21. Production of books.
- 22. Powers after examination.
- 23. Approved auditor.

PART 7

GENERAL

- 24. Winding up of financial institutions.
- 25. Fee payable by licensed financial institution.
- 26. Imprisonment in default of payment of fine.
- 27. Regulations.
- 28. Repeal.



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Banking Ordinance 1987.

No. 13 of 1987

An Ordinance for the regulation of banking and for matters connected therewith. (Assented to : 5th June 1987)

(Assented to : 5th June 1987) (Commencement : to be fixed) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

PART 1

PRELIMINARY

1. This Ordinance may be cited as the Banking Ordinance 1987, and shall come into force on such day as the Governor may appoint by Order published in the Gazette and the Governor may appoint different days for the coming into force of different provisions.

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

"bank" means any financial institution whose business includes the acceptance of deposits of money withdrawable by cheque;

"banking business" means the business of accepting deposits of money which may be withdrawn or repaid on demand or after a fixed period or after notice and the employment of those deposits in whole or in part by lending or any other means for the account and at the risk of the person accepting such deposits and shall include merchant banking business;

"company" means a company incorporated in the Falkland Islands under any law for the time being in force relating thereto and any company incorporated outside the Falkland Islands which is permitted by law to carry on business in the Falkland Islands;

"controller" includes the managing director or chief executive of any financial institution, or of any company of which the financial institution concerned is a subsidiary company, or any other person in accordance with whose directions or instructions the financial institution, or the company of which the financial institution concerned is a subsidiary company, is accustomed to act;

"director" includes an individual occupying the position of director or alternate director of a company by whatever name he may be called and includes a member of a local board of a company whose head office is situated outside the Falkland Islands;

"financial institution" means a company which carries on a banking business;

"licence" means a licence granted under Section 5;

"licensed" means licensed under this Ordinance to conduct banking business;

"manager" includes any person for the time being in charge of the principal office in the Falkland Islands of any financial institution;

"officer" includes a director, manager or secretary.

Interpretation.

Citation and commencement.

LICENSING OF FINANCIAL INSTITUTIONS

3. (1) Notwithstanding the provision of any other Ordinance, no banking business shall, save as hereinafter provided, be carried on in the Falkland Islands except by a licensed financial institution.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding $\pounds 2,500$ for each day during which the offence continues.

4. (1) Every company carrying on banking business in the Falkland Islands on the day on which this Ordinance comes into operation shall as from that date and for the six months next following that date be deemed to be duly licensed but if such company proposes to continue to carry on banking business in the Falkland Islands after the expiration of the said period of six months it shall, within four months after the day on which this Ordinance comes into force, apply to the Governor for a licence.

(2) Any company desirous of commencing banking business in the Falkland Islands after the day on which this Ordinance comes into force shall apply to the Governor for a licence.

(3) An application for a licence under this Ordinance shall be made to the Governor in such form and in such manner as may be prescribed and shall be accompanied by a copy of the memorandum and articles of association or of any other instrument under which it is incorporated and such other information as the Governor may require.

5. (1) Subject to this Ordinance, the Governor in Council may, grant a licence in respect of which application has been made under Section 4 to a company for carrying on banking business with persons resident or temporarily resident in the Falkland Islands; but if the Governor in Council is of the opinion that it would be undesirable in the public interest that a licence should be granted, he may refuse to grant it and need not give any reason for so refusing.

(2) In granting an application for a licence, the Governor in Council shall specify such conditions in respect of the licence as he thinks fit and proper for the purposes of this Ordinance including (but without limitation of the generality of this section) conditions restricting —

- (a) the extent to which the licensee may accept deposits, grant credit or make investments;
- (b) the class of persons from whom the licensee may solicit deposits;
- (c) the duration of the licence.

(3) The Governor in Council may at any time vary a licence by amending, adding to or revoking any condition in respect of a licence.

(4) A licence shall not be granted to any company having its head office outside the Falkland Islands unless such company notifies and designates to the Financial Secretary —

(a) a principal office in the Falkland Islands;

- (b) by name one of its officers who is to be the company's authorised agent in the Falkland Islands; and
- (c) by name another of its officers who, in the absence or inability to act of the officer named under paragraph (b), is to be the company's authorised agent in the Falkland Islands.

(5) Every company which holds a licence and which has its head office outside the Falkland Islands shall forthwith notify the Financial Secretary of any change of —

- (a) its principal office in the Falkland Islands; or
- (b) either or both of the officers designated pursuant to paragraph (b) or (c) of subsection (4).

(6) The Governor in Council may at any time by Order revoke a licence where a licensed financial institution —

(a) fails to commence business within six months of the issue of the licence;

- (b) contravenes any provision of this Ordinance or regulation made hereunder;
- (c) fails to comply with, or contravenes, any condition attached to the licence;

Application for licence.

Granting and revocation of licence.

- (d) fails to comply with any directive issued by the Governor in Council under this Ordinance;
- (e) fails to pay a licence fee due and payable under this Ordinance;
- (f) gives for the purpose of obtaining the licence or when otherwise required to give any information pursuant to this Ordinance information which is false or misleading;
- (g) is, in the opinion of the Governor in Council, carrying on business in the Falkland Islands in a manner detrimental to the public interest or to the interest of the depositors of such institution;
- (h) has, in the opinion of the Governor in Council, ceased to carry on the business authorised by its licence;
- (i) goes into liquidation or is wound up or otherwise dissolved; or
- (j) has been licensed to carry on business in a country outside the Falkland Islands and the appropriate authorities in that country have suspended, revoked or withdrawn such licence;
- (k) has failed to satisfy the Governor in Council that adequate measures have been taken to put its affairs in order as required by Section 22 (c).

(7) Before making an Order under subsection (6) the Governor shall give the financial institution concerned notice in writing of such intention specifying therein the grounds on which he proposes to revoke the licence and shall afford that institution an opportunity of submitting to him a written statement of objections to the making of the Order and thereafter the Governor shall advise the institution of his decision in the matter.

6. (1) No person may, in respect of a licensed financial institution that is incorporated under the law of the Falkland Islands, -

- (a) alter any instrument under or by which it is so incorporated; or
- (b) carry out or participate in the carrying out of any reconstruction or rearrangement of its undertaking; or
- (c) agree or participate in any agreement to --
 - (i) purchase or acquire the business or shares of any other financial institution;
 - (ii) sell or otherwise dispose of any part of its business or of any of its shares;

except with the prior written permission of the Governor in Council and in accordance with such conditions (if any) as may be imposed under this section.

(2) Every transaction that contravenes subsection (1) shall be null and void against any person other than a bona fide purchaser for value.

(3) In granting permission under this section, the Governor may impose such conditions on the permission as appropriate for the purposes of this Ordinance, including (but without limitation of the generality of this section) a condition that, before the proposal is carried out, the licensee shall apply for and obtain a new licence or a further licence under this Ordinance in respect of the business to which the proposal relates.

7. (1) A licensed financial institution that is incorporated under the law of any country other than the Falkland Islands in respect of which anything described in any of paragraphs (a) to (c) of Section 6 (1) is done shall give notice of such thing that is done to the Governor not more than sixty days after it is done.

(2) The licensed financial institution shall also, if so required and within such reasonable time as may be specified, give the Governor such information in writing as he may require concerning anything the subject of a notice under subsection (1).

(3) Any licensed financial institution which fails to comply with any of the provisions of Section 5 (5), paragraphs (a) to (c) of Section 6 (1) and subsections (1) and (2) of this section, or with any direction of the Governor thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding £2,500 for every day during which the offence continues.

Reconstructions and similar arrangements by licensed financial institutions incorporated in the Falkland Islands.

Reconstructions and similar arrangements by financial institutions incorporated outside the Falkland Islands.

CAPITAL AND RESERVES

- 8. (1) A licence shall not be granted to -
 - (a) a financial institution incorporated in the Falkland Islands unless the aggregate of its unimpaired capital issued and paid up in cash and its unimpaired reserves is not less than sixty thousand pounds;
 - (b) a financial institution incorporated outside the Falkland Islands unless the aggregate of its unimpaired capital issued and paid up in cash and its unimpaired reserves is not less than two hundred and fifty thousand pounds;

Provided that nothing contained in this subsection shall apply to any company carrying on banking business in the Falkland Islands at the day of the coming into operation of this Ordinance until the expiration of two years from that day.

(2) Notwithstanding subsection (1), a licence shall not be granted to a bank unless -

- (a) in the case of a bank incorporated in the Falkland Islands, the aggregate of its unimpaired capital issued and paid up in cash and its unimpaired reserves is not less than two hundred and fifty thousand pounds; and
- (b) in the case of a bank incorporated outside the Falkland Islands, the aggregate of its unimpaired capital issued and paid up in cash and its unimpaired reserves is not less than one million pounds.

9. (1) Subject to subsection (2), every licensed financial institution shall maintain a reserve fund and shall out of its net profits of each year and before any dividend is declared, transfer to that fund a sum equal to not less than twenty five per centum of such profits whenever the amount of the reserve fund is less than the issued paid up capital of the company.

(2) Subsection (1) shall not apply to any licensed financial institution with respect to which it is proved to the satisfaction of the Governor in Council that the aggregate reserves of such institution are adequate in respect of its business.

PART 4

RESTRICTIONS ON BUSINESS

10. No licensed financial institution incorporated in the Falkland Islands shall pay any dividend on its shares, and no licensed financial institution incorporated outside the Falkland Islands shall remit any profits outside the Falkland Islands until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling commission, brokerage and amounts of losses incurred) not represented by tangible assets has been completely written off.

11. (1) No person —

- (a) who has been a controller of, or directly concerned in the management of a financial institution which has had its licence revoked in accordance with paragraph (c) of Section 22 or has been wound up by a court; or
- (b) who has been convicted by a court in any country of an offence involving dishonesty and has not received a full pardon for that offence; or
- (c) who is or becomes bankrupt, suspends payment to or compounds with his creditors; or
- (d) who has been convicted of an offence under this Ordinance;

shall act as a controller, director, manager, secretary or other employee of any financial institution.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding $\pm 100,000$.

12. (1) Save with the permission of the Governor in Council no person other than a licensed bank shall use or continue to use the word "bank" or any of its derivatives in any language in the description or title under which such person is carrying on business in the Falkland Islands; or make any such representation in any billhead, letter, paper, notice, advertisement or in any other manner whatsoever:

Provided that nothing in this subsection shall apply to an association of banks or bank employees formed for the protection of their common interests.

Minimum capital of a financial institution.

Maintenance of reserve fund.

Persons debarred

Restriction of dividends.

management.

Restrictions on use of title "bank". (2) Every bank shall use as part of its description or title the word "bank" or one or more of its derivatives in any language.

(3) Any person contravening this section shall be guilty of an offence and liable on conviction to a fine not exceeding $\pounds 2,500$ for each day during which the contravention continues.

13. (1) A licensed financial institution shall not in the Falkland Islands –

(a) grant to any person, firm, corporation or company, or to any group of companies or group of persons either of which is under the control or influence of one and the same person, any advance or credit facility, or give any financial guarantee or incur any other liability on behalf of such person, firm, corporation, company, or group so that the total value of the advances, credit facilities, financial guarantees and other liabilities in respect of such person, firm, corporation, company or group is at any time more than twenty five per centum of the sum of the paid up capital and published reserves of the licensed financial institution:

Provided that this paragraph shall not apply to transactions between banks or between the branches of a bank, or to the purchase of telegraphic transfers, or to the purchase of bills of exchange or documents of title to goods where the holder of such bills or documents is entitled to payment outside the Falkland Islands for exports from the Falkland Islands or to advances made against such transfers, bills or documents;

- (b) grant any advance or credit facility against the security of its own shares;
- (c) grant or permit to be outstanding unsecured advances or unsecured credit facilities of an aggregate amount in excess of one per centum of the sum of the paid up capital and published reserves of such licensed financial institution, or give any financial guarantees in excess of such amount without security, or incur any other liability in excess of such amount without security —
 - (i) to or on behalf of any one of its controllers or directors, whether such advances, facilities, guarantees or other liabilities are obtained by or on account of such controller or director jointly or severally;
 - (ii) to or on behalf of any firm, partnership or private company in which it, or any one or more of its controllers or directors is interested as controller, director, partner, manager or agent, or to or on behalf of any individual, firm, partnership or private company of whom or of which any one or more of its controllers or directors is a guarantor.

For the purpose of this paragraph a controller or director includes a wife, husband, father, mother, son or daughter of a controller or director.

(d) grant or permit to be outstanding to its officials and employees unsecured advances or unsecured credit facilities which in aggregate amount for any one official or employee exceed one year's emoluments of such official or employee.

(2) In paragraphs (c) and (d) of subsection (1) the expression "unsecured advances or unsecured credit facilities" means advances or credit facilities granted without security or collateral, or, in respect of any advance or credit facility granted with security, any part thereof which at any time exceeds the market value of the assets constituting that security or collateral.

14. A licensed bank shall not -

- (a) engage, whether on its own account or on a commission basis in the wholesale or retail trade, including the import or export trade, or otherwise have a direct interest in any commercial, agricultural, industrial or other undertaking, except as permitted under paragraph (b) and except insofar as may be necessary with respect to such interest as a bank may acquire in the course of the satisfaction of debts due to it; but all such interests shall be disposed of at the earliest suitable opportunity;
- (b) acquire or hold to an aggregate value exceeding twenty-five per centum of the sum of the paid up capital and published reserves of that bank, any part of the share capital of any financial, commercial, agricultural, industrial or other undertaking except such shareholding as a bank may acquire in the course of the satisfaction of debts due to it which shareholding shall, however, be disposed of at the earliest suitable moment:

Restriction of activities of a licensed bank.

Restriction on certain activities by licensed financial institutions. Provided that this paragraph shall not apply to any shareholding approved in writing by the Governor in Council in a subsidiary bank or in a subsidiary company formed by a bank for the execution of nominee, executor or trustee functions or other functions incidental to banking business;

(c) purchase, acquire or lease real property except as may be necessary for the purpose of conducting its business or housing its staff or providing amenities for its staff having regard to any reasonable requirements for future expansion of its business or staff; but in the event of any debt due to a bank which is secured upon any real or other property of the debtor becoming endangered the bank may acquire such property which shall, however, be resold as soon as shall be possible.

15. Any licensed financial institution which, prior to the day of the coming into force of this Ordinance, entered into any transaction inconsistent with Section 13(1) and any licensed bank which, prior to that day, entered into any transaction inconsistent with Section 14 shall, within six months after that day, submit a statement of those transactions to the Governor and shall, within one year from the said day or within such further time as the Governor may determine, liquidate the said transactions and if such action as is required under this section is not taken within the time specified or determined the licensed financial institution shall be guilty of an offence and liable on conviction to a fine not exceeding £2,500 for every day during which the offence continues.

16. (I) ---

- (a) Every licensed bank shall in relation to its operations in the Falkland Islands maintain such average minimum holding of approved liquid assets as may from time to time be prescribed by the Governor in Council, and published in the Gazette, provided that the minimum shall be the same for all banks and shall not exceed fifteen per centum of deposit liabilities.
- (b) Every licensed financial institution not being a bank shall in relation to its operations in the Falkland Islands maintain such average minimum holding of approved liquid assets as may from time to time be prescribed by the Governor in Council, and published in the Gazette, provided that the minimum shall be the same for all such financial institutions and shall not exceed ten per centum of deposit liabilities.

(2) The Governor in Council shall determine the method of computing the amounts of approved liquid assets to be held by banks and financial institutions.

(3) For the purposes of this section "approved liquid assets" means all or any of the following -

- (a) notes and coins which are legal tender in the Falkland Islands;
- (b) net balances and deposits denominated in Falkland Islands pounds held with other banks and financial institutions in the Falkland Islands and not exceeding 90 days to maturity;
- (c) cheques and other sight drafts drawn on other banks in the Falkland Islands and in the course of collection;
- (d) net balances and money at call and at short notice not exceeding 90 days held with institutions outside the Falkland Islands and denominated in currencies freely convertible into Falkland Islands pounds;
- (e) foreign notes and coins freely convertible into Falkland Islands pounds;
- (f) Treasury bills and other securities which have been issued or guaranteed by governments abroad, which are marketable in money and capital markets abroad, which mature in not more than 180 days and which are denominated in currencies freely convertible into Falkland Islands pounds;
- (g) such other assets as the Governor in Council may specify.

(4) Any licensed bank or licensed financial institution which fails to comply, within such reasonable time as the Governor in Council may fix, with any requirement of subsection (1) shall be liable to pay, on being called upon to do so by the Financial Secretary, a penalty interest charge not exceeding one-tenth of one per centum of the amount of the deficiency for every day on which the deficiency continues.

Ceasing of existing restricted activities.

Minimum holdings of liquid assets.

- 17. Except with the prior written permission of the Governor in Council -
 - (a) no licensed financial institution shall establish a branch, agency or other place of business in any part of the Falkland Islands;
 - (b) no licensed financial institution which has been incorporated in the Falkland Islands shall establish a branch, agency or other place of business outside the Falkland Islands.

PART 5

RETURNS AND ACCOUNTS

18. (1) Subject to subsection (3) every licensed financial institution shall in relation to its operations in the Falkland Islands submit to the Financial Secretary the undermentioned statements in such form as he may from time to time approve —

- (a) in the case of a bank;
 - (i) not later than twenty-one days after the last day of the month to which it relates, a monthly statement of assets and liabilities accompanied by a statement showing the amounts of all outstanding unsecured advances or unsecured credit facilities as defined in Section 13 (2);
 - (ii) not later than twenty-one days after the end of the quarter to which it relates, a return providing an analysis of customers' liabilities to the bank in respect of loans, advances, and other assets of the bank at the close of the last business day of that quarter;
- (b) in the case of a financial institution which is not a bank, not later than thirty-five days after the end of the quarter to which it relates a statement of the assets and liabilities of its offices and branches in the Falkland Islands at the close of the last business day of that quarter.

(2) Subject to subsection (3) the Financial Secretary may require a licensed financial institution to submit such further information as he may consider necessary for the proper understanding of any statement or return furnished by the institution under subsection (1) and such information shall be submitted within such a period and in such manner as the Financial Secretary may require.

(3) No statement, return or information shall be required under subsection (1) or (2) as the case may be with respect to the affairs of any particular customer of a licensed financial institution.

(4) The period within which any statement or return is required to be submitted under this section may be extended by the Financial Secretary if he considers that there are circumstances justifying an extension.

(5) Any licensed financial institution which fails to comply with any of the provisions of subsections (1) or (2) or with any requirements of the Financial Secretary thereunder shall be guilty of an offence and liable on conviction to a fine not exceeding £2,500 for every day during which the offence continues.

(6) Any statement or return submitted by a licensed financial institution under subsection (1) and any information submitted by such institution under subsection (2) shall be regarded as secret, save that the Financial Secretary may publish consolidated statements aggregating the figures in the statements or returns furnished under subsections (1) and (2):

Provided that no information shall be published which could disclose the affairs of any individual financial institution or of any individual customer of such financial institution unless the specific consent in writing to such publication has first been obtained by the Financial Secretary from such financial institution or customer.

19. (1) Not later than four months after the close of each financial year of each licensed financial institution, or such longer period as the Financial Secretary may, in any particular case, permit; the financial institution shall publish in the Gazette and exhibit thereafter in a conspicuous position in each of its offices and branches in the Falkland Islands and forward to the Financial Secretary a copy of its balance sheet and profit and loss account and the full and correct names of the directors of the financial institution. The balance sheet and profit and loss account shall bear on their face the certificate of an auditor who is an approved auditor in accordance with Section 23 (5).

Publication of balance sheet.

Establishment of

branches.

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(2) Any licensed financial institution which contravenes this section shall be guilty of an offence and liable on conviction to a fine not exceeding $\pm 2,500$.

PART 6

EXAMINATION AND AUDIT

20. (1) The Governor may at his discretion from time to time appoint one or more qualified persons to make examinations under conditions of secrecy of the books and affairs of all licensed financial institutions.

(2) The Governor may at any time appoint one or more qualified persons to make a special examination under conditions of secrecy of the books and affairs of any licensed financial institution -

- (a) where he has reason to believe that such institution may be carrying on its business in a manner detrimental to the interests of its depositors and other creditors or may have insufficient assets to cover its liabilities to the public or may be, either in the Falkland Islands or elsewhere, contravening any of the provisions of this Ordinance;
- (b) where application is made by shareholders holding not less than one-third of the total number of shares in that institution for the time being issued or by depositors holding not less than one half of the gross amount of the total deposit liabilities in the Falkland Islands of that institution; but the applicants shall submit to the Governor such evidence as he may consider necessary to justify an examination and they shall furnish adequate security for the payment of the cost of the examination;
- (c) if the financial institution suspends payment or informs the Financial Secretary of its intention to do so.

21. (1) Every licensed financial institution of which an examination has been ordered under Section 20 shall produce to the person or persons appointed under that section, at such times and in such places as such person or persons may specify (being times and places which, in the opinion of such person or persons, would not be detrimental to the conduct of the normal daily business of the financial institution) all books, accounts and documents in the possession or custody of such institution or of which it is entitled to possession or custody relating to its business, and shall give within such times as such person or persons may specify, such oral information concerning its business as may be required.

(2) If any book, account, document or information is not produced in accordance with subsection (1) the financial institution shall be guilty of an offence and liable on conviction to a fine not exceeding £2,500 in respect of every day during which the offence continues; and if any book, account, document or information specified in subsection (1) is false in any material particular, the financial institution concerned shall be liable to a fine of f100,000.

(3) As soon as may be after the conclusion of an examination under Section 20 (2), the person or persons appointed under the provision of Section 20 shall submit a full report on such examination to the Governor who shall forward a copy thereof to the head office of the financial institution concerned.

(4) The Governor may order that all expenses of and incidental to an examination under Section 20 (2) shall be paid by the financial institution examined and he may also, in respect of examinations made under Section 20 (2) (b), order that the said expenses shall be defrayed by the applicants. A financial institution shall not be required to pay expenses of and incidental to an examination under Section 20 (1).

22. If, in the opinion of the Governor in Council, an examination under this part of this Ordinance shows that the licensed financial institution concerned is carrying on its business in a manner detrimental to the interests of its depositors and other creditors, or has insufficient assets to cover its liabilities to the public, or is either in the Falkland Islands or elsewhere contravening any of the provisions of this Ordinance, the Governor may take such one or more of the following steps from time to time as may seem to him necessary —

Production of books.

Examinations.

- (a) direct the financial institution by notice in writing and at its own expense forthwith to take or refrain from taking such action as he may consider necessary in the conduct of its business, and if it is proved that such notice has not been complied with, the financial institution shall be guilty of an offence and liable on conviction to a fine not exceeding £2,500 in respect of every day during which the offence continues; and the officer or officers responsible shall be guilty of an offence and liable on conviction to a fine not exceeding £2,500 each; or
- (b) direct the financial institution, at its own expense, to appoint a person who, in his opinion, has had adequate training and experience to advise the financial institution in the proper conduct of its business and fix the remuneration to be paid by the financial institution to such person; or
- (c) unless he is satisfied that the financial institution is taking adequate measures to put its affairs in order, make an Order revoking the licence of the financial institution as provided for under Section 5 (6) (k).

23. (1) Every licensed financial institution shall appoint annually an approved auditor whose duties shall be to make to the shareholders of that institution a report upon the annual balance sheet and accounts, and in every such report the auditor shall state whether, in his opinion, the balance sheet is full and fair and properly drawn up, whether it exhibits a true and correct statement of the affairs of the financial institution and, in any case in which the auditor has called for an explanation or information from the officers or agents of the financial institution, whether this is satisfactory.

(2) The report of an approved auditor under subsection (1) shall be read together with the report of the directors of the financial institution at the annual meeting of shareholders and copies of that report shall be sent to the Financial Secretary, together with copies of the balance sheet and profit and loss account, and if any default is made in complying with the requirements of this subsection, the financial institution concerned shall be guilty of an offence and liable on conviction to a fine not exceeding £100,000.

(3) If a licensed financial institution fails to appoint an approved auditor under subsection (1), or at any time fails to fill a vacancy for such auditor, the Governor in Council may appoint an approved auditor and shall fix the remuneration to be paid by the institution to such auditor.

(4) The duties and powers conferred by subsections (1), (2) and (3) of Section 21 in relation to a person or persons appointed under the provisions of Section 20 are hereby conferred also in relation to approved auditors.

(5) For the purpose of this section an approved auditor is an auditor who is a member of one of the professional bodies for the time being declared by the Financial Secretary by notice in the Gazette to be approved for such purposes.

(6) No person having an interest in any financial institution otherwise than as depositor, and no controller, director, officer or agent of any financial institution shall be eligible for appointment as an approved auditor to that institution; and any person appointed as such auditor to any financial institution who subsequently acquires such interest or becomes a controller, director, officer or agent of that institution shall cease to be such auditor.

(7) Where in the case of a licensed financial institution incorporated outside the Falkland Islands the Financial Secretary is satisfied that a report upon the annual balance sheets and accounts of such institution has been duly made by an auditor in accordance with the law of the country in which such institution is incorporated, and a copy of such report together with the report of the directors of such institution is sent to the Financial Secretary, he may by notice in writing exempt any such financial institution from the provisions of this section.

PART 7

GENERAL

24. (1) Notwithstanding anything to the contrary contained in the Companies Ordinance, the Supreme Court shall have jurisdiction under the provisions of the Companies Ordinance relating to the winding up of companies by the court and, on the application of the Governor in Council, to wind up any financial institution -

Winding up of financial institutions.

(a) which is unable to pay the sums due and payable to its depositors, or is able to pay such sums only by defaulting on its obligations to its other creditors; or

Approved auditor.

- (b) whose assets are insufficient to cover its liabilities; or
- (c) which is no longer a licensee; and
- (d) which continues to have any liability to any person in respect of any deposit for which it had a liability when it was so licensed.

(2) The Court may, in the proceedings for the winding up of any financial institution, dispense with any meeting of creditors or contributors or with the appointment of a committee of inspection if it considers that no object will be served thereby sufficient to justify the delay and expense.

(3) The Court shall presume that any amount shown in the books of the financial institution as standing to the credit of any depositor is proved without requiring further proof from the depositor concerned unless the liquidator shows that there is reason for doubting any particular entry.

25. (1) Every financial institution to which a licence is granted shall, upon the issue of such licence, pay to the Treasury such fee as shall be prescribed.

(2) On or before the first day of January of every year after the year in which a licence has been granted to a financial institution that financial institution shall, during the subsistence of such licence, pay to the Treasury such fee as shall be prescribed.

(3) The fees payable under subsections (1) and (2) shall be the same for all licensees.

(4) Any licensed financial institution which fails to pay the fee provided by this section shall be guilty of an offence and shall (in addition to any other penalty under this Ordinance for such failure) be liable on conviction to a fine not exceeding twenty-five per centum of the fee payable for each day during which such fee remains unpaid, and every controller, director, manager, secretary or other officer of the financial institution who knowingly and willingly authorises or permits such non-payment shall also be guilty of an offence and liable on conviction to the same fine.

(5) The Financial Secretary shall publish annually in the Gazette the name of every financial institution that has paid the fee provided by this section.

26. A person upon whom a fine is imposed under this Ordinance may be sentenced in default of payment thereof to imprisonment in the case of a fine -

- (a) not exceeding £5,000 for a period not exceeding three months;
- (b) exceeding £5,000 but not exceeding £10,000 for a period not exceeding six months;
- (c) exceeding £10,000 for a period not exceeding twelve months.

27. The Governor may by Order in Council make regulations —

(a) prescribing anything which by this Ordinance is to be prescribed;

(b) generally for the better carrying into effect of the provisions of this Ordinance.

28. The Banking Ordinance 1972 is repealed.

Repeal.

Regulations.

Imprisonment in

default of payment of fine.

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: LEG/10/28.

Fee payable by licensed financial institution.

The Immigration Ordinance 1987

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Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Immigration Ordinance 1987.

No. 15 of 1987

An Ordinance to provide for the control of immigration and matters connected therewith.

(Assented to : 5th June 1987) (Commencement : to be fixed) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

PART 1

PRELIMINARY

1. This Ordinance may be cited as the Immigration Ordinance 1987, and shall come into force on such day as the Governor may appoint by Order published in the Gazette and the Governor may appoint different days for the coming into force of different provisions.

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

Interpretation.

commencement.

Citation and

"child" includes a legitimated child, a stepchild, a child adopted in a manner recognised by law, or in relation to its parent an illegitimate child;

"entry" with its cognate expressions and grammatical variations means -

- (a) disembarking in the Falkland Islands from the vessel in which he arrives in the case of a person arriving by sea;
- (b) disembarking from an aircraft at Mount Pleasant Airport, Stanley Airport or another airport designated as such under a law for the time being in force, and leaving the precincts of such airport;
- (c) arriving in the Falkland Islands by air at any other place other than Mount Pleasant Airport, Stanley Airport or another airport designated under the law:

Provided that it shall not include an entry -

- (i) for the purpose of complying with this Ordinance;
- (ii) expressly or impliedly sanctioned by an immigration officer for the purpose of any enquiry under this Ordinance; or
- (iii) caused solely by stress of weather or the condition of a ship or aircraft, if all such measures as are reasonably practicable are taken forthwith to notify such entry to the Principal Immigration Officer.

"Falkland Islander" has the meaning given to a person belonging to the Falkland Islands by Section 17 (5) of the Constitution;

"family" means husband or wife, and children who are under eighteen years of age;

"member of a crew" means any person employed in the working or service of a ship or aircraft;

"passport" includes any official travel document intended to serve in the place of a passport;

"permit" includes any kind of permit issued under this Ordinance and an exemption under Section 13 stamped on a passport;

"police officer" means a member of the Falkland Islands Police Force;

"Principal Immigration Officer" includes any immigration officer, police officer or commissioned or non-commissioned officer of Her Majesty's Armed Services, to whom powers are delegated in accordance with Section 4 (2);

"prohibited immigrant" means a prohibited immigrant as defined by Section 16;

"residence" with its cognate expressions and grammatical variations means residence in the Falkland Islands which is not unlawful under this Ordinance;

"seaman" means an officer or member of the crew of a ship;

"ship", except in relation to paragraphs (b) and (d) of Section 15, includes aircraft and the expression "master of a ship" includes, except in relation to Section 5 (3), the commander of an aircraft;

"visitor" means a person in the Falkland Islands for an intended stay of any period not exceeding four months.

PART 2

APPLICATION OF ORDINANCE

3. (1) Subject to subsection (2) this Ordinance shall apply to the entry into, or the residence or continued residence in, the Falkland Islands of all persons and all matters connected therewith and the administration of this Ordinance to and in respect of such persons shall be the responsibility of the Chief Executive who may, subject to Section 4 (2) give such directions to the Principal Immigration Officer as he may consider expedient.

(2) Except for Sections 5 (1) (c) and 15 (2) this Ordinance shall not apply to the residence in, or the return from abroad to, the Falkland Islands of Falkland Islanders.

PART 3

APPOINTMENT AND POWERS OF IMMIGRATION OFFICERS

4. (1) The Governor shall appoint a Principal Immigration Officer and such other Immigration Officers as he may consider necessary.

(2) The Principal Immigration Officer may delegate in writing all or any of his powers, functions or duties under this Ordinance either generally or in any area in the Falkland Islands, or for such periods or purposes as he may specify, to any immigration officer, police officer or commissioned or non commissioned officer of Her Majesty's Armed Services, and may at any time revoke or vary any such delegation.

(3) The Governor in Council may from time to time give to the Principal Immigration Officer directions not inconsistent with the provisions of this Ordinance as to the exercise of any powers, discretions or functions or the performance of any duties under this Ordinance, and the Principal Immigration Officer shall comply with such directions.

5. (1) For the purpose of exercising his powers and functions and carrying out his duties under this Ordinance the Principal Immigration Officer may -

- (a) without a search warrant, enter upon or into and search any ship or vehicle in the Falkland Islands;
- (b) question any person who desires to enter the Falkland Islands, or any person whom he has reasonable grounds for believing to be a prohibited immigrant, or any person applying for extension of a permit or for an exemption, or the master of any ship whom he reasonably believes can give material information regarding any such person, and may require any of such persons to produce such documents in his possession as may be necessary to enable the Principal Immigration Officer to carry out his duties under this Ordinance;
- (c) require any person who desires to enter or leave the Falkland Islands to complete and sign such form as may be prescribed;
- (d) require any person who desires to enter the Falkland Islands to submit to examination by a Government medical officer;

Appointment of Principal Immigration Officer and Immigration Officers.

Powers of Principal Immigration Officer.

Application.



THE

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It is hereby notified that this issue of the Gazette, although dated 28th October 1987, was in fact published on 21st January 1988.

D. G. LANG, Attorney General.

PROCLAMATION

No. 2 of 1987

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 Commonwealth, Defender of the Faith, By His Excellency GORDON WESLEY JEWKES, ESQUIRE, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands.

WHEREAS Darwin Lewis Clifton a duly elected member for the Stanley Constituency of the Legislative Council for the said Colony resigned on the 9th day of October 1987;

AND WHEREAS it is necessary to make arrangements to fill the vacancy that has occurred as a result of the aforesaid resignation;

AND WHEREAS Section 28 (2) of the Falkland Islands Constitution 1985 provides that whenever an elected member of the Legislative Council vacates his seat for any reason, other than a dissolution of the Council, an election shall be held to fill the vacancy, on such date as the Governor shall appoint by Proclamation published in the Gazette within 70 days of the occurrence of the vacancy unless the Council is sooner dissolved or under Section 29 (3) of the aforesaid Constitution will be dissolved within 126 days of the occurrence of the vacancy;

NOW THEREFORE I the said **GORDON WESLEY JEWKES**, do hereby appoint Monday the thirtieth day of November 1987 as the day on which a By-Election shall take place to fill the vacancy which has occurred.

GIVEN under my hand and the Public Seal of the Colony of the Falkland Islands this twenty-sixth day of October in the year of our Lord One thousand nine hundred and eighty-seven.

G. W. JEWKES, Governor.

GOD SAVE THE QUEEN

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(e) require a deposit or bond or other security to be made or given in the prescribed form in respect of any person granted a permit and if any person who enters the Falkland Islands by virtue of such permit contravenes or fails to comply with any of the terms and conditions of the permit, the Principal Immigration Officer may, without prejudice to proceedings in respect of any offence thereby committed, forfeit any such deposit or sue and recover the amount secured by any such bond or other security; and any sum so forfeited or recovered shall be paid into the Consolidated Fund.

(2) If the Principal Immigration Officer or any police officer has reasonable cause to suspect that any person has committed an offence against this Ordinance, or that the presence of any person in the Falkland Islands is unlawful, and if it appears to be necessary to arrest such person immediately, he may arrest such person without a warrant.

(3) Where a person arrested under subsection (2) is a person whom the Principal Immigration Officer or a police officer has reasonable cause to suspect is a prohibited immigrant and such person is a passenger on or member of the crew of a ship such person may, if he consents, be handed over to the custody of the master of the ship until its departure from the Falkland Islands.

(4) any person who —

- (a) refuses or fails to answer fully and truthfully any question or inquiry put to him in the course of questioning under subsection (1) (b); or
- (b) gives any answer which he knows or has reasonable cause to believe to be false or misleading to any such question or inquiry; or
- (c) when required to produce any document under subsection (1) (b) refuses or fails to produce within a reasonable time any such document which it is in his power to produce, or produces any document which he knows or has reasonable cause to believe to be false or misleading;

commits an offence.

(5) Notwithstanding any rule of law to the contrary, all answers to questions lawfully asked and all documents produced under subsection (1) (b) shall be admissible in evidence in all proceedings under or relating to any matter arising under or connected with this Ordinance.

PART 4

ENTRY INTO THE FALKLAND ISLANDS

6. No person may enter the Falkland Islands who is not in possession of a valid visa lawfully issued to him under this Ordinance unless he is exempted from such requirement.

7. Any person who --

- (a) does not have a permit issued under Section 10; or
- (b) has not acquired a right of residence under Section 26 (1) who wishes to enter the Falkland Islands shall apply for a visa in such manner as may be prescribed.

8. The citizens of any country may be exempted with or without limitations or conditions from visa requirements by Order made by the Governor in Council.

- 9. No person shall enter the Falkland Islands unless -
 - (a) he is in possession of a valid permit lawfully issued to him under this Ordinance; or
 - (b) he is exempted under Section 13.

10. (1) Any person who wishes to enter and take up residence in the Falkland Islands shall apply from outside the Falkland Islands for a permit to enter the Falkland Islands and reside therein and shall be in possession of a valid permit to enter and reside prior to entry.

(2) No person may apply for a permit to enter and reside in the Falkland Islands whilst temporarily present in the Falkland Islands as a permitted visitor or otherwise.

(3) The Governor in Council may exempt a person from the requirement to be outside the Falkland Islands when making an application under subsection (1) and may likewise exempt a person from the provisions of subsection (2).

Control of entry into the Falkland Islands.

Application for visa.

Exemption from visa requirements.

Permit required for entry to the Falkland Islands.

Residence permits. 11. (1) The Principal Immigration Officer may upon application being made under Section 10 in the prescribed form issue a permit in the prescribed form authorising any person to enter and reside in the Falkland Islands upon such conditions as the Principal Immigration Officer may consider fit.

(2) The Principal Immigration Officer may in his discretion extend a permit issued under subsection (1).

(3) Notwithstanding any other provision of this Ordinance the Principal Immigration Officer may cancel a permit issued under this section if he is satisfied that —

- (a) the holder of the permit made a false declaration in respect of any particulars required when applying for his permit; or
- (b) the holder of the permit is convicted of an offence carrying liability to a sentence of imprisonment whether or not as an alternative to a fine.

12. (1) The Principal Immigration Officer may issue a permit, subject to such conditions as may be specified therein, to a visitor if he is satisfied that the visitor has a ticket or other means of travelling from the Falkland Islands to some other country which he will be able to enter.

(2) A visitor's permit shall, subject to this Ordinance, entitle a visitor to remain in the Falkland Islands for any period or periods in the aggregate not exceeding four months in any period of twelve months.

(3) The Principal Immigration Officer may cancel a visitor's permit if he is satisfied that the visitor -

- (a) is not a person to whom a visitor's permit ought to have been issued;
- (b) was at the time of entry or has become a prohibited immigrant;
- (c) has become incapable of supporting himself or his dependants;
- (d) has behaved in a manner prejudicial to the peace and good order of the Falkland Islands;
- (e) is in breach of any of the conditions of his permit; or
- (f) has been convicted of any offence.

13. (1) Subject to this section, a person who satisfies the Principal Immigration Officer that he comes into any of the following categories shall be entitled to enter the Falkland Islands without having obtained a permit under this Ordinance, namely —

- (a) any person granted exemption from entry formalities by the Governor;
- (b) any person employed by or seconded to the Government;
- (c) any serving member of Her Majesty's Armed Forces and the family of such member if the Principal Immigration Officer is satisfied that responsibility of such family has been accepted by the Service concerned;
- (d) any member of a diplomatic mission based in the Falkland Islands;
- (e) any person visiting the Falkland Islands and leaving on the same ship;
- (f) any person or class of persons in respect of whom a declaration has been made under subsection (2);
- (g) any seaman exempted under subsection (3);
- (h) families of persons referred to in paragraphs (b) and (d).

(2) The Governor in Council may declare that, subject to such terms and conditions as he may specify, any person or class or group of persons may enter the Falkland Islands without a permit.

(3) The Principal Immigration Officer may by notice published in the Gazette exempt any seaman or class of seamen from the requirement to obtain a permit to enter the Falkland Islands subject to such terms and conditions as may be specified in such notice and may likewise withdraw any such exemption generally or may by notice served on any seaman withdraw such exemption in respect of that seaman.

(4) The burden of proof that any person is a person to whom this section applies shall lie upon that person.

Persons entitled to enter without a permit.

Issue of permits to enter and reside.

Visitors' permits.

14. The presence of a person in the Falkland Islands shall be unlawful if his presence is pursuant to a permit, exemption or authority obtained, issued, granted or conferred as a result of fraud, misrepresentation, concealment or non-disclosure whether intentional or inadvertent.

Presence unlawful of persons who have obtained permits or exemptions as a result of fraud, misrepresentation, concealment or non-disclosure.

Duties of masters of ships and of passengers.

15. (1) The master of every ship arriving in the Falkland Islands from some place outside the Falkland Islands shall -

- (a) deliver to the Principal Immigration Officer a complete list in duplicate of all passengers, seamen or crew on the ship;
- (b) not permit any person to disembark until disembarkation has been authorised by the Principal Immigration Officer;
- (c) inform the Principal Immigration Officer if he knows or has reasonable cause for believing any person on the ship commanded by him to be a prohibited immigrant and prevent such person from disembarking unless authorised by the Principal Immigration Officer;
- (d) prevent, with such reasonable force as may be necessary, the disembarkation of any person --
 - (i) who has been given into his custody under Section 5 (3); or
 - (ii) in respect of whom to his knowledge a removal order made under Section 19 is in force; or
 - (iii) in respect of whom he has been notified by the Principal Immigration Officer in the prescribed form that such person is prohibited from landing in the Falkland Islands.

(2) Every person entering the Falkland Islands by sea or air from any place outside the Falkland Islands shall appear before the Principal Immigration Officer at such time and place as the Principal Immigration Officer may direct and shall furnish him with such information in such manner as he may require or as may be prescribed.

(3) If any master of a ship arriving in the Falkland Islands contravenes or fails to comply with any of the provisions of paragraphs (a), (b), (c) or (d) of subsection (1), or furnishes a list of passengers and seamen or crew which he knows or has reasonable cause to believe to be false or misleading, he shall be guilty of an offence and if the offence is a failure to comply with the provisions of paragraph (b) or paragraph (d) the owner of the ship and any agent of such owner in the Falkland Islands shall also be guilty of the like offence.

16. (1) Any person who -

Prohibited immigrants.

- (a) is not a person entitled to enter the Falkland Islands without a permit under Section 13 (1); and
- (b) is a member of any of the prohibited classes as defined in subsection (2), shall be a prohibited immigrant and save as otherwise hereinafter expressly provided his presence in the Falkland Islands shall be unlawful, notwithstanding any permit he may hold.
- (2) The following persons are members of the prohibited classes -
 - (a) any person who, not being exempt, is not the holder of a valid permit issued or deemed to have been issued under this Ordinance;
 - (b) any person who at the time of entry into or residence in the Falkland Islands is unable to show that he has the means of supporting himself and his family and dependants or that he has definite employment awaiting him or who is likely to become a pauper or a charge on public funds.
 - (c) any person -
 - (i) who refuses to submit to an examination by a Government medical officer after being required to do so under Section 5 (1) (d);

- (ii) who at the time of his entry into the Falkland Islands is certified by a Government medical officer to be suffering from a contagious or infectious disease which makes his presence in the Falkland Islands dangerous to the community; or
- (iii) in respect of whom at the time of his entry into the Falkland Islands a Government medical officer certifies that he is suffering from any mental disorder and that his presence in the Falkland Islands would be a danger to the community; or
- (d) any person who has been, whether in the Falkland Islands or outside thereof, convicted by a court of an offence in respect of which he has been sentenced to imprisonment for a term of six months or more whether or not as an alternative to a fine:

Provided that the Principal Immigration Officer, with the prior approval of the Governor, in his discretion, in the case of a person whose last sentence of imprisonment expired more than five years before the date upon which he desires to enter the Falkland Islands, may declare that such person shall be exempted from the provisions of this paragraph and such person shall not thereafter be a prohibited immigrant by reason of the provisions of this paragraph.

- (e) any person who prior to his entry into the Falkland Islands or within two years thereafter, in consequence of information received from any government through official or diplomatic channels, or from any other source considered by the Governor in his discretion to be reliable, is declared by the Governor in his discretion to be an undesirable immigrant;
- (f) any person who is a member of any class or group of persons declared by the Governor in Council to be a prohibited class for the purposes of this section;
- (g) unless the Governor shall otherwise declare, any member of the family and any dependent of a prohibited immigrant.

(3) The burden of proof that any person is not a prohibited immigrant shall lie upon that person.

(4) In any case where the Principal Immigration Officer refuses to allow any person to enter the Falkland Islands on the ground that such person is a prohibited immigrant he shall inform him of the reasons for his decision.

17. It shall be unlawful for any person to remain in the Falkland Islands after the expiration or cancellation of any permit issued or deemed to be issued to him under this Ordinance unless he is otherwise entitled to remain in the Falkland Islands under this Ordinance.

18. (1) Where any person by virtue of Section 13, or who under the provisions of any law controlling immigration in force prior to the commencement of this Ordinance, was entitled to enter the Falkland Islands without a permit, ceases to hold or enjoy the employment, appointment, status or privileges which so entitled him, he shall, for the purpose of this Ordinance be deemed to be a person seeking to enter the Falkland Islands with effect from the date when he ceases to hold such employment or appointment or enjoy such status or privileges and if on the expiry of three months from such date he shall not have been granted a permit under this Ordinance, his presence and the presence of his family and dependants in the Falkland Islands shall thereupon become unlawful.

(2) Subsection (1) shall not apply to -

- (a) any dependant or member of the family or a person as aforesaid if such dependant or member is in possession of a valid permit lawfully issued to him under this Ordinance or is entitled to enter the Falkland Islands without a permit under Section 13 other than by reason of being such dependant or member;
- (b) a person who at the time of ceasing to hold or enjoy the employment, appointment, status or privileges which entitle him to enter the Falkland Islands without a permit is also entitled to enter the Falkland Islands without a permit under Section 13 (1) (a).

(3) When any person referred to in paragraph (f) or (g) of Section 13 (1) contravenes or fails to comply with any of the terms and conditions of a declaration under Section 13 (2) or a notice under Section 13 (3) enabling him to enter the Falkland Islands without a permit, or when his exemption from the requirement to obtain a permit is cancelled under Section 13 (3) without prejudice to any offence thereby committed or penalty thereby incurred, his presence in the Falkland Islands shall forthwith become unlawful. Effect of expiry or cancellation of a permit.

Person who ceases to be exempt to hold entry permit.

PART 5

REMOVAL OF PERSONS FROM THE FALKLAND ISLANDS

19. (1) Notwithstanding any other provisions of this Ordinance the Governor, if he shall consider it would be conducive to the public good, in his discretion, may make an Order in the prescribed form that any person, whether or not he is unlawfully present in the Falkland Islands, shall, on the expiry of fourteen days or such longer period as the Governor in his discretion may specify from the date of service of the Order on such person or on the completion of any sentence of imprisonment which he may be serving, be removed from and remain out of the Falkland Islands, either indefinitely or for a period to be specified in that Order.

(2) An Order made under this section shall be carried into effect in such manner as the Governor in his discretion may direct.

(3) A person against whom an Order under this section is made may, if the Governor in his discretion so directs, while awaiting removal and while being conveyed to the place of departure, be kept in prison or in police custody, and while so kept shall be in lawful custody.

(4) A person against whom a removal order has been made may be removed to the place from whence he came, or with the approval of the Governor, in his discretion, to a place in the country to which he belongs or to any place to which he consents to be removed, provided that the government of such last mentioned place consents to receive him.

(5) The master of a ship which is proceeding to a place to which a person is directed to be removed and who is required by the Principal Immigration Officer to do so shall receive a person against whom a removal order has been made on board the ship and upon payment therefor afford him a passage to that place and proper accommodation and maintenance during the passage. Except as provided by Section 20 the cost of such passage, accommodation and maintenance shall be paid by the person removed and the Governor may apply any money or property of the person removed in payment of the whole or part of such cost, or if the Governor shall consider fit the whole or any part of such cost shall be paid out of the Consolidated Fund.

(6) If any master of a ship fails to comply with subsection (5) he shall be guilty of an offence and the owner of the ship and any agent of such owner in the Falkland Islands shall be guilty of a similar offence and liable to similar penalty:

Provided that no person shall be convicted under this subsection if -

- (a) he satisfies the court that the necessary accommodation was not available on the ship; or
- (b) in the case of an aircraft, the commander had reasonable cause to believe that compliance with the provisions of subsection (5) may imperil the safety of the aircraft or any person therein; or
- (c) in the case of an aircraft, it would be contrary to any law to afford a person such passage as the Principal Immigration Officer may have required under subsection (5).

(7) If a person in respect of whom a removal order is made under this section has been sentenced to any term of imprisonment such sentence shall be served before the order is carried into effect unless the Governor in his discretion otherwise directs.

20. The master and the owner and the agent of any ship from which any prohibited immigrant disembarks shall be jointly and severally liable to pay the Governor all expenses incurred by the Governor in connection with the care, maintenance or treatment of such prohibited immigrant and his removal or conveyance from the Falkland Islands to the place from which he was brought by the ship concerned. The amount of any such expenses as aforesaid shall be recoverable in any action brought by or in the name of the Principal Immigration Officer:

l inbility for expenses in connection with prohibited immigrants.

Provided that -

- (a) the Governor may, if he considers fit, direct that the whole or any part of such expenses shall be paid out of the Consolidated Fund;
- (b) this section shall not apply in the case of a person who is a prohibited immigrant by reason of being declared by the Governor after his entry into the Falkland Islands to be in the class of undesirable immigrants under Section 16 (2) (e); and

Power to remove persons from the Falkland Islands. (c) the provisions of this section shall not apply in any case where the prohibited immigrant is at the time of entry in possession of a permit purporting to authorise him to enter the Falkland Islands and to be issued under this Ordinance.

PART 6

SUPPLEMENTARY PROVISIONS

21. Every document purporting to be a delegation, order, permit, declaration or cancellation under or in pursuance of this Ordinance and to be executed by the Governor or the Principal Immigration Officer or an immigration officer, shall be received in evidence and shall without further proof be deemed to have been executed by the Governor, the Principal Immigration Officer or the immigration officer, as the case may be, unless the contrary is shown.

22. No suit or other legal proceedings for damages shall be instituted in any court of law against the Governor or the Principal Immigration Officer or any other officer of the Government or any other person for or on account of or in respect of any act, matter or thing done or omitted to be done or purported to be done, in good faith, in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Ordinance; and this section shall extend to the protection from liability as aforesaid of any person deputed under this Ordinance or under any other law for the time being in force to perform or exercise any such duty or power aforesaid.

23. (1) Any person aggrieved by a decision of the Principal Immigration Officer under this Ordinance may appeal against such decision to the Governor in Council who, may confirm, vary or overrule the decision of the Principal Immigration Officer. The appeal shall be by way of petition in writing and shall be made within fourteen days of the decision appealed against or, where the aggrieved person is resident outside the Falkland Islands, within twenty-eight days of such decision.

(2) The Principal Immigration Officer may grant to any person who intends to appeal to the Governor under subsection (1), and to any member of the family and to any dependent of such person, an interim permit allowing him to enter and remain in the Falkland Islands pending the determination of such appeal.

(3) The Principal Immigration Officer shall not grant an interim permit under this section unless he is satisfied that the person to whom it is to be granted is unlikely to become a charge on public funds during the currency of the permit. Any such permit may be cancelled by the Principal Immigration Officer if the person concerned appears likely to become a charge on public funds or if the appeal referred to in subsection (1) is not presented with all due despatch and, if not cancelled, shall expire on the determination of the appeal.

24. (1) Any person who -

- (a) for the purpose of obtaining for himself or for any other person or of assisting any other person to obtain any permit, exemption or other advantage under this Ordinance or, with intent to deceive any immigration officer, makes or causes to be made any declaration, return or statement which he knows or has reasonable cause to believe to be false or misleading, or uses any forged or unlawfully altered birth certificate, marriage certificate or any other forged or unlawfully altered document of any nature whatsoever or any passport which or in which any visa, entry or endorsement has been forged or unlawfully altered knowing or having reasonable cause to believe such certificate, document, passport, visa, entry or endorsement to be forged or unlawfully altered;
- (b) alters or wilfully defaces any permit or any entry or endorsement in any passport issued or made under or in pursuance of this Ordinance, or any official or certified copy of any such permit, entry or endorsement;
- (c) wilfully resists, hinders or obstructs the Principal Immigration Officer or other officer or person in the lawful execution of any duty, or in the lawful exercise of any power, under this Ordinance;
- (d) knowingly misleads or attempts to mislead the Principal Immigration Officer or other officer in relation to any matter material to the performance or exercise of any duty, function, power or discretion under this Ordinance;

Offences,

Proof of documents.

No legal proceedings in respect of things done or omitted to be done in good faith.

Appeals.

- (e) uses or has in his possession, without lawful excuse (the burden of proof whereof shall lie upon the person charged), any forged or unlawfully altered permit or other document issued or purporting to have been issued under this Ordinance;
- (f) knowingly uses or has in his possession any unlawfully issued or otherwise irregular permit or other document issued or purporting to have been issued under this Ordinance;
- (g) refuses or fails to submit to medical examination when so required under Section 5 (1) (d);
- (h) having arrived in the Falkland Islands by sea or air from any place outside the Falkland Islands fails to appear before the Principal Immigration Officer as directed by him;
- (i) unlawfully enters or is unlawfully present in the Falkland Islands;
- (j) refuses or fails to comply with any notice issued to him under this Ordinance with which he is required by this Ordinance to comply;
- (k) fails to comply with any term or condition subject to which any permit has been issued to him under this Ordinance;
- harbours any person whom he knows or has reasonable cause to believe to be a person whose presence in the Falkland Islands is unlawful;
- (m) uses any certificate, permit or exemption issued under this Ordinance to or in respect of any other person as if it had been issued to or in respect of himself;
- (n) gives, sells or parts with possession of any such certificate, permit or exemption in order that or intending or knowing or having reasonable cause to believe that it may be used in contravention of paragraph (m); or
- (0) having been directed by any order made under Section 19 (1) to remain out of the Falkland Islands, fails so to do in contravention of such order;

commits an offence.

(2) For the purposes of any proceedings for an offence under subsection (1) (a) a declaration, return or statement to which that paragraph relates shall be deemed to have been made or if caused to have been made, as the case may be, at the time and place at which the same was received by the officer or person to whom it was addressed.

(3) Any person convicted of an offence under this Ordinance for which no penalty is otherwise provided shall be liable to a fine of two thousand pounds or to a term of imprisonment not exceeding two years or both.

(4) Where any person is convicted of an offence under subsection (1) (a) the Principal Immigration Officer may cancel any permit which was issued in consequence of such offence.

(5) Where any person is convicted of an offence under subsection (1) (b) the Principal Immigration Officer shall cancel the permit in respect of which the offence was committed.

(6) Any person who is convicted of an offence under subsection (1) (c) shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding two thousand pounds or both.

(7) Where any prohibited immigrant enters the Falkland Islands on or from a ship whether or not with the knowledge of the owner, master, or of any agent therefor, such owner, master and such agent, shall be guilty of an offence and shall be liable to a fine not exceeding five hundred pounds:

Provided that it shall be a defence to a charge under this subsection that the owner, master or agent, as the case may be, had reasonable cause to believe that such prohibited immigrant was in possession of a valid permit authorising him to enter the Falkland Islands.

(8) In any proceedings for an offence under this section a person shall be considered to know the contents of any declaration, return or statement which he has signed or marked, whether he has read such declaration, return or statement or not, if he knows the nature of the document.

25. (1) The Governor may by Order in Council make regulations for the better carrying into effect of this Ordinance.

Regulations.

(2) Without derogating from the generality of subsection (1) regulations made thereunder may provide for -

(a) anything that may be prescribed under this Ordinance;

- (b) fees to be paid on applications made under this Ordinance and for any permit issued under this Ordinance;
- (c) the manner in which any applications or petitions may be made under this Ordinance.

26. (1) Any person lawfully residing in the Falkland Islands at the commencement of this Transitional. Ordinance shall be deemed to have acquired such right of residence under this Ordinance as if the same had been previously in force and the provisions of this Ordinance shall apply mutatis mutandis to such person.

(2) Any person who before the commencement of this Ordinance and under the provisions of any law in force immediately prior to the commencement of this Ordinance was issued with a visitor's permit shall be deemed to have been issued with a visitor's permit under this Ordinance for a period not exceeding four months commencing with the date of his entry, and subject to the provisions of this Ordinance, the presence in the Falkland Islands of such person shall, upon the expiration of the said period of four months, forthwith become unlawful.

27. The Immigration Ordinance 1965 and Part 1 of the Aliens Ordinance Cap. 4 are Repeals. repealed.

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: IMM/10/1.

Printed by the Government Printer. FALKLAND ISLANDS.

The Misuse of Drugs Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Restriction of importation and exportation of controlled drugs.
- 4. Restriction on production and supply of controlled drugs.
- 5. Restriction of possession of controlled drugs.
- 6. Restriction of cultivation of cannabis plant.
- 7. Authorisation of activities otherwise unlawful under foregoing provisions.
- 8. Occupiers of premises commit an offence by permitting certain activities to take place there.
- 9. Prohibition of certain activities relating to opium.
- 10. Prohibition of supply of articles for administering or preparing controlled drugs.
- 11. Power to make regulations for preventing misuse of controlled drugs.
- 12. Directions as to special precautions for safe custody of controlled drugs.
- 13. Directions prohibiting, prescribing, supply etc. of controlled drugs by convicted practitioners or pharmacists.
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- 15. Power to obtain information in certain circumstances.
- 16. Miscellaneous offences.
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- 19. Offences by corporations.
- 20. Further power to make regulations.
- 21. Powers to search and obtain evidence.
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- 23. Trial of offences by Senior Magistrate or Justices of the Peace and sentencing.
- 24. Forfeiture.
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Schedule

- Controlled drugs Part 1 Class A drugs
 - Part 2 Class B drugs
 - Part 3 Class C drugs

Part 4 - Meaning of certain expressions used in this Schedule.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Misuse of Drugs Ordinance 1987.

No. 16 of 1987

An Ordinance to provide for the prevention of the misuse of drugs.

(Assented to : 5th June 1987) (Commencement : to be fixed) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Misuse of Drugs Ordinance 1987, and shall come Citation and into force on such day as the Governor may appoint by Order published in the Gazette commencement. and different days may be appointed for different provisions.

2. (1) In this Ordinance, unless the context otherwise requires —

"cannabis" (except in the expression "cannabis resin") means any plant of the genus Cannabis or any part of any such plant (by whatever name designated) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely —

(a) mature stalk of any such plant;

(b) fibre produced from mature stalk of any such plant; and

(c) seed of any such plant.

"cannabis resin" shall mean the separated resin, whether crude or purified, obtained from any plant of the genus Cannabis;

"contravention" shall include failure to comply and "contravene" shall have a corresponding meaning;

"controlled drug" shall mean any substance or product for the time being specified in the Schedule;

"corresponding law" shall have the meaning given in Section 17 (2);

"dentist" shall mean a person entitled to practice as such in the Falkland Islands;

"doctor" shall mean a person entitled to practice as such in the Falkland Islands;

"hovercraft" shall mean a vehicle which is designed to be supported when in motion wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

"practitioner" shall mean a doctor, dentist, veterinary practitioner or veterinary surgeon;

"prepared opium" shall mean opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

"prescribed" shall mean prescribed by the Governor by Order in Council;

"produce" where the reference is to producing a controlled drug, shall mean producing by manufacture, cultivation or any other method and "production" shall have a corresponding meaning; Interpretation.

"supplying" shall include distributing;

"veterinary practitioner" or "veterinary surgeon" shall mean a person entitled to practice as such in the Falkland Islands.

(2) References in this Ordinance to misusing a drug are references to misusing it by the taking of it by a human being by way of any form of selfadministration, whether or not involving assistance by another.

(3) For the purpose of this Ordinance the things which a person has in his possession shall be taken to include any thing subject to his control but which is in the custody of another.

3. (1) Subject to Section 7 the importation of a controlled drug and the exportation of a controlled drug are prohibited.

Penalty -

Class A or B drug - 10 years imprisonment and £1,000 fine;

Class C drug - 5 years imprisonment and £500 fine.

(2) Subsection (I) does not apply to the importation or exportation of a controlled drug in accordance with and in compliance with any condition attached to a licence issued by the Chief Medical Officer.

4. Subject to Section 7, it shall be an offence for a person to --

- (a) produce a controlled drug;
- (b) be concerned in the production of such a drug by another;
- (c) supply a drug to another;
- (d) be concerned in the supplying of such a drug to another; or

(e) be concerned in the making to another of an offer to supply such a drug. Penalty —

chany —

Class A or B drug - 10 years imprisonment and £1,000 fine;

Class C drug - 5 years imprisonment and £500 fine.

5. (1) Subject to Section 7, it shall be an offence for a person to have a controlled drug in his possession.

Penalty -

Class A drug - 7 years imprisonment and £700 fine;

Class B drug - 5 years imprisonment and £500 fine;

Class C drug - 2 years imprisonment and £200 fine.

(2) Subject to Section 24, it is an offence for a person to have a controlled drug in his possession, whether lawfully or not, with intent to supply it to another in contravention of Section 4.

Penalty —

Class A or B drug - 10 years imprisonment and £1,000 fine;

Class C drug - 5 years imprisonment and £500 fine.

(3) In any proceedings for an offence under subsection (1) in which it is proved that the accused had a controlled drug in his possession it shall be a defence for him to prove —

- (a) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to destroy or deliver it into the custody of a person lawfully entitled to take custody of it; or
- (b) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to deliver it into the custody of such a person.

(4) Subsection (3) shall apply in the case of proceedings for an offence under Section 16 consisting of an attempt to commit an offence under subsection (1) as it applies in the case of proceedings for an offence under subsection (1), subject to the following modifications —

Restriction of possession of controlled drugs.

Restriction of importation and exportation of controlled drugs.

Restriction on production and

supply of con-

trolled drugs.

- (a) for the references to the accused having in his possession, and to his taking possession of, a controlled drug there shall be substituted respectively references to his attempting to get, and to his attempting to take, possession of such a drug; and
- (b) in paragraphs (a) and (b) the words from "and that as soon as possible" onwards shall be omitted.

(5) Nothing in subsection (3) or (4) shall prejudice any defence which is open to a person charged with an offence under this section to raise apart from that subsection.

6. Subject to Sections 7 and 24, it shall be an offence for a person to cultivate any plant of the genus Cannabis.

Penalty - 5 years imprisonment and £500 fine.

7. (1) The Governor may by Order in Council —

- (a) except from Sections 3 (1) or 5 (1) such controlled drugs as may be specified in the Order; and
- (b) make such other provision as he considers fit for the purpose of making it lawful for persons to do things which under Sections 4, 5 and 6 it would otherwise be unlawful for them to do.

(2) Without prejudice to the generality of subsection (1) (b) an Order made under that subsection may in particular provide for the doing of anything to be lawful —

- (a) if it is done under and in accordance with the terms of a licence or other authority issued by the Governor or the Chief Medical Officer and in compliance with any conditions attached thereto; or
- (b) if it is done in compliance with such conditions as may be prescribed.

(3) Subject to subsection (4) the Governor may by an Order in Council provide —

- (a) that it is not an offence under Section 4 for a doctor, veterinary practitioner or veterinary surgeon, acting in his capacity as such or such other person or class of persons as may be specified by the Governor by Order in Council to prescribe, administer, manufacture, compound or supply a controlled drug; and
- (b) that it is not an offence under Section 5 (1) for a doctor, dentist, veterinary practitioner, veterinary surgeon, pharmacist or person lawfully conducting a retail pharmacy business to have a controlled drug in his possession for the purpose of acting in his capacity as such.

(4) If in case of any controlled drug the Governor in Council is of the opinion that it is in the public interest -

- (a) for the production, supply and possession of that drug to be either wholly unlawful or unlawful except for the purpose of research or other special purposes; or
- (b) for it to be an offence for practitioners, pharmacists and persons lawfully conducting any retail pharmacy business to do in relation to that drug any of the things mentioned in subsection (3) except under a licence or other authority issued by the Governor;

he may by Order designate that drug as a drug to which this subsection applies; and while there is in force such an Order subsection (3) shall not apply to the drug specified in the Order.

8. A person being the occupier or concerned in the management of any premises commits an offence if he knowingly permits or suffers any of the following activities to take place on those premises -

- (a) producing or attempting to produce a controlled drug in contravention of Section 4;
- (b) supplying or attempting to supply a controlled drug to another in contravention of Section 4 or offering to supply a controlled drug to another in contravention of Section 4;
- (c) preparing opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

Penalty -

Class A or B drug - 10 years imprisonment and £1,000 fine; Class C drug - 5 years imprisonment and £500 fine. Occupiers of premises commit an offence by permitting certain activities to take place there.

Authorisation of activities otherwise unlawful under foregoing provisions.

Restriction of cultivation of

cannabis plant.

- 9. Subject to Section 24, it is an offence for a person -
 - (a) to smoke or otherwise use prepared opium;
 - (b) to frequent a place used for opium smoking; or
 - (c) to have in his possession -
 - (i) any pipes or other utensils made or adapted for use in connection with the smoking of opium, being pipes or utensils which have been used by him or with his knowledge and permission in that connection or which he intends to use or permit others to use in that connection; or
 - (ii) any utensils which have been used by him or with his knowledge and permission in connection with the preparation of opium for smoking.

Penalty - 10 years imprisonment and £1,000 fine.

10. (1) A person who supplies or offers to supply any article which may be used or adapted to be used (whether by itself or in combination with another article or other articles) in the administration by any person of a controlled drug to himself or another, believing that the article (or the article as adapted) is to be so used in circumstances where the administration is unlawful, is guilty of an offence.

Penalty - 6 months imprisonment and £200 fine.

(2) It is not an offence under subsection (1) to supply or offer to supply a hypodermic syringe, or any part of one.

(3) A person who supplies or offers to supply any article which may be used to prepare a controlled drug for administration by any person to himself or another believing that the article is to be so used in circumstances where the administration is unlawful is guilty of an offence.

Penalty - 6 months imprisonment and £200 fine.

(4) For the purposes of this section, any administration of a controlled drug is unlawful except -

- (a) the administration by any person of a controlled drug to another in circumstances where the administration of the drug is not unlawful under section 4; or
- (b) the administration by any person of a controlled drug to himself in circumstances where having the controlled drug in his possession is not unlawful under section 5 (1).

11. (1) Subject to this Ordinance the Governor may by Order in Council make regulations for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1) regulations made under this section may in particular provide —

- (a) for the precautions to be taken for the safe custody of controlled drugs;
- (b) for the documentation of transactions involving controlled drugs and the furnishing of documents relating to such transactions to the prescribed authority;
- (c) for the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as may be prescribed;
- (d) for the inspection of any precautions taken or records kept in pursuance of regulations under this section;
- (e) for the packaging and labelling of controlled drugs;
- (f) for the manner of the transport of controlled drugs and the method used for destroying or otherwise disposing of such drugs when no longer required;
- (g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for furnishing to the prescribed authority such information relating to prescriptions as may be prescribed;
- (h) for requiring any doctor who attends a person whom he considers, or has reasonable grounds to suspect, is addicted to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be prescribed;
- (i) for prohibiting any doctor from administering, supplying and authorising the administration and supply to persons addicted to controlled drugs and from prescribing for such persons such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Chief Medical Officer under the regulations.

Prohibition of certain activities relating to opium.

Prohibition of supply of articles for administering or preparing controlled drugs.

Power to make regulations for preventing misuse of controlled drugs. 12. (1) Without prejudice to any requirement imposed by regulations made under Section 10 the Chief Medical Officer may by notice in writing served on the occupier of any premises in which controlled drugs are or are proposed to be kept give directions as to the taking of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are kept on those premises.

(2) It shall be an offence to contravene any directions given under subsection (1).

Penalty – 2 years imprisonment and £200 fine.

13. (1) Where a person who is a practitioner or pharmacist has after the coming into force of this subsection been convicted -

- (a) of an offence under this Ordinance; or
- (b) of any offence under the Customs Ordinance in connection with a prohibition of, or restriction on, importation or exportation of a controlled drug;

the Chief Medical Officer may give a direction under subsection (2) in respect of that person.

(2) A direction given under this subsection in respect of a person shall —

- (a) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;
- (b) if that person is a pharmacist, be a direction prohibiting him from having in his possession and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in that direction.

(3) The Chief Medical Officer may at any time give a direction cancelling or suspending any direction given by him under subsection (2) or cancelling any direction of his under this subsection by which a direction so given is suspended.

(4) The Chief Medical Officer shall cause a copy of any direction given by him under this section to be served on the person to whom it applies, and shall cause notice of any such direction to be published in the Gazette.

(5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

(6) It is an offence to contravene a direction given under subsection (2).

Penalty —

Class A or B drug - 10 years imprisonment and £1,000 fine;

Class C drug - 5 years imprisonment and £500 fine.

14. (1) In the event of a contravention by a doctor of regulations made in pursuance of paragraphs (h) or (i) of Section 10 (2) or of the terms of a licence issued under regulations made under the said paragraph (i) the Governor may give a direction in respect of the doctor prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Chief Medical Officer is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Chief Medical Officer may give a direction in respect of the practitioner prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(3) A contravention referred to in subsection (1) shall not be an offence, but it shall be an offence to contravene a direction given under subsection (1) or (2).

Penalty -

Class A or B drug - 10 years imprisonment and £1,000 fine;

Class C drug - 5 years imprisonment and £500 fine.

15. (1) If it appears to the Governor in Council that there exists in the Falkland Islands a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs he may by notice in writing served on any doctor or pharmacist at any premises require him to furnish to the Governor, with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs — Directions prohibiting, prescribing, administering and supplying of controlled drugs by practitioners in other cases.

Power to obtain information in certain circumstances

Directions as to special precautions for safe custody of con-

trolled drugs.

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Directions prohibiting, prescribing, supply etc. of controlled drugs by convicted practitioners or pharmacists. (a) in the case of a doctor, were prescribed, administered or supplied by him;

(b) in the case of a pharmacist, were supplied by him.

(2) A notice under this section may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a pharmacist, may require him to furnish the names and addresses of doctors on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any such drug has been prescribed, administered or supplied.

(3) A person commits an offence if without reasonable excuse (proof of which shall lie him) he fails to comply with any requirement to which he is subject by virtue of subsection (1).

Penalty — £200 fine.

(4) A person commits an offence if in purported compliance with a requirement imposed under this section he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

Penalty - 2 years imprisonment and £500 fine.

16. (1) It is an offence for a person to contravene any regulations made under this Ordinance other than regulations made in pursuance of Section 10 (2) (h) or (i).

Miscellaneous offences.

(2) It is an offence for a person to contravene a condition or other term of a licence issued under Section 7 or of a licence or other authority issued under this Ordinance, not being a licence issued under regulations made in pursuance of Section 10 (2) (i).

(3) A person commits an offence if, in purported compliance with any obligation to give information to which he is subject under or by virtue of regulations made under this Ordinance, he gives any information which he knows to be false in a material particular or recklessly gives information which is so false.

(4) A person commits an offence if, for the purpose of obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Ordinance or under any regulation made under this Ordinance, he -

- (a) makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or
- (b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

Penalty - 2 years imprisonment and £1,000 fine.

17. (1) It is an offence for a person to attempt to commit an offence under this Ordinance or to incite or attempt to incite another to commit such an offence.

(2) The punishment for an offence under subsection (1) shall be the same as the punishment that may be imposed on a person for the substantive offence.

18. (1) A person commits an offence if in the Falkland Islands he assists in or induces the commission in any place outside the Falkland Islands of an offence punishable under the provisions of a corresponding law in force in that place.

Penalty - 10 years imprisonment and £1,000 fine.

(2) In this Ordinance the expression "corresponding law" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the Falkland Islands to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement to which the government of that country and Her Majesty's Government in the United Kingdom are for the time being parties and which said treaty, convention or other agreement has been extended to or applied in the Falkland Islands.

19. Where any offence under this Ordinance 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 any director, manager, secretary or other similar officer of the body corporate, or any person 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 accordingly.

Attempts to commit offences.

Assisting in or inducing commission of offence outside Falkland Islands,

Offences by corporations.

- 20. The Governor may, by Order in Council, make regulations providing
 - (a) for excluding
 - (i) the application of any provision of this Ordinance which creates an offence; or
 - (ii) the application of any of the provisions of the Customs Ordinance in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of Section 3 of this Ordinance;
 - (b) for the application of any of the provisions of this Ordinance or regulations or orders hereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

21. (1) A police officer or other person authorised in that behalf by a general or special order of the Attorney General shall, for the purposes of the execution of this Ordinance have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drugs and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks of any such drugs.

(2) If a police officer has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Ordinance or of any regulations made hereunder the officer may -

- (a) search that person and detain him for the purpose of searching him;
- (b) search any vehicle or vessel in which the officer suspects that the drug may be found and for that purpose require the person in control of the vehicle to stop it;
- (c) seize and detain for the purpose of proceedings under this Ordinance anything found in the course of the search which appears to the officer to be evidence of an offence under this Ordinance.

In this subsection "vessel" includes a hovercraft; and nothing in this subsection shall prejudice any power of search or any power to seize or detain property which is exercisable by a police officer apart from this subsection.

(3) If a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting -

- (a) that any controlled drugs are, in contravention of this Ordinance or of any regulations made hereunder, in the possession of a person on any premises; or
- (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or is an intended transaction or dealing which would if carried out be an offence under this Ordinance, or in the case of a transaction or dealing carried out in a place outside the Falkland Islands, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any police officer at any time or times within one month from the date of the warrant to enter, if need be by force, the premises named in the warrant and to search the premises and any persons found therein and if there is reasonable ground for suspecting that an offence under this Ordinance has been committed in relation to any controlled drug found on the premises or in the possession of any such person, or that a document so found is as is mentioned in paragraph (b), to seize and detain that drug or that document, as the case may be.

(4) A person commits an offence if he --

- (a) intentionally obstructs a person in the exercise of his powers under this section; or
- (b) conceals from a person acting in the exercise of his powers under subsection (1) any such books, documents, stocks or drugs as are mentioned in that subsection; or
- (c) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under subsection (1).

Penalty - 2 years imprisonment and £500 fine.

22. (1) A police Officer may arrest without a warrant a person who has committed, or whom the officer with reasonable cause suspects to have committed, an offence under this Ordinance if -

- (a) he with reasonable cause believes that the person will abscond unless arrested; or
- (b) the name and address of that person are unknown to and cannot be ascertained by him; or

Further power to make regulations.

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Powers to search and obtain evidence.

Power of arrest.

(c) he is not satisfied that a name and address furnished by that person as his name and address are true.

(2) This section shall not prejudice any power of arrest conferred by law apart from this section.

23. (1) The Senior Magistrate or not less than two Justices of the Peace may try any offences under this Ordinance.

(2) If, having convicted a person for an offence under this Ordinance, the Senior Magistrate or Justices of the Peace is or are of the opinion that a more severe penalty should be imposed than he or they have power to impose the Senior Magistrate or Justices of the Peace may commit that person in custody or on bail to the Supreme Court for sentence.

24. (1) Subject to subsection (2) the court by or before which a person is convicted of an offence under this Ordinance may order anything shown to the satisfaction of the court to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(2) The court shall not order anything to be forfeited under this section where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court unless an opportunity has been given to him to show cause why the order should not be made.

25. (1) This section applies to offences under Sections 4, 5, 6 and 9.

(2) Subject to subsection (3), in any proceedings for an offence to which this section applies it shall be a defence for the accused to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where in any proceedings for an offence to which this section applies it is necessary, if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the accused —

- (a) shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance or product in question was the particular controlled drug alleged; but
- (b) shall be acquitted thereof -
 - (i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or
 - (ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that, if it had in fact been that controlled drug or a controlled drug of that description, he would not at the material time have been committing an offence to which this section applies.

(4) Nothing in this section shall prejudice any defence which it is open to a person charged with an offence to which this section applies to raise apart from this section.

26. (1) Any notice or other document required or authorised by this Ordinance to be served on any person may be served on him by delivering it to him or by leaving it at his last known address or by sending it by post.

(2) Any notice or other document so required or authorised to be served on a body corporate shall be duly served on it if served on the Secretary or Clerk of that body at the registered or principal office of that body by delivering it to him or by leaving it addressed to him at such address or by sending it to him there by post.

27. A licence or other authority issued by the Chief Medical Officer for the purposes of this Ordinance or of regulations made hereunder may be general or specific and issued on such terms and subject to such conditions (including in the case of a licence the payment of a prescribed fee) as the Chief Medical Officer shall consider proper, and may be modified or revoked by him at any time.

28. The Dangerous Drugs Ordinance Cap. 18 is repealed.

Trial of offences by Senior Magistrate or Justices of the Peace and sentencing.

Forfeiture.

Proof of lack of knowledge to be a defence in proceedings for certain offences.

Licence and authorities.

Service of documents.

Repeal.

SCHEDULE

CONTROLLED DRUGS

PART 1 CLASS A DRUGS

1. The following substances and products, namely -

(a) Acetorphine Alfentanil Allylprodine Alphacetylmethadol Alphameprodine Alphamethadol Alphaprodine Anileridine Benzethidine Benzylmorphine (3-benzylmorphine) Betacetylmethadol Betameprodine **Betamethadol** Betaprodine Bezitramide Bufotenine Cannabinol, except where contained in cannabis or cannabis resin Cannabinol derivatives Carfentanil Clonitazene Coca leaf Cocaine Desomorphine Dextromoramide Diamorphine Diampromide Diethylthiambutene Difenoxin (1-3-cyano-3,3-diphenylpropyl) -4-phenylpiperidine-4-carboxylic acid) Dihydrocodeinone O-carboxymethyloxime Dihydromorphine Dimenoxadole Dimepheptanol Dimethylthiambutene Dioxaphetyl butyrate Diphenoxylate Dipipanone Drotebanol (3,4-dimethoxy-17-methylmorphinan-6ß, 14-diol) Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine Ethylmethylthiambutene Eticyclidine Etonitazene Etorphine Etoxeridine Fentanyl Furethidine Hydrocodone Hydromorphinol Hydromorphone Hydroxypethidine Isomethadone Ketobemidone

Levomethorphan Levomoramide Levophenacylmorphan Levorphanol Lofentanil Lysergamide Lysergide and other N-alkyl derivatives of lysergamide Mescaline Metazocine Methadone Methadyl acetate Methyldesorphine Methyldihydromorphine (6-methyldihydromorphine) Metopon Morpheridine Morphine Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivatives Myrophine Nicomorphine (3,6-dinicotinoyl morphine) Noracymethadol Norlevorphanol Normethadone Normorphine Norpipanone Opium, whether raw, prepared or medicinal Oxycodone Oxymorphone Pethidine Phenadoxone Phenampromide Phenazocine Phencyclidine Phenomorphan Phenoperidine Piminodine Piritramide Poppy-straw and concentrate of poppy-straw Proheptazine Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester) Psilocin Racemethorphan Racemoramide Racemorphan Rolicyclidine Sufentanil Tenocyclidine Thebacon Thebaine Tilidate Trimeperidine

4-Bromo-2,5-dimethoxy-alpha-methylphenethylamine
4-Cyano-2-dimethylamino-4, 4-diphenylbutane

4-Cyano-1-methyl-4-phenyl-piperidine

N,N-Diethyltryptamine

N,N-Dimethyltryptamine

- 2,5-Dimethoxy-alpha,4-dimethylphenethylamine 1-Methyl-4-phenylpiperidine-4-carboxylic acid 2-Methyl-3-morpholino-1,1-diphenylpropanecarb-
- 4-Phenylpiperidine-4-carboxylic acid ethyl ester
- (b) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the side chain with one or more alkyl substituents but no other substituent;

oxylic acid

- (c) any compound (not being methoxyphenamine or a compound for the time being specified in subparagraph (a) above) structurally derived from phenethylamine, an N-alkylphenethylamine, alphamethylphenethylamine, an N-alkyl-alpha-methylphenethylamine, alpha-ethylphenethylamine, or an N-alkyl-alpha-ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylene-dioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents;
- (d) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from fentanyl by modification in any of the following ways, that is to say,
 - (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
 - (ii) by substitution in the phenethyl group with alkyl, aikenyl, aikoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
 - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
 - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkylenedioxy, halogeno or haloalkyl groups;
 - (v) by substitution at the 4-position of the piperidine ring with any alkoxycarbonyl or alkoxyalkyl or acyloxy group;
 - (vi) by replacement of the N-propionyl group by another acyl group;
- (e) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from pethidine by modification in any of the following ways, that is to say,
 - (i) by replacement of the l-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
 - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
 - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
 - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxycarbonyl or any alkoxyalkyl or acyloxy group;
 - (v) by formation of an N-oxide or of a quaternary base.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrorphan.

3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 above not being a substance for the time being specified in Part 2 of this Schedule.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3 above.

5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 above.

6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part 2 of this Schedule.

CLASS B DRUGS

1. The following substances and products, namely -

(a) Acetyldihydrocodeine Amphetamine Cannabis and cannabis resin Codeine Dihydrocodeine Ethylmorphine (3-ethylmorphine) Glutethimide Lefetamine Mecloqualone Methaqualone

Methylamphetamine Methylphenidate Methylphenobarbitone Nicocodine Nicodicodine (6- nicotinoyldihydrocodeine) Norcodeine Pentazocine Phenmetrazine Pholcodine Propiram

(b) any 5,5 disubstituted barbituric acid.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Fart of this Schedule.

4. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule, not being a preparation falling within paragraph 6 of Part 1 of this Schedule.

PART 3

CLASS C DRUGS

1. The following substances, namely -Alprazolam Haloxazolam Benzphetamine Ketazolam Bromazepam Loprazolam Camazepam Lorazepam Cathine Lormetazepam Cathinone Mazindol Chlordiazepoxide Medazepam Chlorphentermine Mefenorex Clobazam Mephentermine Clonazepam Meprobamate Clorazepic acid Methyprylone Clotiazepam Nimetazepam Cloxazolam Nitrazepam Delorazepam Nordazepam Dextropropoxyphene Oxazepam Oxazolam Diazepam Diethylpropion Phendimetrazine Phentermine Estazolam Ethchlorvynol Pinazepam Ethinamate Pipradrol Ethyl loflazepate Prazepam Propylhexedrine Fencamfamin Pyrovalerone Fenthylline Temazepam Fenproporex Fludiazepam Tetrazepam Triazolam Flunitrazepam N-Ethylamphetamine Flurazepam Halazepam

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule not being phenylpropanolamine.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part of this Schedule.

4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this Part of this Schedule.

PART 4

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say -

"cannabinol derivatives" means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

"coca leaf" means the leaf of any plant of the genus Erythroxylon from whose leaves cocaine can be extracted either directly or by chemical transformation;

"concentrate of poppy-straw" means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

"medicinal opium" means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

"opium poppy" means the plant of the species Papaver somniferum L;

"poppy-straw" means all parts, except the seeds, of the opium poppy after mowing;

"raw opium" includes powdered or granulated opium but does not include medicinal opium.

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: MED/10/4.

P. T. KING, Clerk of Councils.

Printed by the Government Printer. FALKLAND ISLANDS.

The Mental Health Ordinance 1987

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2. Interpretation.

3. Non-application to criminal lunatics.

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5. Taking into custody for purpose of inquiry.

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16. Contents and effect of reception order.

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PART 7

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- 36. Trespassing on an approved place.
- 37. Protection of persons acting in pursuance of Ordinance.
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ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Mental Health Ordinance 1987.

No. 17 of 1987

An Ordinance to provide for the care and treatment of mentally disorded persons. (Assented to : 5th June 1987)

(Assented to : 5th June 1987) (Commencement : to be fixed) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

PART 1

PRELIMINARY

1. This Ordinance may be cited as the Mental Health Ordinance 1987, and shall come into force on such day as the Governor may appoint by Order published in the Gazette and the Governor may appoint different days for the coming into force of different provisions.

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

"approved place" means a place designated as an approved place under Section 23;

"mentally disordered" means suffering from mental illness, injury or disturbance, arrested or incomplete development of the mind, psychopathic disorder (being a persistent disorder or disability of the mind, whether or not subnormality of intelligence is present, which results in abnormally aggressive or seriously irresponsible conduct), behavioural disorder or any other disorder or disability of the mind;

"officer of an approved place" means any person employed or having duties at an approved place;

"patient" means a person who has been found by an inquiry under Part 2 to be mentally disordered and in respect of whom a removal order or a reception order has been made and is in force;

"reception order" means an order made under Section 10 (b);

"removal order" means an order made under Section 10 (a).

3. Nothing in this Ordinance shall apply to criminal lunatics or affect the jurisdiction of the Supreme Court in matters relating to lunacy.

PART 2

INQUIRIES INTO MENTAL STATE

4. (1) Any magistrate or Justice, upon information on oath of any informant to the effect that the informant has good cause to believe and does believe that a particular person is mentally disordered and a proper subject to be placed under care and treatment, may at his discretion see and question the person so suspected and may if a magistrate, hold or, if a justice, together with another justice hold an inquiry in private into the mental state of such person.

Citation and commencement.

Interpretation.

Non-application to criminal lunatics.

Inquiry into a person's mental state.

(2) For the purposes of such inquiry the magistrate or justices shall have the powers of a court and may proceed with such inquiry in the absence of the person suspected of being mentally disordered and without proof of service of any summons on him.

5. If it shall appear to any magistrate or justice by information on oath that any person suspected of being mentally disordered is at large, or is dangerous to himself or others, or is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care and charge of him, such magistrate or justice may by order under his hand require any police officer to take into custody such person and bring him before a magistrate or two justices for the purpose of inquiry and examination under Section 4.

6. (1) If a police officer is satisfied that it is necessary for the public safety, or for the welfare of a person alleged to be mentally disordered in respect of whom an inquiry under Section 4 is or ought to be held, that such person should be placed under care and control before such inquiry can be held, the police officer may remove that person to an approved place, and shall within twenty-four hours of such removal lay information on oath under Section 4, or if such information has already been laid, report such removal to the magistrate or justice before whom such information has been laid.

(2) The person in charge of the approved place shall receive and care for such person therein and restrain and treat him as necessary, and may administer to him such sedatives and other drugs as may be necessary for the proper restraint and treatment of him.

(3) No person shall be detained under this section for more than three days.

7. (1) The magistrate or justices holding an inquiry under Section 4 shall direct that the person suspected of being mentally disordered shall be examined by two medical practitioners, and thereupon such medical practitioners shall, if they consider that the facts warrant it, sign a certificate that in their opinion the person so suspected is mentally disordered, specifying in detail the facts upon which they found their opinion.

(2) A certificate may contain information as to the previous medical history of the person so suspected, but no certificate which purports to be founded wholly on facts communicated by others shall have any effect.

8. The magistrate or justices holding an inquiry under Section 4 may adjourn it for a period not exceeding eight days for the purpose of medical examination or the production of evidence as to the mental state of the person suspected of being mentally disordered, and may, if such person has been arrested under Section 5 or Section 6, make such order for his detention, safe custody and treatment (including the administration of sedatives and other drugs if necessary) at an approved place during the adjournment as they may deem fit.

9. If the magistrate or justices are not satisfied that the person the subject of an inquiry under Section 4 is mentally disordered, they shall so declare and, if the person suspected is being detained under Section 5, 6 or 8, shall order his release.

10. If the two medical practitioners have certified under Section 7 that the person suspected is mentally disordered, and the magistrate or justices are satisfied that this is so, they may, after consulting with the Chief Medical Officer, make -

(a) a removal order; or

(b) a reception order.

PART 3

REMOVAL ORDERS

- 11. The magistrate or justices may make a removal order if -
 - (a) they are advised by the Chief Medical Officer that there are no suitable facilities for the care and treatment of the mentally disordered person in the Falkland Islands; and
 - (b) they are satisfied that adequate arrangements have been or will be made for the safety, care and, if necessary, restraint of the mentally disordered person on the aircraft or ship in which he will be removed from the Falkland Islands and that adequate arrangements have been or will be made for his reception at the airport or port of landing to secure his proper disposal into the care of friends or a psychiatric hospital or other institution in his country of origin.

When removal order may be made.

Taking into custody for purpose of inquiry.

Removal to approved place pending inquiry.

Examination by medical practitioners.

Adjournment of inquiry.

Release after

inquiry.

orders.

Removal orders and reception 12. A removal order shall whenever practicable specify the aircraft or ship in which the patient shall be removed from the Falkland Islands.

13. A removal order shall, unless the magistrate or justices order otherwise, have effect as a temporary reception order until the patient's removal from the Falkland Islands.

14. When a patient is removed from the Falkland Islands under a removal order a transcript of the proceedings in respect of the patient shall be transmitted by the Governor to the Secretary of State.

PART 4

RECEPTION ORDERS

15. The magistrate or justices may make a reception order if -

- (a) they are advised by the Chief Medical Officer that there are suitable facilities for the care and treatment of the mentally disordered person in an approved place in the Falkland Islands; and
- (b) they are satisfied that the mentally disordered person is a proper subject to be placed under care and treatment in an approved place.

16. (1) A reception order shall be addressed to the Chief Medical Officer or, on his advice, to the person in charge of an approved place, and shall specify the approved place into which the patient is to be received.

(2) It shall be the duty of the person to whom a reception order is addressed to comply with it.

(3) A reception order shall be deemed —

- (a) to require the person to whom it is addressed to receive and care for the patient and to restrain and treat him as necessary;
- (b) to authorise the person to whom it is addressed to administer such sedatives and other drugs as may be necessary for the proper restraint and treatment of the patient.

17. (1) A reception order, other than a temporary reception order under Section 13, shall remain in force for one year from its date.

(2) A reception order may be renewed from year to year by a magistrate or two justices if, not more than one month nor less than seven days before the reception order is due to expire, the Chief Medical Officer submits to a magistrate or two justices a report on the mental and bodily condition of the patient with a certificate under his hand that the patient is still mentally disordered and a proper subject to remain under care and treatment in an approved place, and the magistrate or justices are satisfied that the reception order ought to be renewed for a further year.

(3) The magistrate or justices shall have the powers of a court and may require the Chief Medical Officer and any other person to appear before them and give such information concerning the patient as they may require, and may order that the patient be brought before them for examination, and, if not satisfied that the reception order ought to be renewed, may order the Chief Medical Officer or other person to whom the reception order was addressed to discharge the patient from the approved place.

(4) Any person who detains a patient after he has knowledge that the reception order in respect of that patient has expired shall be guilty of an offence and liable to a fine of £500.

(5) A certificate under the hand of a magistrate or two justices that a reception order is valid until, or has been renewed until, a specified date shall be sufficient evidence of that fact.

18. If the Chief Medical Officer at any time considers that a patient is fit to be discharged from an approved place he shall so certify to a magistrate or two justices who may order that such patient be discharged accordingly and the reception order in respect of him cancelled.

19. If the Chief Medical Officer considers that a patient is fit to be discharged from an approved place to the care and custody of relatives or friends he shall so certify to a magistrate or two justices who may order that such patient be discharged accordingly and the reception order in respect of him revoked:

Duration and renewal of reception order.

Discharge of patient.

Discharge to care of relatives or friends,

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When reception order may be

Contents and

effect of reception order.

made

Removal order to have effect as temporary reception order. Transcript to be sent to Secretary of State.

Removal order

to specify aircraft or ship. Provided that the magistrate or justices may make such order conditional on the relatives or friends entering into a bond, with or without sureties, in such amount and on such conditions as the magistrate or justices may consider fit.

20. (1) If the Chief Medical Officer considers that a patient is not dangerous he may at his discretion release him from an approved place on trial for such period and subject to such conditions as to residence, occupation, surveillance and sureties (if any) as the Chief Medical Officer may specify.

(2) If a patient released under this section fails to return to the approved place by the end of the period specified, or if any condition of his release is breached, the Chief Medical Officer may, not later than one month after the end of the period specified, authorise a police officer or any other person to arrest the patient and convey him to the approved place from which he was released.

21. If a patient leaves an approved place otherwise than on removal, discharge or release on trial, the Chief Medical Officer may, not later than one month after the patient has left, authorise a police officer or any other person to arrest him and convey him to the approved place which he left.

22. (1) Any magistrate or justice, upon information on oath of any informant to the effect that any person who is not mentally disordered is confined in an approved place against his will, may order that such person be brought before a magistrate or two justices for examination on oath of such person and of any medical or other witnesses who may be called as to the mental state of such person by the informant or the Chief Medical Officer, and if it shall appear to the magistrate or justices that such person is not mentally disordered and is detained against his will, they shall order the Chief Medical Officer to discharge him from the approved place.

(2) For the purposes of such examination the magistrate or justices shall have the powers of a court and shall conduct the examination in private.

PART 5

APPROVED PLACES

23. The Governor in Council may designate an institution or place as an approved place for the reception, care and treatment of mentally disordered persons, and may specify whether the approved place is restricted to the temporary care and treatment of persons under Sections 6, 7 and 13.

24. (1) The Chief Medical Officer shall be responsible for the management and control of an approved place so far as such management and control relates to mentally disordered persons, the patients and the staff thereof, but may appoint a person to be in charge of an approved place and responsible to the Chief Medical Officer.

(2) The Chief Medical Officer shall without delay report all admissions, discharges and releases to the visitors appointed under Secton 25.

25. (1) The Governor shall appoint two or more persons to be visitors of approved places and may remove any of them and appoint others in their places.

(2) Two of the visitors shall at least once in every month inspect every part of an approved place in which a patient is confined and see and examine all patients therein and their reception orders, and shall enter in a book to be kept for that purpose any remarks which they may consider proper in regard to the condition and management of the approved place and the patients therein, and shall sign the book upon every such visit.

(3) The visitors shall in December of each year submit a report to the Governor on the condition and management of any approved place in which any patient has been confined at any time during the year and on the care of any such patient while so confined.

(4) In addition to their annual report the visitors, or any of them, shall at any time make such report upon any matter connected with an approved place as they shall consider necessary, or as they shall be directed by the Governor.

Designation as approved place.

Responsibility for approved place.

Appointment and duties of visitors.

Release on trial.

Apprehension.

Person confined

against his will.

PART 6

MAINTENANCE OF PATIENTS

26. The Court may, on application by the Attorney General or any interested party, inquire into the means of a patient and may order all or any of the patient's property to be sold or dealt with as the court deems most expedient for the purpose of raising or securing money for -

- (a) meeting or contributing to the cost of removing the patient from the Falkland Islands;
- (b) meeting or contributing to the cost of maintaining the patient in an approved place or in a psychiatric hospital or institution in the patient's country of origin; or
- (c) any other purpose which the court may consider is for the interest and benefit of the patient.

27. (1) During or after an inquiry under Section 4 the magistrate or justices may summon the parents, spouse or children of the patient, inquire into their means and, if satisfied that they are able to do so, order any of them to make a payment or payments for any of the purposes set out in Section 26 (a) and (b):

Provided that a magistrate or justices may vary such an order upon proof that the means of such relative or relatives have changed since the date of the original order or any subsequent order varying it.

(2) Any person against whom an order has been made under this section shall have a right of appeal to the Supreme Court.

PART 7

OFFENCES AND GENERAL

28. Any person not being a registered medical practitioner who knowingly and wilfully signs any certificate prescribed under this Ordinance shall be guilty of an offence and liable to imprisonment for twelve months.

29. Any registered medical practitioner who knowingly and wilfully in any certificate prescribed under this Ordinance falsely certifies anything shall be guilty of an offence and liable to imprisonment for two years.

30. Any person who wilfully assists the escape of a patient while being removed from the Falkland Islands or conveyed to or from or confined in an approved place or who hides any patient who has escaped as aforesaid shall be guilty of an offence and liable to a fine of £200 or to imprisonment for six months or to both such fine and such imprisonment.

31. Any officer of an approved place who through wilful neglect or connivance permits any patient to escape or to leave otherwise than on removal, discharge or release on trial as provided by this Ordinance shall be guilty of an offence and liable to a fine of £500 or to imprisonment for six months or to both such fine and such imprisonment.

32. Any person who has or attempts to have unlawful sexual intercourse with a female patient, knowing her to be a patient, shall be guilty of an offence and liable to imprisonment for two years.

33. Any person who strikes, ill-treats or, being an officer of an approved place, neglects a patient, knowing him to be a patient, shall be guilty of an offence and liable to a fine of £1000 or to imprisonment for six months or to both such fine and such imprisonment.

34. Any person who obstructs an officer of an approved place in the execution of his duty in connection with any patient shall be guilty of an offence and liable to a fine of £1000 or to imprisonment for six months or to both such fine and such imprisonment.

35. Any person who, without the consent of the Chief Medical Officer, gives, sells or barters any article or commodity to any patient in an approved place shall be guilty of an offence and liable to a fine of \pounds 500 or to imprisonment for six months or to both such fine and such imprisonment.

Unqualified person signing certificate.

Medical practitioner signing false certificate.

Assisting escape of patient.

Permitting patient to escape.

Unlawful sexual intercourse with female patient.

Ill-treating patient.

Obstructing officer of an approved place.

Prohibited transactions with patients.

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means of family of patient.

Inquiry into

Inquiry into

means of patient.

PART 6

MAINTENANCE OF PATIENTS

26. The Court may, on application by the Attorney General or any interested party, inquire into the means of a patient and may order all or any of the patient's property to be sold or dealt with as the court deems most expedient for the purpose of raising or securing money for -

- (a) meeting or contributing to the cost of removing the patient from the Falkland Islands;
- (b) meeting or contributing to the cost of maintaining the patient in an approved place or in a psychiatric hospital or institution in the patient's country of origin; or
- (c) any other purpose which the court may consider is for the interest and benefit of the patient.

27. (1) During or after an inquiry under Section 4 the magistrate or justices may summon the parents, spouse or children of the patient, inquire into their means and, if satisfied that they are able to do so, order any of them to make a payment or payments for any of the purposes set out in Section 26 (a) and (b):

Provided that a magistrate or justices may vary such an order upon proof that the means of such relative or relatives have changed since the date of the original order or any subsequent order varying it.

(2) Any person against whom an order has been made under this section shall have a right of appeal to the Supreme Court.

PART 7

OFFENCES AND GENERAL

28. Any person not being a registered medical practitioner who knowingly and wilfully signs any certificate prescribed under this Ordinance shall be guilty of an offence and liable to imprisonment for twelve months.

29. Any registered medical practitioner who knowingly and wilfully in any certificate prescribed under this Ordinance falsely certifies anything shall be guilty of an offence and liable to imprisonment for two years.

30. Any person who wilfully assists the escape of a patient while being removed from the Falkland Islands or conveyed to or from or confined in an approved place or who hides any patient who has escaped as aforesaid shall be guilty of an offence and liable to a fine of £200 or to imprisonment for six months or to both such fine and such imprisonment.

31. Any officer of an approved place who through wilful neglect or connivance permits any patient to escape or to leave otherwise than on removal, discharge or release on trial as provided by this Ordinance shall be guilty of an offence and liable to a fine of £500 for to imprisonment for six months or to both such fine and such imprisonment.

32. Any person who has or attempts to have unlawful sexual intercourse with a female patient, knowing her to be a patient, shall be guilty of an offence and liable to imprisonment for two years.

33. Any person who strikes, ill-treats or, being an officer of an approved place, neglects a patient, knowing him to be a patient, shall be guilty of an offence and liable to a fine of £1000 or to imprisonment for six months or to both such fine and such imprisonment.

34. Any person who obstructs an officer of an approved place in the execution of his duty in connection with any patient shall be guilty of an offence and liable to a fine of £1000 or to imprisonment for six months or to both such fine and such imprisonment.

35. Any person who, without the consent of the Chief Medical Officer, gives, sells or barters any article or commodity to any patient in an approved place shall be guilty of an offence and liable to a fine of ± 500 or to imprisonment for six months or to both such fine and such imprisonment.

Unqualified person signing certificate.

Medical practitioner signing false certificate.

Assisting escape of patient.

Permitting patient to escape.

Unlawful sexual intercourse with female patient.

Ill-treating patient.

Obstructing officer of an approved place.

Prohibited transactions with patients.

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of patient.

Inquiry into means of family

Inquiry into

means of patient. 36. (1) Any person who trespasses upon any premises belonging or appertaining to an approved place, or who enters the same without being duly authorised thereto, shall be guilty of an offence and liable to a fine of $\pounds 200$ or to imprisonment for three months or to both such fine and such imprisonment.

(2) Any person found committing an offence under this section may be arrested without warrant by any officer of the approved place or any police officer.

37. (1) No person shall be liable to any civil or criminal proceedings in respect of anything he has done or purported to do in pursuance of this Ordinance unless he has acted in bad faith or without reasonable care.

(2) No proceedings shall be brought against any person in any court in respect of anything he has done or purported to do in pursuance of this Ordinance without the leave of the Attorney General.

38. The Governor may by Order in Council make regulations for the better carrying out of the provisions of this Ordinance.

39. The Mental Treatment Ordinance Cap. 46 is repealed.

Protection of persons acting in

pursuance of

Ordinance.

Trespassing on

an approved

place.

Regulations. Repeal.

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: MED/10/6.

P. T. KING, Clerk of Councils.

The Buildings of Architectural and Historic Interest Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Historic Buildings Committee.
- 4. Secretary and services.
- 5. Meetings.
- 6. Designation of buildings of special architectural or historic interest.
- 7. Control of works in respect of designated buildings.
- 8. Designated building consents and conditions.
- 9. Acts causing or likely to result in damage to designated buildings.
- 10. Building preservation notice in respect of building not designated.
- 11. Power to serve designated building enforcement notice.
- 12. Appeal against designated building enforcement notice.
- 13. Penalties for non-compliance with designated building enforcement notice.
- 14. Execution and cost of works required by designated building enforcement notice.
- 15. Enforcement by, or by direction of, the Governor.
- 16. Works for preservation of unoccupied designated building in cases of urgency.
- 17. Regulations.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Buildings of Architectural and Historic Interest Ordinance 1987.

No. 19 of 1987

An Ordinance to protect buildings of architectural and historic interest.

(Assented to : 5th June 1987) (Commencement : to be fixed) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Buildings of Architectural and Historic Interest Ordinance 1987, and shall come into force on such day as the Governor may appoint by Orders published in the Gazette and the Governor may appoint different days for the coming into force of different provisions.

2. In this Ordinance unless the context shall otherwise require -

"building" shall include any structure or erection and any part thereof but not plant or machinery comprised in a building;

"designated building" shall mean a building designated by the Governor in accordance with Section 6;

"designated building consent" shall mean a consent granted under Section 8;

"designated building enforcement notice" shall mean a notice served under Section 11; "the Committee" shall mean the Historic Buildings Committee provided for in Section 3.

3. (1) There shall be a Committee which shall be called the Historic Buildings Committee.

(2) The Committee shall consist of a Chairman and three other members appointed by the Governor.

(3) Subject to subsections (4) and (5) members of the Committee shall serve for a period of three years.

(4) Should the Governor be satisfied that a member of the Committee -

- (a) has been absent from three consecutive meetings of the Committee without reasonable excuse;
- (b) has been convicted of a crime involving moral turpitude;
- (c) has become insolvent;
- (d) is otherwise unable or unfit to discharge the functions of a member;

the Governor may by notice published in the Gazette declare the office of that member vacant.

(5) A member may resign by notice in writing to the Governor.

Historic Buildings Committee.

Citation and commencement.

Interpretation.

4. (1) The Governor shall appoint a Secretary to the Committee who shall be a public officer and provide to the Committee the services of such other public officers as the Government may consider appropriate.

(2) The Government shall provide the Committee with facilities for its meetings and secretarial services.

5. (1) The Chairman shall preside at meetings of the Committee.

(2) In the absence of the Chairman the members present shall elect one of their number as Chairman for that meeting.

(3) The quorum for meetings of the Committee shall be the Chairman and two other members.

(4) Subject to the preceding subsections and any Orders made under Section 17 the Committee shall adopt and regulate its own procedure.

6. (1) The Governor may by Order in Council designate any building in the Falkland Islands as being of special architectural or historic interest and may likewise cancel any such designation.

(2) In considering whether to designate a building in accordance with subsection (1) the Governor may take into account not only the building itself but also —

- (a) any way in which its exterior contributes to the architectural or historic interest of any group of buildings of which it forms a part; and
- (b) the desirability of preserving, on the ground of its architectural or historic interest, any feature of the building consisting of a man-made object or structure fixed to the building or forming part of the land comprised within the curtilege of the building.

(3) Before making an Order under subsection (1) the Governor shall consult with the Committee and such other persons or bodies of persons as appear to him appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.

(4) A register of buildings designated in accordance with subsection (1) shall be maintained by the Registrar General who shall remove any buildings from such register when designation thereof has been cancelled.

7. (1) If a person executes or causes to be executed any works for the demolition of a designated building or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest, and the works are not authorised under this Ordinance, he shall be guilty of an offence.

(2) Works for the demolition of a designated building, or for its alteration or extension, are authorised under this Ordinance if -

- (a) the Committee or the Governor in Council have granted written consent for the execution of the works and the works are executed in accordance with the terms of the consent and of any conditions attached to the consent under Section 8; and
- (b) in the case of demolition, notice of the proposal to execute the works has been given to the Committee and thereafter either
 - (i) for a period of at least one month following the grant of designated building consent, and before the commencement of the works, reasonable access to the building has been made available to members of the Committee or officers of the Government for the purpose of recording it; or
 - (ii) the Committee, its Secretary or other officer on their behalf for the purposes of this section has stated in writing that they have completed their recording of the building or that they do not wish to record it.

(3) Without prejudice to subsection (1), if a person executing or causing to be executed any works in relation to a designated building under a designated building consent fails to comply with any conditions attached to the consent under Section 8 he shall be guilty of an offence.

(4) A person guilty of an offence under this section shall be liable on conviction to a fine not exceeding £250, imprisonment for a term not exceeding three months, or to both.

(5) In proceedings for an offence under this section it shall be a defence to prove that the works were urgently necessary in the interests of safety or health, or for the preservation of the building, and that notice in writing of the need for the works was given to the Governor as soon as reasonably practicable. Control of works in respect of designated buildings.

Designation of buildings of special architectural or historic interest.

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Meetings.

Designated building consents and conditions.

8. (1) In considering whether to grant designated building consent for any works the Committee or the Governor in Council shall have special regard to the desirability of preserving the building or any features of special architectural or historic interest which it possesses.

(2) Designated building consent may be granted unconditionally or subject to such conditions as the Committee or the Governor in Council may impose.

(3) Without derogating from the generality of subsection (2) conditions imposed on the grant of a designated building consent may provide for -

- (a) the preservation of particular features of the building, either as part of it or after severance therefrom;
- (b) the making good, after the works are completed, of any damage caused to the building by the works; and
- (c) the reconstruction of the building or any part of it following the execution of any works, with the use of original materials so far as shall be practicable and with such alterations of the interior of the building as may be specified in the conditions.

9. (1) If any person who, but for this section, would be entitled to do so, does or permits the doing of any act which causes or is likely to result in damage to a designated building (other than an act for the execution of excepted works) and he does or permits it with the intention of such damage, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding ± 500 .

(2) In subsection (1) "excepted works" means authorised works for which designated building consent has been given and works authorised in accordance with any other Ordinance.

(3) Where a person convicted of an offence under this section fails to take such reasonable steps as may be necessary to prevent any damage or further damage resulting from the offence, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £50 for each day on which the failure continues.

10. (1) If it appears to the Committee, in the case of a building which is not a designated building, that it is of special architectural or historic interest and is in danger of demolition or of alteration in such a way as to affect its character as such, they may, subject to subsection (2), serve on the owner or occupier of the building preservation notice —

(a) stating that the building appears to them to be of special architectural or historic interest and that consideration is being given for its designation under Section 6; and

(b) explaining the effect of subsections (2) and (3).

(2) A building preservation notice shall come into force as soon as it has been served on both the owner and occupier of the building to which it relates and shall remain in force for six months from the day when it is served or, as the case may be, last served; but it shall cease to be in force if, before the expiration of that period, the Governor in Council designates the building under Section 6 or notifies the owner or occupier in writing that he does not intend so to do.

(3) While a building preservation notice is in force with respect to a building, the provisions of this Ordinance, other than Section 9, shall have effect in relation to it as if the building were a designated building.

11. (1) Where it appears to the Committee that any works have been, or are being, done to a designated building and are such as to involve a contravention of Section 7, then, subject to any directions given by the Governor, they may, if they consider it expedient so to do having regard to the effect of the works on the character of the building as one of special architectural or historic interest, serve a notice -

- (a) specifying the alleged contravention; and
- (b) requiring such steps as may be specified in the notice for restoring that building to its former state or, as the case may be, for bringing it to the state it would have been in if the terms and conditions of any designated building consent for the works had been complied with, to be taken within such period as may be so specified.

(2) A designated building enforcement notice shall be served on the owner and on the occupier of the building to which it relates and on any other person having an interest in the building, being an interest which in the opinion of the Committee is materially affected by the notice.

Acts causing or likely to result in damage to designated buildings.

Building preservation notice in respect of building not designated.

Power to serve designated building enforcement notice. (3) Subject to Section 12, a designated building enforcement notice shall take effect at the end of such period, not being less than twenty-eight days after the service of the notice, as may be specified in the notice.

(4) The Committee may withdraw a designated building enforcement notice (without prejudice to their power to serve another) at any time before it takes effect; and if they do so, they shall forthwith give notice of the withdrawal to every person who was served with the notice.

12. (1) A person on whom a designated building enforcement notice is served, or any other person having an interest in the building to which it relates, may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Governor in Council against the notice on any of the following grounds —

Appeal against designated building enforcement notice.

- (a) that the building is not of special architectural or historic interest;
- (b) that the matters alleged to constitute a contravention of Section 7 do not involve such a contravention;
- (c) that the works are urgently necessary in the interests of safety or health, or for the preservation of the building;
- (d) that designated building consent ought to be granted for the works, or that any relevant condition of such consent which has been granted ought to be discharged, or different conditions substituted;
- (e) that the notice was not served as required by Section 11 (2);
- (f) that the requirements of the notice exceed what is necessary for restoring the building to its condition before the works were carried out;
- (g) that the period specified in the notice as the period within which any steps required thereby are to be taken falls short of what should reasonably be allowed;
- (h) that the steps required by the notice to be taken would not serve the purpose of restoring the character of the building to its former state.

(2) An appeal under this section shall be made by notice in writing to the Governor, which shall indicate the grounds of appeal and state the facts on which it is based; and on any such appeal the Governor in Council shall, if either the appellant or the Committee so desire, afford to each of them an opportunity of appearing before, and being heard by, the Governor in Council for the purpose.

(3) Where any appeal is brought under this section the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(4) On an appeal under this section -

- (a) the Governor in Council may correct any informality, defect or error in the notice if satisfied that the informality, defect or error is not material;
- (b) in a case where it would otherwise be a ground for determining the appeal in favour of the appellant that a person required by Section 11 (2) to be served with the notice was not served, the Governor in Council may disregard that fact if he is satisfied that the person has not been substantially prejudiced by the failure to serve him.

(5) On the determination of an appeal under this section the Governor in Council shall give directions for giving effect to his determination, including, where appropriate, directions for quashing the designated building enforcement notice or for varying the terms of the notice in favour of the appellant, and the Governor in Council may —

- (a) grant designated building consent for the works to which the notice relates or, as the case may be, discharge any condition subject to which such consent was granted and substitute any other condition, whether more or less onerous;
- (b) in so far as any works already executed constitute development for which permission is required under any other Ordinance, grant such permission in respect of the works;
- (c) if he thinks fit, exercise his power under Section 6 to cancel a designation.

13. (1) Subject to this section, where a designated building enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the building to which it relates, then, if any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding \pounds 500.

Penalties for non-compliance with designated building enforcement notice. (2) If a person against whom proceedings have been brought under subsection (1) has, at some time before the end of the period allowed for compliance with the notice, ceased to be the owner of the building, he shall, upon information duly laid by him, and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have the person who then became the owner of the building (in this section referred to as "the subsequent owner") brought before the court in the proceedings.

(3) If, after it has been proved that any steps required by the notice have not been taken within the period allowed for compliance with the notice, the original defendant proves that the failure to take those steps was attributable, in whole or in part, to the default of the subsequent owner —

- (a) the subsequent owner may be convicted of the offence; and
- (b) the original defendant, if he further proves that he took all reasonable steps to secure compliance with the notice, shall be acquitted of the offence.

(4) If a person who has been convicted under the preceding provisions of this section does not as soon as practicable do everything in his power to secure compliance with the notice, he shall be guilty of a further offence and be liable on conviction to a fine not exceeding £50 for each day following his first conviction on which any of the requirements of the notice remain unfulfilled.

(5) Any reference in this section to the period allowed for compliance with a designated building enforcement notice is a reference to the period specified in the notice as that within which the steps specified in the notice are required thereby to be taken, or such extended period as the Committee may allow for taking them.

14. (1) If, within the period specified in a designated building enforcement notice as that within which steps specified in the notice are required thereby to be taken, or within such extended period as the Committee may allow, any steps required by the notice to be taken have not been taken, the Committee may enter the land and take those steps, and may recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

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(2) Any expenses incurred by the owner or occupier of a building for the purpose of complying with a designated building enforcement notice, and any sums paid by the owner of a building under subsection (1) in respect of expenses incurred by the Committee in taking steps required by such a notice to be taken, shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

15. (1) If it appears to the Governor, after consultation with the Committee, to be expedient that a designated building enforcement notice should the be served in respect of any land, he may give directions to the Committee requiring them to serve such a notice, or may himself serve such a notice; and any notice so served by the Governor shall have the like effect as a notice served by the Committee.

(2) In relation to a designated building enforcement notice served by the Governor the provisions of Section 14 shall apply as if for any reference therein to the Committee there were substituted a reference to the Governor.

16. If it appears to the Committee that any works are urgently necessary for the preservation of any unoccupied building which is designated under Section 6, they may, after giving to the owner of the building not less than seven days notice in writing of the proposed execution of the works, take such steps as they consider appropriate for executing the works.

17. (1) The Governor may by Order in Council make regulations for the better carrying out of the provisions of this Ordinance.

(2) Without derogating from the generality of subsection (1) regulations may provide for -

- (a) forms to be used and the conditions to be complied with by persons applying for designated building consents;
- (b) the forms of consents and of notices provided for in this Ordinance;
- (c) regulations for the procedure of the Committee and the conduct of its meetings;
- (d) fees payable on the making of any applications under this Ordinance.

Execution and cost of works required by designated building enforcement notice.

Enforcement by, or by direction of, the Governor.

Works for preservation of unoccupied designated building in cases of urgency.

Regulations.

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

Ref: LEG/10/60.

The Interpretation and General Clauses (Amendment) Ordinance 1987

ARRANGEMENT OF SECTIONS

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Section

1

1

- 1. Citation and commencement.
- 2. Amendment of Ordinance No. 4 of 1977.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor,

The Interpretation and General Clauses (Amendment) Ordinance 1987.

No. 20 of 1987

An Ordinance to amend the Interpretation and General Clauses Ordinance 1977. (Assented to : 5th June 1987)

(Assented to : 5th June 1987) (Commencement : 11th July 1977) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Ordinance 1987, and shall have effect from the 11th day of July 1977.

2. The Interpretation and General Clauses Ordinance 1977 shall be amended by the substitution for subsection (1) of Section 81 A of the following —

"(2) Save in so far as no provision is made in any written law in force in the Falkland Islands -

(a) the statutes of general application in force in England on the 22nd May 1900;

- (b) the Common Law; and
- (c) the doctrines and rules of equity;

shall apply in the Falkland Islands provided that the said Statutes, Common Law and doctrines and rules of equity shall be in force in the Falkland Islands so far only as the circumstances of the Falkland Islands and its inhabitants permit."

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/5.

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P. T. KING, Clerk of Councils. Citation and commencement.

Amendment of Ordinance No. 4 of 1977.

The Oil in Territorial Waters (Amendment) Ordinance 1987

ARRANGEMENT OF PARAGRAPHS

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Paragraph

- 1. Citation and commencement.
- 2. Amendment of Ordinance No. 3 of 1960.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Oil in Territorial Waters (Amendment) Ordinance 1987.

No. 21 of 1987

An Ordinance to amend the Oil in Territorial Waters Ordinance 1960.

(Assented to : 5th June 1987) (Commencement : to be fixed) (Published : 14th January 1988)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Oil in Territorial Waters (Amendment) Ordinance 1987, and shall come into force on such date as the Governor in Council may decide.

- 2. The Oil in Territorial Waters Ordinance 1960 is amended -
 - (a) in Section 3 by the substitution of "£100,000" for "£500";
 - (b) in Section 5 (2) by the substitution of "ten thousand" for "two hundred";
 - (c) in Section 6 by the substitution for subsection (1) of the following -

"Jurisdiction of Summary and Magistrates Court. (1) All penalties, offences and proceedings under this Ordinance or any regulation made hereunder may be recovered, prosecuted and taken before the Summary Court or the Magistrates Court.

(2) In respect of offences charged under this Ordinance or any regulation made hereunder, and notwithstanding the provisions of the Administration of Justice Ordinance Cap. 3, the Summary Court and the Magistrates Court are hereby given extended jurisdiction to impose any fine provided for under this Ordinance or any regulation made hereunder and may award to the Crown such costs and expenses incurred in relation to the prosecution of such charges as may appear to it to be proper."

and the renumbering of subsections (2) and (3) as "(3)" and "(4)".

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/44.

P. T. KING, Clerk of Councils. Citation and commencement.

Amendment of Ordinance No. 3 of 1960.

Printed by the Government Printer, Stanley, Falkland Islands. Price : Nine Pounds & Seventy Pence.



THE

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Date of Publication

It is hereby notified that this issue of the Gazette, although dated 31st July 1987, was in fact published on 15th January 1987.

D. G. LANG, Attorney General.

NOTICES **Appointments** Mrs. Marilyn Joyce Hall, Houseparent, Stanley 23rd July 1987. No. 27 School Hostel, Education Department, 13.7.87. The findings of the Cost of Living Committee for Miss Nicola Buckett, Clerk, Public Service, 20.7.87. the quarter ended 31st March 1987 are published for David Vivian Thomas, Electrician, Public Works general information -Department, 28.7.87. Quarter Ended Percentage Increase over 1971 Prices 31st March 1987 459.02% Acting Appointment Hourly paid employees in Stanley qualified for an Manfred Michael Ian Keenleyside, Acting Director of increase of 1p per hour with effect from 1st April Public Works, Public Works Department, 1.7.87. 1987. Ref. 1NT/2/1. **Completion of Contract** Mrs. Janette Mary Vincent, S.R.N., Commissioning Officer, Medical Department, 11.7.87. Customs Ordinance (Cap. 16) Miss Catherine Maureen Farmer, Teacher, Education In exercise of the powers conferred by section 4 of Department, 24.7.87. the Customs Ordinance I hereby appoint -Resignations MAJOR A. J. TREVIS, Miss Sheree Alazia, Clerk, Public Service, 5.7.87. to be a temporary Customs Officer, South Georgia, Miss Thirza Penelope Radford, Teacher, Education with effect from the 3rd July 1987 to the 3rd November 1987. Department, 18.7.87.

Mrs. Sharon Marie Zuvic-Bulic nee Hewitt, Chief Clerk, Public Works Department, 22.7.87 L. J. HALLIDAY, Collector of Customs.

THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) ORDINANCE 1987

The Interpretation and General Clauses (Amendment) Ordinance 1987 (Rectification of Clerical Errors) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement.

2. Rectification of errors.

THE INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) ORDINANCE 1987

The Interpretation and General Clauses (Amendment) Ordinance 1987 (Rectification of Clerical Errors) Order 1987

(S. R. & O. 12 of 1987)

IN EXERCISE of his powers under section 101 (1) of the Interpretation and General Clauses No. 4 of 1977. Ordinance 1977, the Attorney General makes the following Order —

1. This Order may be cited as the Interpretation and General Clauses (Amendment) Cite Ordinance 1987 (Rectification of Clerical Errors) Order 1987, and shall be deemed to have come into operation on 11th July 1977.

2. (1) For the parentheses and numeral "(2)" appearing in section 2 of the Interpretation and General Clauses (Amendment) Ordinance 1987 as assented to by the Governor on 5th June 1987 there shall be substituted the parentheses and numeral "(1)".

(2) In subsection (1) of section 81A of the Interpretation and General Clauses Ordinance 1977 (as amended by section 2 of the Interpretation and General Clauses (Amendment) No Ordinance 1987 (as rectified by this Order)) there shall be inserted immediately after the words "save in so far as no provision" appearing at the commencement of that subsection the words "to the contrary".

Made this 29th day of July 1987.

D. G. LANG, Attorney General.

Citation and commencement.

Rectification of errors. No. 20 of 1987

No. 4 of 1977. No. 20 of 1987.





THE

FALKLAND ISLANDS GAZETTE

(Extraordinary)

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Date of Publication

It is hereby notified that this issue of the Gazette, although dated 4th August 1987, was in fact published on 18th January 1988. D. G. LANG,

Allorney General.

NOTICE

The following are published in this Gazette —

The Currency Ordinance 1987;

The Naval Ports Ordinance 1987;

The Petroleum Products (Amendment) Ordinance 1987;

The Fisheries (Fishing) Regulations (Amendment) Order 1987;

The Fisheries (Conservation and Management) Ordinance (No. 3) Commencement Order 1987;

The Petroleum Products (Amendment) Ordinance 1987 Commencement Order 1987;

The Naval Ports Ordinance 1987 Commencement Order 1987;

The Currency Ordinance 1987 Commencement Order 1987;

The Fisheries (Fees) Declaration of 12th May 1987.

The Currency Ordinance 1987

ARRANGEMENT OF SECTIONS

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- 5. Commissioners of Currency.
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- 8. Contracts, transactions and documents in the Falkland Islands to be in Falkland Islands Currency.
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ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Currency Ordinance 1987.

No. 14 of 1987

An Ordinance to provide for the currency of the Falkland Islands and all matters related thereto.

(Assented to : 5th June 1987) (Commencement : 1st July 1987) (Published : 4th August 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

PART 1

PRELIMINARY

1. This Ordinance may be cited as the Currency Ordinance 1987 and shall come into force on such day as the Governor shall by Order published in the Gazette appoint and the Governor may appoint different days for the coming into force of different provisions.

2. In this Ordinance unless the context otherwise requires -

"Commissioners" means the Commissioners of Currency appointed under Section 5;

"Crown Agents" means the Crown Agents for Oversea Governments and Administrations;

"financial year" means any period of twelve months beginning on the 1st day of July in any year;

"Fund" means the Currency Fund established by Section 13;

"notes and coins" mean, respectively, currency notes issued and coins issued or deemed to have been issued under this Ordinance.

PART 2

THE FALKLAND ISLANDS CURRENCY

3. The unit of currency of the Falkland Islands shall be the Falkland Islands pound, which the shall be divided into one hundred pence.

4. The Falkland Islands pound shall have parity with the pound sterling.

5. (1) There shall be not less than two and not more than three Commissioners of Currency, one of whom shall be the Financial Secretary and the other or others being a person or persons for the time being discharging the functions of such public office or offices in the Falkland Islands as the Governor shall from time to time appoint.

Citation and commencement.

Interpretation.

Unit of currency.

Parity with sterling.

Commissioners of Currency. (2) Any duty devolving, and any power conferred, on the Commissioners may be discharged or exercised by any two of them acting together.

(3) The Commissioners shall meet as often as they shall consider necessary for the performance of their functions but a period greater than six months shall not elapse between meetings.

6. (1) The Commissioners, on behalf of the Government of the Falkland Islands, shall have Iss the sole right to issue currency notes and coins and documents or tokens having the appearance of notes or coins.

(2) Any person who contravenes subsection (1) shall commit an offence and shall on conviction be liable to a fine of ten thousand pounds or to imprisonment for a term of seven years or to both.

(3) No currency notes or coins other than the currency notes and coins issued by the Commissioners shall be legal tender in the Falkland Islands.

(4) The Commissioners shall —

- (a) arrange for the printing of notes which shall be of such denominations and of such form and design and printed from such plates and on such paper and authenticated in such manner as may, from time to time, be prescribed;
- (b) issue, reissue, withdraw and, at their discretion, exchange notes at Stanley and at such offices and agencies eisewhere in the Falkland Islands as they may establish;
- (c) arrange for the security of such notes and all matters relating thereto prior to their issue or reissue and after their withdrawal and whenever otherwise under the control of the Commissioners.

(5) The Commissioners shall -

- (a) arrange for the mining of coins which shall be of such denominations and of such weight, form and design and made of such metal or metals as may, from time to time, be prescribed;
- (b) issue, reissue, withdraw and, at their discretion, exchange coins at Stanley and at such offices and agencies elsewhere in the Falkland Islands as they may establish;
- (c) arrange for the security of such coins and all matters relating thereto prior to their issue or reissue and after their withdrawal and whenever otherwise under the control of the Commissioners.

7. Currency notes issued under the Currency Notes Ordinance Cap. 15 and coins issued under Royal Proclamations prior to the coming into force of this Ordinance shall in all respects be deemed to have been lawfully issued under, and to comply with all the requirements of this Ordinance.

8. (1) Every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing whatsoever relating to money or involving the payment of or the liability to pay any money shall in the Falkland Islands be deemed to be made, executed, entered into, done and had, in and in relation to currency issued by the Commissioners:

Provided that this section shall not affect any obligation to pay any money in any country other than the Falkland Islands.

(2) In any law in force in the Falkland Islands at the time of the coming into force of this section, and in any subsidiary legislation made under any such law, any reference to currency shall be construed as a reference to currency issued by the Commissioners; and any reference to a sum of money shall be construed as a reference to the sum expressed in currency issued by the Commissioners.

Saving of currency issues.

Contracts, transactions and documents in the Falkland Islands to be in Falkland Islands currency.

Issue of currency.

9. (1) Subject to subsection (2), the following respective notes and coins shall be legal Legal tender. tender —

- (a) in the case of notes, for the payment of any amount;
- (b) in the case of coins of nickel brass, silver or gold of the denomination of one pound or more, for the payment of any amount;
- (c) in the case of coins of cupro-nickel, silver or gold of a denomination of more than ten pence but less than one pound, for the payment of an amount not exceeding ten pounds; and
- (d) in the case of coins of cupro-nickel, silver or gold of a denomination of ten pence or less for the payment of an amount not exceeding five pounds;

(e) in the case of bronze coins, for payment of any amount not exceeding twenty pence.

(2) A note or coin that has been illegally dealt with shall not be legal tender.

(3) For the purposes of this Ordinance a note or a coin shall be deemed to have 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.

10. (1) The Governor may, by notice in the Gazette, declare that any notes or coins shall, with effect from such day or days as may be specified in the notice, cease to be legal tender in the Falkland Islands and provide for any matters incidental to the calling in of such notes or coins:

Provided that the holders of any such notes or coins shall be entitled at any time to claim payment of the value thereof from the Commissioners or, where a transfer in respect thereof has been made to the Consolidated Fund under subsection (2), from the Consolidated Fund.

(2) When any notes or coins cease to be legal tender under subsection (1) an amount equivalent to the face value of any such notes or coins remaining in circulation five years after they have so ceased to be legal tender shall be transferred from the Fund to the Consolidated Fund and the said amount shall be written off the liabilities of the Fund.

(3) Where coins are presented for payment under the proviso to subsection (1) more than five years after they have ceased to be legal tender, the Commissioners may levy a handling charge of such amount as they may, from time to time, determine.

11. No person shall be entitled to recover from the Commissioners the value of any lost, stolen, mutilated or imperfect note or coin, or of any note or coin which has been illegally dealt with, and the circumstances and conditions under which such value may be refunded as an act of grace shall be within the absolute discretion of the Commissioners.

12. (1) The Commissioners shall on demand buy or sell sterling for immediate delivery in London or the Falkland Islands against the Falkland Islands pound at the parity specified in Section 4:

Provided that --

- (a) the Commissioners shall not be required to buy or sell sterling of an amount less than such minimum sum as may, from time to time, be prescribed;
- (b) the Commissioners shall be entitled to charge and levy from any person desiring to buy or sell sterling a commission at such rate or rates, not exceeding two and one quarter per centum, or such greater or lesser margins as are permitted by international monetary agreements which apply to or have been extended to the Falkland Islands, as may, from time to time, be prescribed, together with the cost of any disbursements incurred by the Commissioners or their agents or correspondents in connection with such transactions;
- (c) the Commissioners shall be entitled to charge and levy such surcharge as they shall decide from any person desiring to purchase any coin which has been issued by the Commissioners for commemorative purposes.

Calling in of notes and coins.

Certain coins and notes not redeemable.

Conversion of Falkland Islands pounds into sterling and vice versa. (2) The Commissioners shall publish or cause to be published at the Treasury or at the offices of their agents and representatives the rates referred to in paragraph (b) of subsection (1) at which they are prepared to deal against sterling with the public:

Provided that the Commissioners may, at their discretion, deal against sterling with the Treasury at rates between their published rates and parity.

PART 3

CURRENCY FUND

13. (1) There shall be established a fund to be called the "Currency Fund" into which shall be paid, and upon which shall be charged, all amounts respectively due to and payable by the Commissioners or the Fund under the provisions of this Ordinance.

(2) A proportion of the assets of the Fund, being not less than such proportion as the Commissioners shall, with the approval of the Governor acting in his discretion, from time to time determine being not less than twenty per centum of the demand liabilities of the Fund, shall be in liquid form, that is to say -

(a) held in United Kingdom notes and coins or in the form of balances on current account or at short notice with such banks in London as may from time to time be approved by the Commissioners for the purpose of this subsection or with the Crown Agents, or held in the form of United Kingdom Treasury Bills:

Provided that a balance not exceeding 10% of the assets of the Fund may be held on a current account denominated in sterling with a bank in the Falkland Islands; or

- (b) lent out at call or for short term in such manner, or invested in such readily realisable securities, as may from time to time be approved by the Secretary of State; or
- (c) partly as is provided in paragraph (a) and partly as in paragraph (b).

(3) The remainder of the assets of the Fund shall be invested either in securities issued or guaranteed by the Government of the United Kingdom or in stocks issued by local authorities in the United Kingdom within the meaning of the Local Authorities Act 1972, and in either case maturing within seven years:

Provided that for the purposes of calculation of the assets of the Fund in all matters pertaining to this Ordinance, the value of the gold or silver content of coins issued or deemed to be issued under this Ordinance and remaining in circulation may at the discretion of the Governor in Council be regarded as an asset of the Fund and shall be calculated by reference to the latest known London market price for gold or silver bullion; but the value so calculated shall not exceed the face value of all the said coins.

(4) For the purpose of this section and of Section 18 demand liabilities of the Fund means currency notes and coins in circulation other than such currency notes and coins as are no longer legal tender and in respect of which a transfer to the Consolidated Fund has been made under Section 10 (2).

14. The Commissioners on behalf of the Fund may -

- (a) with the approval of the Governor open and maintain accounts with such banks or other depositaries and appoint such correspondents or agents outside the Falkland Islands as may be necessary for the effective operation and management of the Fund;
- (b) buy and sell Treasury Bills and other securities of the Government of the United Kingdom and stocks issued by local authorities in the United Kingdom.
- 15. The Commissioners may not -
 - (a) subject to Section 13 (2) (b) grant advances of any kind;
 - (b) open accounts for, or accept deposits from, any person;
 - (c) buy or sell any currency other than the Falkland Islands pound or sterling, or invest in securities denominated in any currency other than sterling.

Commissioners power in relation to Currency Fund.

Restrictions on power of the Commissioners.

Currency Fund.

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16. There shall be a General Reserve of the Fund (hereinafter referred to as the "General Reserve") to which shall be allocated any amounts that may become available by virtue of Sections 18 and 24.

17. (1) The surplus of the Fund for any financial year shall be determined by calculating the amount of all dividends, interest or other revenue derived from investments of the Fund or from the employment in any manner of the moneys of the Fund and all commissions paid to the Commissioners in accordance with Section 12 of this Ordinance and deducting therefrom all expenses incurred by the Commissioners and their agents for the purposes of this Ordinance together with such provision for contingencies as the Commissioners, with the approval of the Governor acting in his discretion, may determine.

(2) Notwithstanding the provisions of subsection (1), the Governor with the approval of the Secretary of State may direct that any expenditure of an exceptional nature shall be a charge upon the General Reserve and shall be excluded from the calculation of the surplus of the Fund.

18. The surplus of the Fund for each financial year shall be calculated in accordance with Section 17 and shall be distributed as follows -

- (a) so long as the General Reserve amounts to less than ten per centum of the demand liabilities of the Fund at the end of the financial year in which such surplus was earned, there shall be allocated to the General Reserve all such surplus or such lesser amount as shall make the General Reserve equivalent to ten per centum of those liabilities;
- (b) after appropriate allocations have been made to the General Reserve in accordance with paragraph (a), the surplus shall be next applied to the payment to the Consolidated Fund of any amounts transferred to the Fund in accordance with Section 20;
- (c) any remaining surplus shall be transferred to the Consolidated Fund provided that the Governor may direct that further allocation to the General Reserve may be made out of such remaining surplus;
- (d) if at the end of any financial year the General Reserve exceeds ten per centum of the liabilities of the Fund the Commissioners, with the approval of the Governor acting in his discretion, may direct that the amount in excess of ten per centum shall be transferred in whole or in part to the Consolidated Fund.

19. (1) The value of securities held in the name or on behalf of the Fund shall, for the purposes of this Ordinance, be calculated by reference to the latest known market price of such securities:

Provided that where no such price is available the value of the securities concerned shall be calculated in such manner as, with the concurrence of the Principal Auditor, may seem reasonable to the Commissioners.

(2) Except to the extent that any provision is made for the depreciation of investments in determining the surplus of the Fund in accordance with Section 17, any alteration during the period of six months ending on the 31st of December or the 30th of June in any year in the value of the securities held in the name or on behalf of the Fund, together with any capital profit or loss resulting from the sale or maturity of such securities during such period, shall represent as the case may be an accrual to or a charge upon the General Reserve and shall not be deemed to be a surplus or a deficit for the purposes of a calculation of the surplus of the Fund in accordance with Section 17.

20. If at any time the total assets of the Fund shall be less than the total liabilities of the Fund, notwithstanding any other provisions of this Ordinance the Governor shall cause to be transferred to the Fund from the Consolidated Fund an amount in pounds sterling sufficient to correct the deficiency.

Government to balance the Fund.

Valuation of Fund Securities.

General Reserve of the Fund.

Determination of surplus of Fund.

Distribution of surplus of Fund.

MISCELLANEOUS

21. (1) The Commissioners shall within three months after the end of each financial year submit to the Governor and the Secretary of State a statement and report of their transactions during the year, including a balance sheet as at the last day of the financial year and an income and expenditure account.

(2) The Commissioners shall likewise submit the Principal Auditor's certificate as soon as is practicable but no later than one year and three months after the end of the Financial year to which it relates.

(3) The Commissioners shall likewise submit half yearly, as soon after the end of each half financial year as is practicable, a statement of the assets and liabilities of the Fund together with a list of the securities held by the Fund.

(4) The accounts of all transactions of the Commissioners shall be audited by the Principal Auditor.

22. The Governor may by Order in Council, made with the prior approval of the Secretary Regulations. of State, make regulations —

- (a) prescribing anything which by this Ordinance is to be prescribed;
- (b) generally for the better carrying into effect of the provisions of this Ordinance.

23. The Fund shall be exempt from the provisions of any law in force from time to time Exemption relating to income tax; and shall not be liable for payment of stamp duty or any other tax income tax. in respect of its notes and coins.

24. On the day on which this Ordinance comes into force -

- (a) the assets and liabilities of the Note Security Fund established under the Currency Notes Ordinance, Cap. 15 shall be transferred to the Fund; and
- (b) an amount equal to the amount by which the value of cash and securities in the said Note Security Fund together with the value of the gold and silver content of coins in issue and any transfers to the Fund from the Consolidated Fund exceeds the face value of the total currency in circulation on that day shall be transferred to the General Reserve;
- (c) in the event that the assets of the Fund as detailed above do not exceed the total currency in circulation the Governor may, with the approval of the Secretary of State, deem the Currency Commissioners to have complied with the relevant requirements of this Ordinance to such extent and for such period of time as he shall consider expedient.

25. The Currency Notes Ordinance, Cap. 15 is hereby repealed save that Regulations made Repeal. under that Ordinance shall remain in force until revoked by Regulations made under this Ordinance.

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: TRE/10/11.

P. T. KING, Clerk of Councils. Annual statement of state of Fund.

Exemption from

Transitional arrangements.

The Naval Ports Ordinance 1987

ARRANGEMENT OF SECTIONS

Section

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Declaration of Naval Ports.
- 4. Queens Harbour Master.
- 5. Powers of Queens Harbour Master.
- 6. Recovery of payments from owner in certain cases.
- 7. Payments may be enforced by distress.
- 8. Restriction of entry of vessels.
- 9. Offences and penalties.
- 10. Regulations.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Naval Ports Ordinance 1987.

No. 18 of 1987

An Ordinance to provide for the Establishment of Naval Ports, the Administration and Control thereof and matters incidental thereto.

> (Assented to : 5th June 1987) (Commencement : 4th August 1987) (Published : 4th August 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Naval Ports Ordinance 1987 and shall come into force on such day as the Governor shall by Order published in the Gazette appoint.

2. In this Ordinance unless the context otherwise requires —

"naval port" means a naval port declared and defined in accordance with Section 3;

"master" means the person having command of a vessel for the time being;

"Queens Harbour Master" means a Queens Harbour Master appointed under Section 4;

"vessel" means any ship, boat or craft of any kind however it may be propelled.

3. The Governor may by Order in Council declare and define the limits of a naval port.

4. The Governor may on the advice of the Commander British Forces, appoint a Queens Harbour Master for a naval port.

- 5. The Queens Harbour Master shall have power to -
 - (a) order the master of any vessel to change the place where any vessel is berthed or moored in a naval port;
 - (b) at the expense of the master cause the berth or mooring of any vessel to be changed when an order under paragraph (a) has not been complied with and for that purpose to —
 - (i) cast off, loose or unshackle the vessel; and
 - (ii) if necessary sever any cable, chain or rope of the vessel; and
 - (iii) put on board the vessel sufficient persons to protect the vessel during its change of berth or mooring;

Citation and commencement.

Interpretation.

Declaration of Naval Ports Queens Harbour Master.

Powers of Queens Harbour Master.

- (c) cause to be boarded and searched any vessel in a naval port which he reasonably suspects of having on board
 - (i) any arms, explosives, ammunition or other combustible substances or materials; or
 - (ii) any drugs contrary to the laws of the Falkland Islands;
- (d) remove any vessel or other thing which is sunk, stranded or abandoned in a naval port or the approach thereto which in the opinion of the Queens Harbour Master is causing an obstruction or danger to navigation;
- (e) destroy any vessel or thing referred to in paragraph (d) or part thereof;
- (f) take possession of any vessel or thing referred to in paragraph (d); and
 - (i) if so requested, deliver the vessel or thing to the owner thereof on payment of all the costs incurred in the recovery and delivery of the vessel or thing; or
 - (ii) if no such request is received within three months of such taking of possession sell the vessel or thing and any property contained therein and after deduction of the cost of recovery and sale deposit the balance, if any, of the proceeds of the sale in the Treasury in trust for the person entitled thereto;
- (g) seize and detain any vessel which he has reasonable cause to believe has entered the territorial sea or internal waters of the Falkland Islands in contravention of an Order made under Section 8.

6. If, under this Ordinance or any Regulations made hereunder, an owner of a vessel or any thing is required to pay any penalty or expenses by reason of an act or omission of the master thereof or any other person he shall be entitled to recover the amount paid by him with costs from the person who committed the offence, did the wrongful act or omitted to do anything by reason whereof the owner was compelled to make payment.

7. Where an order has been made under this Ordinance for the payment by the master or owner of a vessel of any fine or other payment and such fine has not been paid within the time allowed by the court, or if no time has been given such time as may be reasonable, the Senior Magistrate or not less than two Justices of the Peace may direct that the amount payable may be levied by the impounding by the Queens Harbour Master and sale of the vessel, her tackle, furniture or any part thereof.

8. (1) The Governor may, when he considers it necessary in the interests of defence or internal security, prohibit by Order published in the Gazette, the entry of any vessel or class of vessels into the territorial sea or internal waters of the Falkland Islands or any part or parts thereof.

(2) An order made under subsection (1) shall come into force on the day specified therein notwithstanding that such day may be prior to the publication of the Order in the Gazette.

9. (1) A person who —

- (a) contravenes any provision of this Ordinance;
- (b) fails to comply with the requirements of this Ordinance including a prohibition under Section 8; or
- (c) obstructs the Queens Harbour Master or any person acting on his behalf or any other person acting under the provisions of this Ordinance.

commits an offence.

(2) A person who commits an offence under this Ordinance shall be liable on conviction to a fine of £1,000 or in the case of contravention of an Order under Section 8 such fine or forfeiture of the vessel used in contravention of such offence or both such fine and forfeiture. Recovery of payments from owner in certain cases.

Payments may be enforced by distress.

Restriction of entry of vessels.

Offences and penalties.

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10. (1) The Governor may, by Order in Council, make Regulations for the better carrying Regulations. out of the provisions of this Ordinance.

(2) Without derogating from the generality of subsection (1) Regulations made hereunder may provide for -

- (a) the control of mooring, anchoring and berthing of vessels;
- (b) the restriction of the carrying, loading, discharging or holding of arms, ammunition or other combustible substances or materials on, from or in vessels entering or remaining in a naval port;
- (c) the regulation of the speed of vessels moving in or into a naval port;
- (d) the watches to be maintained on vessels in a naval port;
- (e) such matters as may appear necessary for protection of Her Majesty's ships or property;
- (f) a fine of not more than £1,000 for the contravention of such regulations.

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Ref: CUS/44/1.

The Petroleum Products (Amendment) Ordinance 1987

ARRANGEMENT OF SECTIONS

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Section

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- 1. Citation and commencement.
- 2. Amendment to Ordinance No. 20 of 1973.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Petroleum Products (Amendment) Ordinance 1987.

No. 22 of 1987

An Ordinance to amend the Petroleum Products Ordinance 1973.

(Assented to : 5th June 1987) (Commencement : 4th August 1987) (Published : 4th August 1987)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Petroleum Products (Amendment) Ordinance 1987 Citation and and shall come into force on such day as the Governor may appoint by Order published commencement. in the Gazette.

2. The Petroleum Products Ordinance 1973 is amended -

- (a) by the substitution for Section 2 of the following -
 - "2. In this Ordinance unless the context otherwise requires "petroleum products" include
 - (a) crude petroleum, oil made from petroleum or from coal, shale, peat or other bituminous substances;
 - (b) other products produced directly or indirectly from petroleum or of any of the above mentioned oils; and
 - (c) mixtures containing petroleum or any of the above mentioned oils;"
- (b) in Section 3 by -
 - (i) the deletion of the word "land" where it occurs; and
 - (ii) the insertion of the words "or the territorial waters" after the word "colony";
- (c) in Section 4 by -
 - (i) the insertion in subsection (1) of the words "or the territorial waters" after the word "colony" and the substitution of the words "licence in writing" for the words "notification in the official gazette";
 - (ii) in subsection (2) of the word "licence" for the word "authority" where it occurs and the addition after the second reference to "licence" of the words "or grant an exclusive licence";

Amendment of Ordinance No. 20 of 1973.

- (iii) the addition of the following subsections -
 - (4) Subject to subsection (5) a person granted a licence under this section shall pay such fee as may be prescribed by rules made under Section 5.
 - (5) The Governor in Council may grant exemption from payment of the fee referred to in subsection (4) or remission of or reduction in the said fee.
- (d) in Section 5 by the re-lettering of paragraph (d) as (e) and the addition after paragraph (c) of the following --
 - "(d) the regulation of carriage of petroleum products on vessels in territorial waters and of bunkering in territorial waters including the places in which bunkering shall take place".
- (e) by the substitution for Section 6 of the following -

"Offences and penalties. 6. (1) Any person who contravenes any provision of this Ordinance or any regulation made hereunder commits an offence and shall be liable on conviction to a fine of £20,000.

(2) A court that convicts a person of an offence may order that any petroleum product that the court is satisfied relates to that offence be forfeited.

(3) The court shall not order anything to be forfeited under this section where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court unless an opportunity has been given to him to show cause why the order should not be made.

(4) The Senior Magistrate or not less than two Justices of the Peace may try any offences under this Ordinance.

(5) If, having convicted a person for an offence under this Ordinance, the Senior Magistrate or Justices of the Peace is or are of the opinion that a more severe penalty should be imposed than he or they have power to impose the Senior Magistrate or Justices of the Peace may commit that person in custody or on bail to the Supreme Court for sentence. "

(f) in Section 7(b) by the addition after the words "four imperial gallons" of the words "and to petroleum products kept for agricultural and commercial use other than for sale in such amounts as may be declared by the Governor in Council.".

Passed by the Legislature of the Colony of the Falkland Islands this 30th day of May 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Ref: FUE/10/1.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Fishing) Regulations (Amendment) Order 1987

ARRANGEMENT OF REGULATIONS

Regulation

- 1. Citation and commencement.
- 2. Amendment of Order No. 20 of 1986.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Fishing) Regulations (Amendment) Order 1987

(S. R. & O. 7 of 1987)

In accordance with Section 20 of the Fisheries (Conservation and Management) Ordinance 1986 the Governor in Council makes the following Order —

Citation and commencement,

Amendment of Order No. 20 of 1986. 1. This Order may be cited as the Fisheries (Fishing) Regulations (Amendment) Order 1987 and have effect from the 12th day of May 1987.

- 2. The Fisheries (Fishing) Regulation Ordinance 1986 is amended -
 - (a) by the addition to Regulation 3 of the following sub-regulations -
 - "(6) The Director may require that the application -
 - (a) be lodged by a certain date; and
 - (b) be accompanied by a deposit of not more than 10 per centum of the licence fee that would be payable if a licence were granted to the applicant.
 - (7) The deposit shall be payable in such manner as the Director of Fisheries in his discretion shall consider acceptable.
 - (8) A deposit paid under sub-regulation (6) shall not be refundable if a licence is allocated under Regulation 6 (5). The Director of Fisheries in his discretion may refund a part of the deposit. "

- (b) in regulation 6 by -
 - (i) the insertion in sub-regulation (1) of the words "or a part thereof" after the word "season";
 - (ii) the addition of the following sub-regulations -
 - "(5) The Director of Fisheries may allocate a licence to an applicant who has applied for a licence under Regulation 3 and complied with the requirements of that Regulation and may stipulate in the notice of allocation
 - (a) the last day on which notification of acceptance of the allocation shall be given by the applicant to the Director; and
 - (b) the last day on which the Master of the fishing boat specified in the licence shall be entitled to be issued with and collect the licence.
 - (6) If an applicant fails -
 - (a) to notify acceptance of allocation to the Director by the day stipulated by the Director; or
 - (b) a master fails to collect a licence in accordance with sub-regulation (5),

the allocation shall be automatically cancelled."

Made this 19th day of May 1987.

G. W. JEWKES, Governor.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Conservation and Management) Ordinance (No. 3) (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation.

2. The bringing into force of Section 7 of Ordinance No. 11 of 1986.

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fisheries (Conservation and Management) Ordinance (No. 3) (Commencement) Order 1987

(S. R. & O. 8 of 1987)

In accordance with Section 1 of the Fisheries (Conservation and Management) Ordinance 1986 the Governor makes the following Order —

Citation.

The bringing into force of Section 7 of Ordinance No. 11 of 1986. 1. This Order may be cited as the Fisheries (Conservation and Management) Ordinance (No. 3) (Commencement) Order 1987.

2. Section 7 of the Fisheries (Conservation and Management) Ordinance 1986 shall come into force on the thirtieth day of June 1987.

Made this 19th day of May 1987.

G. W. JEWKES, Governor.

THE PETROLEUM PRODUCTS (AMENDMENT) ORDINANCE 1987 (No. 22 of 1987)

The Petroleum Products (Amendment) Ordinance 1987 (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. Commencement of Ordinance No. 22 of 1987.

THE PETROLEUM PRODUCTS (AMENDMENT) ORDINANCE 1987 (No. 22 of 1987)

The Petroleum Products (Amendment) Ordinance 1987 (Commencement) Order 1987

(S. R. & O. 9 of 1987)

Citation and commencement.

Commencement of Ordinance No. 22 of 1987. 1. This Order may be cited as the Petroleum Products (Amendment) Ordinance 1987 (Commencement) Order 1987 and shall come into effect on the day it is published in the Gazette.

2. The Petroleum Products (Amendment) Ordinance 1987 shall, pursuant to section 1 thereof, come into force on the same day as this Order comes into force under paragraph 1 of this order.

Made this 12th day of June 1987.

G. W. JEWKES, Governor.

THE NAVAL PORTS ORDINANCE 1987 (No. 18 of 1987)

The Naval Ports Ordinance 1987 (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. Commencement of Ordinance No. 18 of 1987.

THE NAVAL PORTS ORDINANCE 1987 (No. 18 of 1987)

The Naval Ports Ordinance 1987 (Commencement) Order 1987

(S. R. & O. 10 of 1987)

Citation and commencement.

Commencement of Ordinance No. 18 of 1987. 1. This Order may be cited as the Naval Ports Ordinance 1987 (Commencement) Order 1987 and shall come into force on the day it is published in the Gazette.

2. Pursuant to section 1 thereof, the Naval Ports Ordinance 1987 shall come into force on the day this Order comes into force under paragraph 1.

Made this 12th day of June 1987.

G. W. JEWKES, Governor.

THE CURRENCY ORDINANCE 1987 (No. 14 of 1987) (Section 1)

The Currency Ordinance 1987 (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation.
- 2. Commencement of Currency Ordinance 1987.

THE CURRENCY ORDINANCE 1987 (No. 14 of 1987) (Section 1)

The Currency Ordinance 1987 (Commencement) Order 1987

(S. R. & O. 11 of 1987)

IN EXERCISE of his powers under Section 1 of the Currency Ordinance 1987 the Governor makes the following Order -

1. This Order may be cited as the Currency Ordinance 1987 (Commencement) Order 1987.

2. The Currency Ordinance 1987 shall come into force on the 1st day of July 1987.

Made this 19th day of June 1987.

G. W. JEWKES, Governor.

Commencement of Currency Ordinance 1987.

Citation.

THE FISHERIES (FISHING) REGULATIONS ORDER 1987

Declaration By The Governor In Council

In accordance with Regulation 6 of the Fisheries (Fishing) Regulations Order 1986 the Governor in Council makes the following declaration —

Schedule of Fishing Licence Fees

1. The fee calculations described in this Schedule apply to the second season for 1987 which is 1st July to 31st December.

2. For the purpose of granting licences and charging fees therefor the Fishing Waters are divided into two areas namely —

- (a) the area in the fishing waters west of 60° W Longitude (the West area),
- (b) the area in the fishing waters east of 60° W Longitude (the East area).
- 3. Only trawlers will be licenced for the second season.
- 4. The fees for fishing in the two areas which are payable in pounds sterling shall be calculated as follows
 - (a) The fees for trawlers are given below as a sum in pounds sterling for every 100 gross registered ton (as calculated under the International Tonnage Rules hereafter called "GRT"),
 - (b) Where a boat has a GRT that is not specifically set out in the table the fee shall be calculated on a pro rata basis,
 - (c) Fees will vary according to whether a licence permits fishing for all species of fish, fin fish only and whether a licenced trawler carries surimi processing equipment,
 - (d) The maximum licence fees shall be --
 - (i) West and East Areas all species £9722 per month,
 - (ii) West and East Areas Finfish only, surimi equipment permitted £7000 per month,
 - (iii) West Area Finfish only, surimi equipment not permitted £4611 per month.

	rees for mawers in pounds sterning		
	А	В	С
GRT	WEST AND EAST AREAS ALL SPECIES	WEST AND EAST AREAS FINFISH ONLY SURIMI EQUIPMENT PERMITTED	WEST AREA FINFISH ONLY SURIMI EQUIP- MENT NOT PERMITTED
200	2327	1434	932
300	3288	1786	1160
400	4136	2128	1383
500	4884	2458	1597
600	5544	2778	1805
700	6126	3086	2005
800	6639	3384	2199
900	7091	3672	2386
1000	7490	3948	2566
1100	7842	4214	2739
1200	8152	4468	2904
1300	8426	4712	3064
1400	8667	4946	3230
1500	8880	5168	3489
1600	9068	5380	3766
1700	9233	5580	4045
1800	9379	5770	4183
1900	9508	5948	4461
2000	9622	6116	4611
2100	9722	6274	4611
2200	9722	6420	4611

Fees for Trawlers in pounds sterling

5. No licence will be given for less than two months.

6. If a licence is taken out for the whole season the total fee payable will be the appropriate monthly licence fee for the boat and area multiplied by four.

7. The administrative fee for surrender and exchange of a licence shall be £200 sterling.

8. A rotation licence issued in accordance with Regulation 7 shall be given for a period of two months and a fee calculated at the rate of three times the monthly licence fee for the boat and area specified in the licence shall be payable.

Declared this 12th day of May 1987.

Maximum

N

G. W. JEWKES, Governor.



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It is hereby notified that this issue of the Gazette, although dated 31st August 1987, was in fact published on 19th January 1988.

D. G. LANG, Attorney General.

Appointments Hourly paid employees in Stanley qualified for an Mrs. Mirabel Hermione Simpson, Teacher, Education increase of 1p per hour with effect from 1st July 1987. Department, 3.8.87. Ref. 1NT/2/3. Alan Purvis, Teacher, Education Department, 4.8.87. Colin Frank Redston, Government Secretary, No. 29. 7th August 1987. Secretariat, 7.8.87. **Appointment of Acting Chief Executive** Mrs. Trudi Dale Lee, Clerk, Public Service, 17.8.87. I, Brian Raymond Cummings, Acting Governor of Miss Mary Patricia Russell S.R.N. S.C.M., Nursing the Falkland Islands, in exercise of my powers under Sister, Medical Department, 18.8.87. section 76 of the Falkland Islands Constitution 1985 Andrew Miller, Police Constable, Falkland Islands appoint Harold Theodore Rowlands to act as Chief Police Force, 24.8.87. Executive from two in the afternoon until twelve mid-Acting Appointments night on 7th day of August 1987. Colin Frank Redston, Acting Chief Executive, B. R. CUMMINGS, Secretariat, 15.8.87. Acting Governor. Mrs. Lorraine Iris McGill, Acting Head of Hostel, Stanley School Hostel, Education Department, 22.8.87. No. 30. 10th August 1987. Appointment of Registrar Resignations Miss Debbie Ann Hirtle, Clerk, Public Service, 6.8.87. I, Brian Raymond Cummings, Esquire, Acting Governor of the Colony of the Falkland Islands -Zane Hirtle, Storeman, Central Store, Treasury Department, 23.8.87. Hereby Appoint ---Alison Mary Barton, a Registrar in any and all mat-NOTICES ters relating to Case No. MC/CIV/11/87 with effect from the 10th August 1987. No. 28. 7th August 1987. The findings of the Cost of Living Committee for Given under my hand at Stanley the tenth day of the quarter ended 30th June 1987 are published for August 1987. B. R. CUMMINGS. general information -Acting Governor. Quarter Ended Percentage Increase over 1971 Prices 30th June 1987 459.85% Ref. LEG/19/2.

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In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF STELLA MARGEORY PERRY, deceased of Stanley, Falkland Islands, who died at Stanley on the 12th day of March 1986, intestate.

WHEREAS Sharon Halford as Official Administrator has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

NOTICE IS HEREBY GIVEN pursuant to Section 15 of the administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

> S. HALFORD, Registrar.

Stanley, Falkland Islands. 19th August 1987. PRO/13/86.

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF CATHERINE MARGARET REBECCA WHITNEY, deceased of Stanley, Falkland Islands, who died at Stanley on the 16th day of July 1987, intestate.

WHEREAS Frederick William Whitney has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

NOTICE IS HEREBY GIVEN pursuant to Section 4 of the administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the Petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

> S. HALFORD, Registrar.

Staniey, Falkland Islands. 26th August 1987. PRO/5/87.

NOTICE

The following are published in this Gazette —

The Firearms and Ammunition Ordinance 1987 (Commencement) Order 1987;

The Buildings of Architectural and Historic Interest Ordinance 1987 (Commencement) Order 1987;

The Oil in Territorial Waters (Amendment) Ordinance 1987 (Commencement) Order 1987;

The Petroleum Products (Amendment) Ordinance 1987 (Rectification) Order 1987;

The Immigration Ordinance 1987 (Commencement) Order 1987;

The Immigration Ordinance 1987 Immigration (Removal of Undesirables) Order 1987;

THE FIREARMS AND AMMUNITION ORDINANCE 1987 (No. 4 of 1987) (Section 1)

The Firearms and Ammunition Ordinance 1987 (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation.
- 2. Commencement of the Ordinance.

THE FIREARMS AND AMMUNITION ORDINANCE 1987 (No. 4 of 1987) (Section 1)

The Firearms and Ammunition Ordinance 1987 (Commencement) Order 1987

(S. R. & O. 13 of 1987)

IN EXERCISE of my powers under section 1 of the Firearms and Ammunition Ordinance 1987, I make the following Order -

1. This Order may be cited as the Firearms and Ammunition Ordinance 1987 (Commence- Citation. ment) Order 1987.

2. The Firearms and Ammunition Ordinance 1987 shall come into force on the 1st January 1988.

Commencement of the Ordinance.

Made this 8th day of August 1987.

B. R. CUMMINGS, Acting Governor.

THE BUILDINGS OF ARCHITECTURAL AND HISTORIC INTEREST ORDINANCE 1987 (No. 19 of 1987)

The Buildings of Architectural and Historic Interest Ordinance 1987 (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation.
- 2. Commencement of the Ordinance.

THE BUILDINGS OF ARCHITECTURAL AND HISTORIC INTEREST ORDINANCE 1987 (No. 19 of 1987)

The Buildings of Architectural and Historic Interest Ordinance 1987 (Commencement) Order 1987

(S. R. & O. 14 of 1987)

IN EXERCISE of my powers under section 1 of the Buildings of Architectural and Historic Interest Ordinance 1987, I make the following Order -

1. This Order may be cited as the Buildings of Architectural and Historic Interest Citation. Ordinance 1987 (Commencement) Order 1987.

2. The Buildings of Architectural and Historic Interest Ordinance 1987 shall come into force —

Commencement of the Ordinance.

(a) as to sections 1 to 5 and 17 thereof (inclusive), on 1st October 1987; and

(b) as to remaining provisions of the Ordinance, on 1st December 1987.

Made this 8th day of August 1987.

B. R. CUMMINGS, Acting Governor.

THE OIL IN TERRITORIAL WATERS (AMENDMENT) ORDINANCE 1987 (No. 21 of 1987) (Section 1)

The Oil in Territorial Waters (Amendment) Ordinance 1987 (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation.
- 2. Commencement of the Ordinance.

THE OIL IN TERRITORIAL WATERS (AMENDMENT) ORDINANCE 1987 (No. 21 of 1987) (Section 1)

The Oil in Territorial Waters (Amendment) Ordinance 1987 (Commencement) Order 1987

(S. R. & O. 15 of 1987)

IN EXERCISE of my powers under section 1 of the Oil in Territorial Waters (Amendment) Ordinance 1987, I make the following Order —

1. This Order may be cited as the Oil in Territorial Waters (Amendment) Ordinance 1987 Citation. (Commencement) Order 1987.

2. The Oil in Territorial Waters (Amendment) Ordinance 1987 shall come into force on 1st October 1987.

Commencement of the Ordinance.

Made this 8th day of August 1987.

B. R. CUMMINGS, Acting Governor.

Printed by the Government Printer. FALKLAND ISLANDS.

THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE 1977 (No. 14 of 1977) (Section 101)

The Petroleum Products (Amendment) Ordinance 1987 (Rectification) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Rectification of the Ordinance.

THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE 1977 (No. 14 of 1977) (Section 101)

The Petroleum Products (Amendment) Ordinance 1987 (Rectification) Order 1987

(S. R. & O. 16 of 1987)

IN EXERCISE of my powers under subsection (1) of section 101 of the Interpretation and General Clauses Ordinance 1977, 1 make the following Order -

1. This Order may be cited as the Petroleum Products (Amendment) Ordinance 1987 Citation and (Rectification) Order 1987, and shall come into force on the day it is first published in the Gazette.

2. In this Order —

"the Ordinance" means the Petroleum Products (Amendment) Ordinance 1987 in the form assented to by the Governor on 5th June 1987;

"the principal Ordinance" means the Petroleum Products Ordinance 1973.

3. Paragraph (c) of section 2 of the Ordinance (which amends section 4 of the principal Ordinance) is rectified by the insertion in subparagraph (ii) thereof (which relates to the amendment of subsection (2) of the said section 4) of the words "the insertion" immediately before the words "in subsection (2)" appearing in the said subparagraph.

Made this 12th day of August 1987.

D. G. LANG, Attorney General. 180

Interpretation.

No. 22 of 1987.

No. 20 of 1973. Rectification of

the Ordinance.

THE IMMIGRATION ORDINANCE 1987 (No. 15 of 1987) (Section 1)

The Immigration Ordinance 1987 (Commencement) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. Commencement of sections 19 and 25 of the Ordinance.

THE IMMIGRATION ORDINANCE 1987 (No. 15 of 1987) (Section 1)

The Immigration Ordinance 1987 (Commencement) Order 1987

(S. R. & O. 17 of 1987)

IN EXERCISE of my powers under section 1 of the Immigration Ordinance 1987, I make the following Order -

1. This Order may be cited as the Immigration Ordinance 1987 (Commencement) Order 1987, and shall come into force on the 1st September 1987.

2. Sections 19 and 25 of the Immigration Ordinance shall come into force on the date this Order comes into force.

Commencement of sections 19 and 25 of the Ordinance.

Citation and commencement.

Made this 27th day of August 1987.

THE IMMIGRATION ORDINANCE 1987 (No. 15 of 1987) (Section 25)

The Immigration Ordinance 1987 Immigration (Removal of Undesirables) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement.

2. Interpretation.

3. Notice of contemplated removal order.

4. Objections to contemplated removal order.

- 5. Governor not to take into account any matter not stated in Form 1.
- 6. Dependent children.
- 7. Children who are Falkland Islanders.
- 8. Political offences and removal orders.
- 9. Extension of time.
- 10. A notice of removal.
- Form 1 Notice of contemplated removal order.
- Form 2 Notice of objection to contemplated removal order.
- Form 3 Removal Order.

THE IMMIGRATION ORDINANCE 1987 (No. 15 of 1987) (Section 25)

The Immigration Ordinance 1987 Immigration (Removal of Undesirables) Order 1987

(S. R. & O. 18 of 1987)

IN EXERCISE of my powers under Section 25 of the Immigration Ordinance 1987, I make the following Order -

1. This Order may be cited as the Immigration (Removal of Undesirables) Order 1987, and shall come into force on the 1st September 1987.

2. In this Order —

"Form", followed by a number, means the form of that number appearing in the Schedule to this Order;

"removal order" means an order under section 19 of the Immigration Ordinance 1987.

3. (1) Whenever the Governor contemplates making a removal order in respect of any person, he shall cause a police officer to serve upon that person a notice in Form 1.

(2) The Governor shall not make a removal order in respect of any person until fortyeight hours have elapsed since the service of a notice in Form 1 upon that person or until he has received from that person a notice in Form 2, whichever period is the shorter.

4. (1) A person upon whom a notice in Form 1 has been served may, within forty-eight hours of such service, deliver or send to the Governor notice of objection to the making of a removal order in respect of him.

(2) A notice of objection to a removal order shall be in Form 2.

Citation and commencement.

Interpretation

Notice of contemplated removal order.

Objections to contemplated removal order. (3) A person may hand a notice in Form 2 to any police officer, or may deliver it personally in an envelope addressed to the Governor, at Government House, Stanley.

(4) A police officer to whom a notice in Form 2 has been handed shall forthwith deliver it, or cause it to be delivered by another police officer to the Governor at Government House, Stanley.

(5) A person upon whom a notice in Form 1 has been served has no right to be personally heard by the Governor.

5. The Governor, in deciding whether a removal order should be made shall not take into account any matter not stated in a notice in Form 1 served on that person to be a ground on which the Governor contemplates making a removal order.

Governor not to take into account any matter not stated in Form 1. Dependent

children

- 6. (1) Notwithstanding any foregoing provision of this Order but subject to paragraph 7 -
 - (a) a notice in Form 1 need not be served upon a person under the age of 16 years ("a child") if
 - (i) such a notice has been served on a person who
 - (aa) is his father; mother or guardian; and
 - (bb) is himself a person the subject of that notice;
 - (ii) the notice complying with subparagraph (i) of this paragraph states that it extends to that child;
 - (b) a child to which a notice in Form 1 relates by virtue of his inclusion in that Notice under subparagraph (a) (ii) of this paragraph shall be deemed to have been stated to be a person whose removal from the Falkland Islands would be conducive to the public good because —
 - (i) he is a dependant of the person upon whom the notice in Form 1 has been served; and
 - (ii) it would be conducive to the public good for him to be removed from the Islands if a removal order is made in respect of the person upon whom a notice in Form 1 has been served for the reason that, unless he is so removed, he would be without means of upbringing and support.

(2) If a child is living in the same household as both of his parents, subparagraph (1) of this paragraph shall not apply to him unless a notice in Form 1 has been served on both of his parents.

(3) If a notice in Form 1 has been served on both of a childs parents, subparagraph (A) (ii) of this paragraph need only be complied with in respect of one of those notices.

(4) If, having regard to the foregoing subparagraphs of this paragraph, a notice in Form 1 extends to a child -

- (a) any notice in Form 2 sent or delivered by any person on whom that notice in Form 1 has been served shall also operate as an objection to a removal order being made in respect of that child;
- (b) any notice in Form 2 shall include any reasons why that child should not be made the subject of a removal order which the person on whom the notice in Form 1 has been served wishes to advance;
- (c) a removal order in Form 3 may also be made so as to extend to that child.

7. (1) Nothing in regulation 6 shall operate so as to enable a child who is a Falkland Islander to be included in a notice in Form 1 served on either of his parents, nor may a notice in Form 1 be served on such a child.

(2) If the Governor causes a notice in Form 1 to be served on a parent of a child who is a Falkland Islander he shall satisfy himself, before making a removal order in respect of that parent —

- (a) that if that child accompanies that parent on his or her removal from the Falkland Islands and that parent is not a British citizen, that that child has a right to enter and reside permanently in the country of citizenship of that parent; or
- (b) that that child will continue to reside in the Falkland Islands or reside in some other country and that satisfactory arrangements have been or will be made, acceptable to his parents or such of them as is entitled to custody of him, for his upbringing, maintenance and education.

Children who are Faikland Islanders. (3) In this regulation "child" has the same meaning as it has under regulation 6.

8. (1) The Governor shall not make a removal order in respect of any person if he has reason to believe that the effect of that order will be to compel that person to go to a country in which he is likely to face prosecution for a political offence.

(2) In this regulation "political offence" has the same meaning as it has under the Extradition Act 1870.

9. (1) The Governor may at any time extend the time within which a person, on whom notice in Form 1 has been served, may send or deliver a notice in Form 2, and may specify such extended time in the notice in Form 1 served on that person.

(2) Whenever the Governor extends time pursuant to subparagraph (1) of this paragraph, subparagraph (2) of paragraph 3 shall apply as if such extended time appeared therein instead of the words "forty-eight hours".

10. (1) A removal order shall be in Form 3.

(2) A removal order shall be served personally by a police officer on the person upon whom the relevant notice in Form 1 was served.

Form 1

NOTICE OF CONTEMPLATED REMOVAL ORDER

To:

(full name of person upon whom served)

TAKE NOTICE that I am contemplating the making of a removal order under section 19 of the Immigration Ordinance 1987 in respect of you. (A removal order is an order requiring you to leave the Falkland Islands and remain outside the Islands for the time mentioned in the order). The reason I am contemplating such action is that I consider that it would be conducive to the public good to do so because —

(*here set out the reasons for the Governor considering making the order).

((Please note that the removal order I am contemplating would also extend to -

(*here set out names of any children under 16 to whom the order would extend, if made as contemplated).))

((A separate notice of contemplated removal is being served on your wife/husband.))

You have a right to object to me by sending or delivering a notice in Form 2 (two copies of a blank form of a notice in Form 2 are attached), to me at Government House, Stanley within (* complete period: the minimum period allowed is forty-eight hours). If you require further time to object to a removal, you may apply for an extension of time in which to do so. You should do this urgently if necessary.

Please note that this Notice is a notice that I am <u>contemplating</u> making a removal order. It does not mean that a removal order will necessarily be made at the expiration of the time mentioned above. IT IS IN YOUR INTERESTS TO SEND ME NOTICE IN FORM 2 IF THERE ARE ANY CIRCUMSTANCES RELATING TO YOU, YOUR WIFE AND CHILD(REN) WHICH YOU WANT ME TO CONSIDER BEFORE I DECIDE WHETHER OR NOT TO MAKE A REMOVAL ORDER. You may, of course, also draw to my attention anything which you think might persuade me that it would <u>not</u> be conducive to the public good for a removal order to be made in respect of you.

You do not have a right to see me personally in relation to this Notice. Any representations you wish to make to me must be made in Form 2.

Governor.

Notes (these are not to form part of the Notice as sent):

1. Complete appropriately where indicted by an asterisk (*).

2. Words surrounded by double brackets are not to appear if inappropriate in the circumstances of the case.

Form 2

NOTICE OF OBJECTION TO CONTEMPLATED REMOVAL ORDER

To : The Governor Government House Stanley

I object to the making of a removal order in respect of me. The grounds on which I do so are as follows -

Political offences and removal orders.

Extension of time.

A notice of removal.

GROUNDS OF OBJECTION

(You should set out below the grounds on which you object. These may continue on an annexed sheet if you have insufficient room. The grounds should include any circumstances applicable to you, your wife/husband or child(ren) which you wish to ask the Governor to consider before he decides to make a removal order. The Governor will consider these and all other grounds you give before deciding the matter).

(Continue on one or more annexed sheets if necessary) 19

DATED

Signed

NOTES

- 1. Please write in black ink if possible.
- 2. You should apply by telephone to the Personal Secretary to the Governor at Government House if you need further time to reply to the Notice in Form 1.

Form 3

IMMIGRATION ORDINANCE 1987 (Section 19)

REMOVAL ORDER

To :

IN EXERCISE of my powers under section 19 (1) of the Immigration Ordinance 1987 and considering that the same would be conducive to the public good I ORDER that ((at the expiry of (*state period: it must not be less than 14 days) from the date of service upon you of this Notice)) ((* on completion of the sentence of imprisonment which you are presently serving)) you shall be removed from the Falkland Islands to the place from which you came to the said Islands or any other place to which you consent to be removed and I may approve in my discretion, and provided that the government of that place consents to receive you.

AND TAKE NOTICE that -

(1) After removal from the said Islands you are required to remain out of the Falkland Islands ((*indefinitely)) ((*for a period of (*complete) years)).

(2) That if you wish to be removed to a place other than that from which you came you must inform me forthwith of that place and satisfy me so far as may be possible that the government of that place will consent to receive you.

 $((*(3) \text{ That this Order also applies to the following children of yours under the age of sixteen years —$

(*here specify the children)))

((*AND FURTHER TAKE NOTICE that I do hereby direct that while awaiting removal ((and while being conveyed)) to the place of departure you be kept ((*in prison)) ((*in police custody)).))

DATED 19

Governor.

(Notes: (not forming part of this Form as served).

- a. Delete inappropriate alternatives marked with an asterisk (*), and remove the double brackets (()) around the appropriate alternative.
- b. Complete appropriately where single brackets enclosing and asterisk (*) appear and do not include as part of notice as served the single brackets or the words within them.)

Made this 27th day of August 1987.



THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

Department, 1.9.87.

Department, 4.9.87.

Department, 8.9.87.

Department, 6.6.87 - 11.9.87.

Department, 28.9.87.

8.9.87.

Appointments Ms. Marian Louise Murdoch, Teacher, Education

Miss Kate Martine Leonard, Teacher, Education

John Aian Bowran, Senior Magistrate, Justice

Adam John Fowler, Teacher, Education Department,

Acting Appointments Dr. Robert James McIlroy, M.B., Ch.B., Acting Chief

Mrs. Marie Cheek, Acting Chief Clerk, Treasury

Transfers

Mrs. Danuta Valler, from Clerk, Public Service, to

Laboratory Assistant, Medical Department, 1.9.87.

Mrs. Danuta Valler, from Laboratory Assistant,

Medical Department, to Personal Assistant, Fisheries

Medical Officer, Medical Department, 2.9.87.

30th September 1987

No. 11

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 30th September 1987, was in fact published on 19th January 1988.

D. G. LANG, Attorney General.

Neil Hewitt, from Cadet Custom Officer, Customs & Harbour Department, to Junior Customs Assistant, Customs & Harbour Department, 1.9.87.

Promotion

Resignation

Mrs. Anya Alexander *nee* Smith, Nurse, Medical Department, 30.9.87.

NOTICES

No. 31.

9th September 1987.

Appointment of Official Administrator

It is notified for general information that for the purposes of Cap. 1. of the Administration of Estates Ordinance, Mrs. Sharon Halford was appointed Official Administrator with effect from 30th August 1985.

Ref: LEG/10/6.

No. 32.

No. 36.

Appointment of Commissioner for Oaths

In accordance with Section 2 (2) of the Commissioners for Oaths Ordinance 1969, John Aian Bowran is appointed Commissioner for Oaths.

Ref: LEG/10/21.

No. 33.

9th September 1987.

G. W. JEWKES,

Governor.

Appointment of Notary Public

In accordance with Section 43 of the Administration of Justice Ordinance, **His Excellency Gordon Wesley** Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands—

Hereby Appoints --

John Aian Bowran,

to be a Notary Public.

Given under my hand the 9th day of September 1987.

Ref: LEG/19/5.

G. W. JEWKES, Governor.

No. 34.

9th September 1987.

Appointment of Deputy Coroner

In accordance with Section 29 (2) of the Administration of Justice Ordinance Cap. 3, His Excellency Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoints -

John Aian Bowran,

to be a Deputy Coroner with effect from the ninth day of September 1987.

Given under my hand the 9th day of September 1987.

Ref: LEG/19/3. Governor.

No. 35.

9th September 1987.

Appointment of Senior Magistrate

In accordance with Section 7B of the Administration of Justice Ordinance, I, Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands —

Hereby Appoint —

John Aian Bowran, a Senior Magistrate with effect from the 9th day of September 1987.

Given under my hand and the Public Seal at Stanley the 9th day of September 1987.

Ref: LEG/19/5.

G. W. JEWKES, Governor. 16th September 1987.

Medical Practitioners, Midwives and Dentists Ordinance

(Cap. 45), Section 4

The following persons have been registered to practise in the Colony, South Georgia, and the British Antarctic Territory —

•		
Medical Practitioners		Qualifications
Laing, Basil Stanley	 	M.B., B.S., C.R.C.P., M.R.C.S., D.Ch.
McAdam, Noreena W.	 	M.B., B.Ch., B.A.O., D.Ch., D.R.C.O.G., M.R.C.G.P., F.P.C.
Mellroy, Robert James	 	M.B., Ch.B., (Glas).
McNeilly, Paul	 	B.M., B.S., D.Ch., B.R.C.O.G., M.R.C.G.P.
Murphy, Derek M. G.	 	M.B., B.S., M.R.C S., L.R.C.P.
Military Personnel		
Aston, Nial O.	 	M.A., M.B., B.C.M.P., L.R.C.P., F.R.C.S., R.A.M.C.
Attard, George	 	M.D., F.R.C.S.
Thompson, Maicolm C.	 	M.B., Ch.B., D.Ch., D.R.C.O.G., F.F.A.R.C.S., R.A.M.C.
Midwives		
Bennett, Christine	 	R.G.N., R.M.
Earnshaw, Jackie E.	 	S.R.N., S.C.M.
Fitzgerald, Wendy	 	S.R.N., S.C.M.
Halsall, Nina	 	S.R.N., S.C.M.
Hemingway, Jackie	 	S.R.N., S.C.M., H.V. Diploma.
O'Keefe, Leoni	 	S.R.N., S.C.M.
Russell, Mary	 	S.R. N., S.C. M
Dentists		
Watt, Andrew	 	L. D.S.
Ref: MED/7/3.		

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF ALICE FLORENCE DUNCAN, deceased of Stanley, Falkland Islands, who died at Stanley on the 25th day of June 1987, intestate.

WHEREAS Ellen Brenda Dudkowiak has applied for letters of administration to administer the estate of the said deceased in the Colony.

NOTICE IS HEREBY GIVEN pursuant to section 15 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

> S. HALFORD, Registrar.

Stanley, Falkland Islands. 23rd September 1987

PRO/5/87.



THE FALKLAND ISLANDS GAZETTE (Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCVI

15th OCTOBER 1987

No. 12

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 15th October 1987, was in fact published on 21st January 1988.

D. G. LANG, Attorney General.

NOTICE

The following are published in this Gazette -

The Fishing Licences (Applications and Fees) Regulations Order 1987 (S. R. O. 21 of 1987);

The Fishing Licences (Applications and Fees) Regulations (Amendment) Order 1987 (S. R. O. 22 of 1987).

THE FISHING (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) Regulations Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement, application and period in force.
- 2. This Order to be called Regulations etc.
- 3. Interpretation.
- 4. Suspension of certain provisions of the principal Regulations.
- 5. Types of Licence.
- 6. Applications for fishing licences.
- 7. Fees for fishing licences.
- 8. Extension of season.
- Schedule Provisions as to fishing licences in respect of the fishing season.
- Table AFinfish Licence Fees.
- Table B Jigger and Combination Vessels All Species Licence Fees.
- Table C All Species Licences for Trawlers (and, in certain circumstances, Combination Vessels).

THE FISHING (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) Regulations Order 1987

(S. R. & O. 21 of 1987)

IN EXERCISE of his powers under Section 20 of the Fisheries (Conservation and Management) Ordinance 1986 the Governor in Council makes the following Order —

1. (1) This Order may be cited as the Fishing Licences (Applications and Fees) Regulations Order 1987, shall come into force on the day it is first published in the Gazette and unless it is extended by further Order shall cease to have effect on 31st December 1988.

(2) This Order does not apply to licences for exploratory or scientific purposes or to fishing within the territorial sea or internal waters of the Falkland Islands, but nothing in this Order authorises any person to undertake exploratory or scientific fishing without a licence, nor may a licence for any such purpose be granted without the specific approval of the Governor.

2. This Order is hereinafter called "these Regulations" and any paragraph of this Order may be cited (and is hereinafter described as) a regulation bearing the same number as that paragraph and every subparagraph of a paragraph of this Order may be cited (and is hereinafter described as) as a paragraph of the same number of the regulation in which it appears.

Citation and commencement, application and period in force.

This Order to be called Regulations etc.

Interpretation.

3. In these Regulations -

"Exploratory or scientific purposes" means purposes related to the assessment of the commercial or practical viability of fishing by a particular method or for particular species of fish or to the assessment or quantification of stocks of any species of fish or fish of any age, stage of maturity or size of a species of fish or the locations in which they or any species of fish or fish of any age, stage of maturity or size may be found;

"fishing licence" means a licence to catch or take fish within the fishing waters and, for the purpose of these Regulations, does not include a licence to undertake or perform any operation or activity which, while it constitutes 'fishing' as defined by section 2 of the Ordinance, does not licence the catching or taking of fish;

"the fishing season" means -

- (a) in relation to a Finfish Licence the period commencing on 1st January 1988 and ending on 31st December 1988;
- (b) in relation to an All-Species (North) Licence, a period commencing on 1st March 1988 and ending on 30th June 1988;
- (c) in relation to an All Species (South) Licence a period commencing on 1st February 1988 and ending on 30th June 1988; and

"the principal Regulations" means the Fisheries (Fishing) Regulations Order 1986.

4. For so long as these Regulations are in force such of the provisions of the principal Regulations as are inconsistent with these Regulations shall not be in force, but except as aforesaid the provisions of the principal Regulations remain in force and shall be complied with in addition to those of these Regulations.

5. (1) For the purpose of these Regulations there shall be the following categories of licence -

- (a) A Finfish Licence;
- (b) An All Species (North) Licence; and
- (c) An All Species (South) Licence.

(2) A Finfish Licence issued under these Regulations shall authorise the catching or taking by the vessel in respect of which it is issued of finfish, that is to say vertebrate fish having a dorsal fin, or if having no dorsal fin, a ventral or pectoral fin and not in any case including squid of any kind.

Provided that a "by-catch" which in the reasonable opinion of the Director of Fisheries could not reasonably be avoided shall not be deemed to have been caught or taken without the authority of a licence.

(3) An All Species (North) Licence issued under these Regulations shall authorise the catching or taking within the northern area of fish of any species.

(4) An All Species (South) Licence issued under these Regulations shall authorise the catching or taking within the southern area of fish of any species.

(5) For the purposes of this regulation -

"northern area" means all that part of the Falkland Islands Interim Conservation and Management Zone which lies to the north of 51 degrees 20 minutes of south latitude;

"southern area" means all that part of the Falkland Islands Interim Conservation and Management Zone which lies to the south of 51 degrees 20 minutes of south latitude.

(6) Nothing in the foregoing provisions of these Regulations shall prevent both an All Species (North) Licence and an All Species (South) Licence being applied for in respect of the same vessel, provided that an application fee under paragraph (2) of regulation 6 is paid in respect of each application.

(7) Where an applicant applies for an All Species (North) Licence and an All Species (South) Licence in respect of the same vessel —

- (a) the applicant shall in his application state whether the applications are in the alternative to each other or whether, instead, he wishes a licence of each category to be granted in respect of the vessel;
- (b) unless the applicant has stated that he wishes a licence of each category to be granted in respect of the vessel, a licence in one only of the two categories shall be granted in respect of a vessel;

Suspension of certain provisions of the principal Regulations. Types of

Licence.

(c) if a licence in each category is granted in respect of a vessel, the licensee shall pay a licence fee of two and one half times the fee which would have been payable if the licence had been granted in respect of one category only.

6. (1) Applications for All Species Licences in respect of the whole or any part of any fishing season shall be made to the Director of Fisheries at the Falkland Islands Government Office London and shall not be made to him addressed to him at Stanley, Falkland Islands.

(2) Any application to which paragraph (1) of this regulation relates shall be accompanied by an application fee of £200 (which shall not be returnable whether or not the application is granted) and shall be made so as to be received thereat by 1600 Universal Time Constant on 23 October 1987.

(3) The Director of Fisheries in his discretion may consider an application lodged after the time and date mentioned in paragraph (2) of this regulation but shall not be bound to do so.

7. (1) Table A of the Schedule to these Regulations applies in respect of the fees payable Fees for licences.

(2) Table B of the Schedule to these Regulations applies in respect of the fees payable for All Species Licences granted to jiggers and combination vessels except that, in the circumstances mentioned therein, Table C shall apply to fees payable for certain All Species (South) Licences granted in respect of combination vessels.

(3) Table C of the Schedule to these Regulations applies in respect of the fees payable for All Species Licences granted to trawlers which are not combination vessels and All Species (South) Licences granted in respect of certain combination vessels.

(4) For the purpose of this regulation, a "combination vessel" means a fishing boat which is equipped so as to be able to catch or take fish both by jigging machines and by a trawl or trawls.

(5) All fees payable under this regulation shall be paid in pounds sterling and in accordance with the principal Regulations.

(6) The explanatory notes at the commencement of each Table in the Schedule to these Regulations are for guidance only and shall not have legislative effect.

8. (1) The Director of Fisheries may, if he thinks fit to do so having regard to the interests of conservation and management of squid of the kind known as *Loligo* extend or offer to extend licences issued (other than Finfish Licences) for such period beyond 30th June 1988 as he thinks fit.

(2) The Director shall not be bound to offer to extend all licences relevant to paragraph (1) of this regulation or to extend every licence extended for identical periods:

Provided that any licence extended under this regulation shall be extended for a period of not less than two months.

(3) Any offer of extension of a licence under this regulation shall be subject to a payment of such fee as may be prescribed by regulations made before or after such offer. Extension ofseason.

Applications for fishing licences.

fishing licences.

SCHEDULE

Provisions as to fishing licences in respect of the fishing season

TABLE A

Finfish Licence Fees (Trawlers only)

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. A Finfish Licence does *not* authorise the catching of squid and may be subject to a condition as to gear which may be applied so as to regulate net mesh size or area and attachments.

3. The season for Finfish Licences is 1st January 1988 to 31st December 1988 and, unless for conservation and management reasons the whole or parts of the zone are closed for any period, will be valid throughout the Falkland Islands Conservation and Management Zone.)

Effective text (of legislative effect)

A. The fees set out in the following scale are applicable in respect of the fishing season for Finfish Licences 1st January 1988 to 31st December 1988.

B. If the licence is granted for less than five months, the amount calculated as per the scale below is to be abated by one-sixth for each *whole* month less than five for which the licence is granted. If on the other hand, the licence is granted for more than six months that amount is to be increased by one-sixth for every complete month more than six.

C. In the following Scale, "GT" means Gross Tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules. Where the tonnage of the ship exceeds a figure appearing in column 1 of the Scale, but does not exceed that of the next following figure appearing in that Column, the fee is to be calculated on the basis of that next following figure in Column 1.

D. A licence is not transferable.

9	SCALE	
Gross Tons	Am	ount of
		£
200		8604
300		10716
400		12768
500		14748
600		15668
700		18516
800		20304
900		22032
1000		23688
1100		25284
1200		26808
1300		28272
1400		29676
1500		31008
1600		32280
1700		33480
1800		34620
1900		35688
2000		36696
2100		37644
2200		38520
2300		39336
2400		40080
2500		40764
2600		41376
2700		42000
2800		42000

2900

SCALE

of Fee

42000

TABLE B

Jiggers and Combination Vessels

All Species Licences

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. This Table applies to jiggers and to combination vessels and not to trawlers. Except as stated in paragraph C below, Table C below does not, therefore apply to a trawler fitted with jigging equipment or to a jigger fitted with trawling equipment.

3. The Formula set out in this Table applies to a jigger licensed for one or other of the two areas (i.e. for the northern area or the southern area). In respect of combination vessels and vessels licensed to fish in *both* the northern area and the southern area, the Scale must be multiplied in accordance with the paragraphs below.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

B. The following Formula relates to the number of jigging lines and not the number of jigging machines.

C. The Formula relates to a licence for a jigger for *one* area only. Where the vessel is a combination vessel, the fee payable for a licence for *one* area is 120% of the amount derived by the Formula. Where a vessel is licensed for *both* the northern and southern areas, the fee payable is twice the fee payable in respect of *one* area, *plus* a premium of 50%. For example, a combination vessel licensed in respect of both areas will pay 360% of the amount derived by the Formula. In the case where an All Species (South) Licence is granted to a combination vessel and Table C would result in a higher fee being payable, the fee under Table C is applicable instead of the fee calculated under the following Formula.

D. A licence is not transferable.

FORMULA

Fee payable is lesser of (a) and (b).

(a) Is £84,000.

(b) Is result of $(0.868 \times \text{GT x number of jigging lines}) + \text{\pounds}28,000$.

TABLE C

All Species Licences for Trawlers (and, in certain circumstances, Combination Vessels).

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. Table B, and not this Table, applies to Trawlers fitted with jigging equipment except as provided in Table B.

3. The Scale set out in this table applies to a trawler licensed for one or other of the two areas (i.e. for the northern area or the southern area. In respect of trawlers licensed to fish in *both* the northern area and the southern area, the Scale must be multiplied in accordance with the paragraphs below.)

Effective provisions (of legislative effect)

A. The fees set out in the following Scale apply to the fees for licences for a trawler to fish in the northern area (that is to say north of 51 degrees 20 minutes) or licensed to fish in the southern area (that is to say south of 51 degrees 20 minutes). Paragraph B applies if the trawler is licensed to fish in both areas.

B. Where a trawler is licensed to fish in *both* the northern and southern areas the fees payable are two and a half times the fee specified in the Scale below.

C. In the following Scale, "GT" means Gross Tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules. Where the tonnage of the ship exceeds figure appearing in column 1 of the Scale, but does not exceed that of the next following figure appearing in that Column, the fee is to be calculated on the basis of that next following figure in Column 1.

D. This Table applies in respect of All Species (South) Licences granted to combination vessels in the circumstances specified in Table B.

E. A licence is not transferable.

Gross Tonnage	Pounds Sterling
200	33625
300	36216
400	38806
500	41396
600	43987
700	46577
800	49167
900	51758
1000	54348
1100	56938
1200	59529
1300	62119
1400	64710
1500	67300
1600	69890
1700	72481
1800	75071
1900	77661
2000	80252
2100	82842
2200	85432
2300	88023
2400	90613
2500	93204
2600	95794
2700	98384
2800	100975
2900	100975

Made this 7th day of October 1987.

G. W. JEWKES, Governor.

Printed by the Government Printer. FALKLAND ISLANDS.

THE FISHING (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) Regulations (Amendment) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement.

2. Replacement of regulation 7.

3. Replacement of Tables B and C in the Schedule.

THE FISHING (CONSERVATION AND MANAGEMENT) ORDINANCE 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) Regulations (Amendment) Order 1987

(S. R. & O. 22 of 1987)

IN EXERCISE of his powers under Section 20 of the Fisheries (Conservation and Management) Ordinance 1986 the Governor in Council makes the following Order -

This Order may be cited as the Fishing Licences (Applications and Fees) Regulations Citation and (Amendment) Order 1987, shall come into force on the day it is first published in the Gazette, but with effect from 9th October 1987.

2. Regulation 7 of the Fishing Licences (Applications and Fees) Regulations Order 1987 is revoked and replaced by the following new regulation 7 -

"Fees for licences.

7. (1) Table A of the Schedule to these Regulations applies in respect of the fees payable for Finfish Licences.

(2) Table B of the Schedule to these Regulations applies in respect of the fees payable for All Species Licences granted to jiggers.

(3) Table C of the Schedule to these Regulations applies in respect of the fees payable for All Species Licences granted to trawlers and combination vessels.

(4) For the purpose of this regulation, a "combination vessel" means a fishing boat which is equipped so as to be able to catch or take fish both by jigging machines and by a trawl or trawls.

(5) All fees payable under this regulation shall be paid in pounds sterling and in accordance with the principal Regulations.

(6) The explanatory notes at the commencement of each Table in the Schedule to these Reglations are for guidance only and shall not have legislative effect."

3. Tables B and C appearing in the Schedule to the Fishing Licences (Applications and Fees) Regulations Order 1987 are revoked and replaced by the following Tables B and C.

Replacement of Tables B and C in the Schedule.

commencement.

Replacement of regulation 7.

Jiggers

All Species Licences

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. This Table applies to jiggers and not to trawlers or combination vessels.

3. The Formula set out in this Table applies to a jigger licensed for the northern area.

In practice, a jigger will not be licensed in respect of the southern area, because *Loligo* are not caught by jigging lines).

Effective text (of legislative effect)

A. In the following Formula, "GT" means "Gross Tonnage" as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules.

B. The following Formula relates to the number of jigging machines, but a double jigging machine is to be reckoned as one and a half jigging machines.

C. A licence is not transferable.

FORMULA

Fee payable is lesser of (a) and (b).

(a) Is £84,000.

(b) Is result of $(0.868 \times \text{GT x number of jigging machines}) + £28,000$, (but a double jigging machine is to be reckoned as one and a half jigging machines).

TABLE C

All Species Licences for Trawlers and Combination Vessels

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. This Table applies to Trawlers and combination vessels.

3. The Scale set out in this table applies to a trawler licensed for one or other of the two areas (i.e. for the northern area or the southern area. In respect of trawlers licensed to fish in *both* the northern area and the southern area, the Scale must be multiplied in accordance with the paragraphs below.)

Effective provisions (of legislative effect)

A. The fees set out in the following Scale apply to the fees for licences for a trawler to fish in the northern area (that is to say north of 51 degrees 20 minutes) or licensed to fish in the southern area (that is to say south of 51 degrees 20 minutes). Paragraph B applies if the vessel is licensed to fish in both areas.

B. Where a trawler or combination vessel is licensed to fish in *both* the northern and southern areas the fees payable are two and a half times the fee payable in respect of *one* area.

C. In the following Scale, "GT" means Gross Tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules. Where the tonnage of the ship exceeds figure appearing in column 1 of the Scale, but does not exceed that of the next following figure appearing in that Column, the fee is to be calculated on the basis of that next following figure in Column 1.

D. In respect of a combination vessel, the fees in the following scale are to be increased by twenty per cent and paragraph B will apply in respect of that increased fee.

E. A licence is not transferable.

SCALE

Gross Tonnage	Pounds Sterling
200	33625
300	36216
400	38806
500	41396
600	43987
700	46577
800	49167
900	51758
1000	54348
1100	56938
1200	59529
1300	62119
1400	64710
1500	67300
1600	69890
1700	72481
1800	75071
1900	- 77661
2000	80252
2100	82842
2200	85432
2300	88023
2400	90613
2500	93204
2600	95794
2700	98384
2800	100975
2900	100975

Made this 12th day of October 1987.

WRIT OF ELECTION

To Sharon Halford, Returning Officer, Stanley Constituency

WHEREAS Section 28 (2) of the Falkland Islands Constitution 1985 provides that whenever an elected member of the Legislative Council vacates his seat for any reason, other than a dissolution of the Council, an election shall be held to fill the vacancy, on such date as the Governor shall appoint by Proclamation published in the Gazette, within 70 days of the occurrence of the vacancy unless the Council is sooner dissolved or under Section 29 (3) of the aforesaid Constitution will be dissolved within 126 days of the occurrence of the vacancy;

AND WHEREAS Section 5 of the Legislative Council (Elections) Ordinance Chapter 37 provides that the Governor shall appoint one or more registration officers and a returning officer for each electoral area or electoral division;

AND WHEREAS Section 13 (1) of the Legislative Council (Elections) Ordinance Chapter 37 provides that the Governor shall for the purpose of every general election of members and of the election of members to fill vacancies caused by death, resignation or otherwise, issue writs of election under the Public Seal directed to the returning Officer of the respective electoral areas or electoral division for which members are to be returned;

NOW, THEREFORE, I, GORDON WESLEY JEWKES, Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of the Falkland Islands do hereby direct that you, Sharon Halford, the duly appointed returning officer for the Stanley Constituency —

- (a) do receive the nomination of any duly qualified candidate for election to the Legislative Council at the Town Hall, Stanley, between the hours of 8.30 a.m. and 12 noon on Monday the sixteenth day of November 1987;
- (b) do take a poll of electors for the election of one candidate on Monday the thirtieth day of November 1987 at the Town Hall, Stanley, or at such other place or places as may be necessary and practicable should you receive nominations for more than one candidate;
- (c) do return this writ endorsed as provided by law on or before the twenty-first day of November 1987 if there be no poll required and on or before the third day of December 1987 if a poll be required.

GIVEN under my hand and the Public Seal this twenty-sixth day of October 1987.

NOTICES

In accordance with Section 21 (1) of the Legislative Council (Elections) Ordinance Chapter 37, I Hereby Appoint Owen Horace McPhee to be Presiding Officer and Linda Margaret Lyse and Candy Joy Blackley to be Deputy Presiding Officers at the polling station at the Town Hall, Stanley, for the Stanley Constituency, for the poll to be held on Monday the thirtieth day of November 1987.

Dated this twenty-sixth day of October 1987.

G. W. JEWKES, Governor.

BY - ELECTION

In accordance with Section 22 of the Legislative Council (Elections) Ordinance Chapter 37 His Excellency the Governor has appointed the hours of polling in the Stanley Constituency to be 9 a.m. to 6 p.m. at the poll to be held on Monday the thirtieth day of November 1987.

Dated this twenty-sixth day of October 1987.

G. W. JEWKES, Governor.

In accordance with Section 5 of the Legislative Council (Elections) Ordinance Chapter 37, I Hereby Appoint Sharon Halford, Registrar General, to be the returning officer for the Stanley Constituency, for the poll to be held on Monday the thirtieth day of November 1987.

Dated this twenty-sixth day of October 1987.



THE

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It is hereby notified that this issue of the Gazette, although dated 31st October 1987, was in fact published on 21st January 1988.

D. G. LANG, Attorney General.

Appointments	Promotion		
Charles George Carter, Director of Public Works,	David Ford, from Fireman, Police, Fire & Rescue		
Public Works Department, 6.10.87.	Service, to Sub-Fire Officer, Police, Fire & Rescue		
Ms. Carol Susan Howes, Woman Police Constable,	Service, 6.10.87.		
Falkland Islands Police Force, 8.10.87.	Transfers		
Melvyn John Lloyd, Engineman, Power Station,	Mrs. Lilian Guthrie, from Senior Clerk, Education		
Public Works Department, 21.10.87.	Department, to Senior Clerk, Secretariat, 1.10.87.		
Roger Neil Rogers, Engineman, Power Station, Public	Michael Luxton, from Sub-Fire Officer, Police, Fire		
Works Department, 27.10.87.	& Rescue Service, to Executive Officer, Treasury		
Acting Appointments	Department, 1.10.87.		
Dr. Robert James McIlroy, M.B., Ch.B., Acting Chief	Resignations		
Medical Officer, Medical Department, 2.9.87 -	John Lennon, Engineman, Power Station, Public		
15.10.87.	Works Department, 25.10.87.		
Mrs. Kathleen Gay Clarke, Acting Chief Finance	John Sinclair Webster, Engineman, Power Station,		
Officer, Treasury Department, 17.6.87 - 16.10.87.	Public Works Department, 26.10.87.		

NOTICES

No. 37.

8th October 1987.

On the 7th day of October 1987, the following persons were elected by the elected members of the Legislative Council to be members of the Executive Council for a period of twelve months.

The Honourable J. E. Cheek, The Honourable A. T. Blake, The Honourable T. S. Betts.

Ref: EXCO/35/1G.

No. 38.

12th October 1987.

Naval Ports Ordinance 1987

In accordance with Section 4 of the Naval Ports Ordinance 1987, G. W. Jewkes, Governor, appointed Vivian Meazza, Commander in Her Majesty's Navy, to be the Queen's Harbour Master in respect of all Naval Ports for the time being declared under Section 3 of the Naval Ports Ordinance on the second October 1987.

Ref: CUS/44/L

D. G. Lang, Attorney General.

Customs Ordinance (Cap. 16)

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

CORPORAL D. J. MOORE, R.A.F., to be a temporary Customs Officer with effect from 18th September 1987 to the 18th January 1988.

> L. J. HALLIDAY, Collector of Customs.

Customs Ordinance (Cap. 16)

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

MAJOR D. W. BROWN,

to be a temporary Customs Officer, South Georgia, with effect from the 23rd October 1987 to the 23rd February 1988.

L. J. HALLIDAY, Collector of Customs.

Application for licences

In accordance with Section 7 (1) of the Licensing Ordinance, Mr. Robert Fiddes has applied for the undermentioned licences in respect of the Upland Goose Hotel -

Residential Licence

Restaurant Licence

Any objection to the granting of these licences must be made to the Treasury not later than 4th November 1987.

H. T. ROWLANDS, Financial Secretary.

The Treasury, Stanley. 12th October 1987.

NOTICE

The following are published in this Gazette —

The Legislative Council (Allowances) Order 1987; The Executive Council (Allowances) Order 1987.

THE LEGISLATIVE COUNCIL (ALLOWANCES) ORDINANCE 1977 (No. 8 of 1977) (Section 3)

The Legislative Council (Allowances) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation and commencement.

2. Allowances.

3. Revocation.

THE LEGISLATIVE COUNCIL (ALLOWANCES) ORDINANCE 1977 (No.8 of 1977)

The Legislative Council (Allowances) Order 1987

(S. R. & O. 19 of 1987)

IN EXERCISE of my powers under section 3 of the Legislative Council (Allowances) Ordinance 1977 I make the following Order -

1. This Order may be cited as the Legislative Council (Allowances) Order 1987 and shall come into operation on the date of its first publication in the Gazette.

2. (1) With effect from 1st day of July 1987, the allowances payable to elected members Allo of the Legislative Council shall be as follows —

- (a) members for Stanley Constituency, £540 a year; and
- (b) members for Camp Constituency, £810 a year, in addition to any expenses reasonably and actually incurred in travel or Council business, and in each case, proportionately for any part of a year.

(2) Allowances payable under sub paragraph (1) are payable in addition to any allowance payable to such member under section 3 of the Executive Council (Allowances) Ordinance 1977.

3. The Legislative Council (Allowances) Order 1986 is revoked.

(No. 7 of 1977).

Revocation (No. 2 of 1986).

Made this 2nd day of October 1987.

G. W. JEWKES Governor. Citation and commencement.

Allowances.

THE EXECUTIVE COUNCIL (ALLOWANCES) ORDINANCE 1977 (No. 7 of 1977) (Section 3)

The Executive Council (Allowances) Order 1987

ARRANGEMENT OF PARAGRAPHS

Paragraph

- 1. Citation and commencement.
- 2. Allowances.
- 3. Revocation.

THE EXECUTIVE COUNCIL (ALLOWANCES) ORDINANCE 1977 (No. 7 of 1977)

The Executive Council (Allowances) Order 1987

(S. R. & O. 20 of 1987)

IN EXERCISE of my powers under section 3 of the Executive Council (Allowances) Ordinance 1977 I make the following Order —

1. This Order may be cited as the Executive Council (Allowances) Order 1987 and shall come into operation on the date of its first publication in the Gazette.

2. With effect from the 1st day of July 1987, the allowances payable to an elected member of Executive Council shall be £360 a year and proportionately for any part of a year and shall be payable in addition to any allowance payable to such member under the provisions of section 3 of the Legislative Council (Allowances) Ordinance 1977.

3. The Executive Council (Allowances) Order 1978 is revoked.

Citation and commencement.

Allowances.

(No. 8 of 1977).

Revocation. (No. 3 of 1978).

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Made this 2nd day of October 1987.

G. W. JEWKES Governor.

Printed by the Government Printer, Stanley, Falkland Islands. Price : Two Pounds.



THE

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It is hereby notified that this issue of the Gazette, although dated 17th November 1987, was in fact published on 10th February 1988. D. G. LANG,

Attorney General.

NOTICE

No. 39 17th November 1987. The Legislative Council (Elections) Ordinance (Cap. 37) and the Constitutional (Qualification, Nomination and Election of Candidates) Regulations 1985.

NOTICE OF ELECTION

In accordance with Section 19 of the Legislative Council (Elections) Ordinance (Cap. 37) I give notice that a poll will be taken on Monday, 30th November 1987, at the Town Hall, Stanley, for the election of a member to Legislative Council for Stanley Constituency.

The Candidates for election are as follows -

Candidate : William Edward BOWLES

Proposer : Alice Mary Etheridge

Seconder : Malcolm George Stanley Binnie

Supporters : Stuart Alfred Booth Patrick William Peck Angus Jaffray Earling Kenny Leslie Sydney Harris Winifred Ellen Luxton Sara Emma Maude Sollis

Candidate :	Carol Wendy TEGGART
Proposer :	John Smith
Seconder :	Charles Ronald Buckland
Supporters :	Melody Christine Betts Peter Durose Felton Orlanda Betty Butler William Roderick Halliday Morrison
	Sandra May Winifred Hirtle Susan Clayton Glennis Ashworth
Proposer :	Lawrence Jonathan Butler
Seconder :	Richard William Hills
Supporters :	Grace Elizabeth Goss Heather Hills
	Kathleen Gladys Berntsen
	William Blyth Berntsen
	Derek Smith
	Robert Stewart Celia Joyce Stewart.
	C. F. REDSTON,
	Candidate : Proposer : Seconder :

C. F. REDSTON, Acting Chief Executive.

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THE

FALKLAND ISLANDS GAZETTE (Extraordinary)

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Date of Publication

It is hereby notified that this issue of the Gazette, although dated 20th November 1987, was in fact published on 19th February 1988. D. G. LANG,

Attorney General.

NOTICE

The following are published in this Gazette —

The Agency (Adopted Laws) Bill 1987;

The Estate Duty (Repeal) (Amendment) Bill 1987;

The Fisheries (Conservation and Management) (Amendment) Bill 1987;

The Immigration (Amendment) Bill 1987;

The Old Age Pensions (Amendment) (No. 2) Bill 1987;

The Pensions (Amendment) Bill 1987;

The Road Traffic (Amendment) Bill 1987;

The Swimming Pool (Trust Fund) Bill 1987;

The Taxes and Duties (Special Exemptions) Bill 1987.

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The Agency (Adopted Laws) Bill 1987

(No. of 1987)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short title and commencement.
- 2. Adoption of English Acts.
- 3. Restriction on effect of section 78 of Interpretation and General Clauses Ordinance 1977.

Schedule English Acts adopted and modifications adaptions and exceptions subject to which they are adopted as laws of the Falkland Islands.

A Bill for

An Ordinance

To adopt certain English Acts of Parliament relating to agency as laws of the Falkland Islands subject to certain modifications, adaptions and exceptions.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Agency (Adopted Laws) Ordinance 1987, and shall come into force on such a date as it is first published in the Gazette.

2. The Acts of the United Kingdom Parliament ("the Acts") specified in Column 1 of the Schedule to this Ordinance are adopted as law of the Falkland Islands to the extent and subject to the modifications, adaptions and exceptions specified in Column 2 of the said Schedule.

3. Notwithstanding section 78 of the Interpretation and General Clauses Ordinance 1977, no amendment, statutory modification or replacement of any of the Acts specified in the Schedule made by Act of Parliament in the United Kingdom after 1st day of July 1984 shall have effect in the Falkland Islands.

commencement. Adoption of

Short title and

Restriction on effect of section 78 of Interpretation and General Clauses Ordinance 1977.

SCHEDULE

ENGLISH ACTS ADOPTED AND MODIFICATIONS ADAPTIONS AND EXCEPTIONS SUBJECT TO WHICH THEY ARE ADOPTED AS LAWS OF THE FALKLAND ISLANDS.

Title of Act. Extent to which adopted and modifications and adaptions. Column 1 Column 2 1. Factors Act 1889 (52 & 53 Vic. c. 45). The whole act, subject to the following modification — In paragraph (ii) of section 9 the words "which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974" shall be omitted.

The whole Act subject to the following modifications -

- (a) in subsection (3) of section 1 the words "legal practitioners" shall be substituted for the word "solicitor"; and
- (b) in subsection (5) of section 1 the words "one thousand pounds" shall be substituted for the words "level 3 on the standard scale".
- 3. Powers of Attorney Act (1971 c. 27).

2. Accomodation Agencies Act 1953

(1 & 2 Eliz. 2 c. 23).

Sections 1, 3, 4, 5 and 7 and 10 subject to the following exceptions, modifications and adaptions -

(a) in subsection (3) of section 1 the words "any other law of or having effect in the Falkland Islands" shall be substituted for the words "any other Act";

- (b) in paragraph (b) of subsection (1) of section 3 the words "justice of the peace, notary or legal practitioners" shall be substituted for the words "solicitors or stockbrokers";
- (c) subsection (3) of section 3 shall be omitted;
- (d) the following subsection shall be substituted for subsection (4) of section 3 —

"(4) This section is without prejudice to any other method of proof authorised by law";

(e) the following subsection shall be substituted for subsection (6) of section 5 --

"(6) In this section "purchaser" shall mean a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration aquires an interest in property, (except that where expressly so provided by any law of or having effect in the Falkland Islands "purchaser" only means a person who aquires an interest in or charge a property for money or money's worth) and where the context so requires "purchaser" includes an intending purchaser: "purchase" has a meaning corresponding with that of "purchase" and, for the purpose of this subsection "valuable consideration" includes marriage but does not include a nominal consideration in money".

 (f) subsections (2) and (3) of section 7 shall be omitted and the following subsections shall have effect in place thereof —

"(2) This section shall have effect subject to any provisions of law of or having effect in the Falkland Islands whereby any instrument is required to be executed or signed by a person himself and which excludes explicitly or implicitly execution or signature of that instrument on his behalf by the donee of a power of attorney executed by him.

(3) Any provision of or applying any law of in the Falkland Islands which requires that an instrument shall be executed or signed in the name of a person ("that person") may, subject to subsection (2) of this section, be executed or signed in the name of that person by the donee, under a power of attorney executed by that person which would extend to authorise such donee to execute or sign that instrument if it were not required to be executed or signed in the name of that person".

(g) in subsection (2) of section 10 all words appearing after the words "personal representative" shall be omitted.

OBJECTS AND REASONS

As stated in the long title to the Bill.

The Estate Duty (Repeal) (Amendment) Bill 1987 (No. of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title.
- 2. The principal Ordinance.
- 3. Amendment of section 1 of the principal Ordinance.

A Bill for

An Ordinance

To amend the Estate Duty (Repeal) Ordinance 1987.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Estate Duty (Repeal) (Amendment) Ordinance 1987.

2. In this Ordinance, "the principal Ordinance" means the Estate Duty (Repeal) Ordinance 1987.

3. Section 1 of the principal Ordinance is amended by the deletion of the word "June" and the substitution therefor of the word "May".

Short title.

The principal Ordinance. (No. 12 of 1987) Amendment of section 1 of the principal Ordinance.

OBJECTS AND REASONS

To correct an error in section 1 of the principal Ordinance.

The Fisheries (Conservation and Management) (Amendment) Bill 1987 (No. of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title and commencement.
- . 2. The principal Ordinance.
 - 3. Amendment of section 2 of the principal Ordinance.
 - 4. Amendment of section 4 of the principal Ordinance.
 - 5. Amendment of section 7 of the principal Ordinance.
 - 6. Amendment of section 9 of the principal Ordinance.
 - 7. Repeal and replacement of section 21 of the principal Ordinance.

A Bill for

An Ordinance

To amend the Fisheries (Conservation and Management) Ordinance 1987.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Fisheries (Conservation and Management) (Amendment) Ordinance 1987, and shall come into operation at the first day of January 1988.

2. In this Ordinance "the principal Ordinance" means the Fisheries (Conservation and Management) Ordinance 1986.

- 3. Section 2 of the principal Ordinance is amended by -
 - (a) the insertion of the following definitions immediately after the definition of "fish" contained in that section —

""land store" means a building or facility on land in the Falkland Islands designed and constructed for the purpose of the storage of fish or if not so designed and constructed, actually used or intended to be used for the storage of fish;

"operational transhipment of fish" means the transfer of fish during the course of any activity described in paragraphs (a) and (b) of the definition appearing in this section of "fishing" from a fishing boat engaged in such an activity and licensed under section 4 to another fishing boat which is licensed under section 4 of this Ordinance to carry out fishing; and included in this definition is any transfer of fish from the nets of other devices for taking fish employed by a fishing boat engaged in the activities mentioned in this definition to another fishing boat engaged in those activities and which is not a "transport vessel" as defined in this section; "primary transhipment of fish" means any transhipment of fish whereby other than by way of operational transhipment of fish, fish is first transferred within the fishing waters from a fishing boat, to —

- (a) another fishing boat (and whether or not that fishing boat is licensed under section 4); or
- (b) a land store;

and "secondary transhipment of fish" means any transhipment of fish which is not -

- (i) an operational transhipment of fish, or
- (ii) a primary transhipment of fish; "

Short title and commencement.

The principal Ordinance (No. 11 of 1986). Amendment of section 2 of the principal Ordinance. (b) by the insertion of the following new definition immediately after the definition of "transhipment of fish" appearing therein —

" "transport vessel" means a vessel designed and constructed or in fact used for the transport of fish not caught or taken by that vessel and whether or not -

- (a) other fish are caught or taken by that vessel;
- (b) it is intended that fish received by that vessel shall subsequently be transhipped to another vessel or to a land store;
- (c) any process is intended to be carried out aboard that vessel upon or in relation to fish transferred to that vessel; "
- (c) the deletion of the definition of "fishing" appearing therein and by the insertion of the following new definition of "fishing"
 - " "fishing" means -
 - (a) the catching or taking of fish; and
 - (b) any other operation or activity likely as a direct result thereof to result in the catching or taking of fish or intended as a direct result thereof to result in the catching or taking of fish; "
- (d) by the amendment of the definition of "transhipment of fish" appearing in that section by the insertion immediately after the word "another" appearing therein of the words "or to a land store";
- (e) by the deletion of the definition of "Director of Fisheries" and the insertion of the following new definition of "Director of Fisheries" —

" "Director of Fisheries" means the Director of Fisheries appointed under section 9 (1) and includes any Deputy Director of Fisheries appointed under that provision; ".

4. Section 4 of the principal Ordinance is amended by the addition thereto of the following new subsection -

Amendment of section 4 of the principal Ordinance.

"(11) A fishing licence may be endorsed with a statement that the licence shall also operate as a licence for transhipment of fish or export by the fishing boat to which the fishing licence relates and, if so endorsed, the fishing licence —

- (a) shall be deemed to constitute a transhipment and export licence granted under section 7 (4) of this Ordinance;
- (b) may contain such authorisations, limitations or conditions as may lawfully be imposed or inserted in a licence granted under section 7 (4) by that subsection or by section 7 (5) of this Ordinance;
- (c) may be granted subject to payment of such additional fee or fees as would be payable in respect of a licence granted under section 7 (4) or section 7 (5) of this Ordinance;
- (d) notwithstanding paragraph (a) of this subsection shall, unless otherwise specifically stated in the endorsement, authorise only transhipment of fish from the fishing boat to which the fishing licence relates and not the receiving of fish by that fishing boat from any other fishing boat;
- (e) shall not operate so as to excuse from the requirements of section 7 of this Ordinance any fishing boat receiving fish from the fishing boat to which the fishing licence so endorsed relates.

Subsections (7), (8), (9), (10) and (11) of section 7 shall apply to the fishing licence insofar as it constitutes also a transhipment licence or export licence to the same extent as they appear to a transhipment licence or export licence applied for and granted under section 7. "

5. (1) Subsection (1) of section 7 of the principal Ordinance is repealed and replaced by the following new subsection (1) —

"(1) This section applies to -

(a) a primary transhipment of fish from a fishing boat to another fishing boat or to a land store;

Amendment of section 7 of the principal Ordinance. (b) the transport aboard any vessel or aircraft of any fish from the fishing waters or the Falkland Islands to any other place not within the fishing waters or the Falkland Islands, and any transhipment of fish to which this section applies and the removal or transport (in this section called "export") of any fish from the fishing waters or from the Falkland Islands subject to section 4 (ii) of this Ordinance is unlawful unless it is authorised by, and carried out in accordance with a transhipment licence or export licence granted under subsection (4) of this section. "

(2) Subsection (2) of section 7 of the principal Ordinance is repealed and replaced by the following new subsection (2) -

"(2) If —

- (a) a fishing boat (whether or not it is a transport vessel);
- (b) an aircraft; or
- (c) a land store,

as the case may be, is used for the transhipping or export of fish contrary to subsection (1) —

- (i) the owner, any charterer and the master of any fishing boat from which the fish is transferred contrary to subsection (1);
- (ii) the owner, any charterer and the master of any fishing boat by which the fish is received contrary to subsection (1);
- (iii) the owner, any charterer and the master of any fishing boat upon which fish is exported contrary to subsection (1);
- (iv) the owner, any charterer and the person in command of any aircraft on which the fish is exported;
- (v) the owner, lessee and any occupier of any land store at which the fish is received,

as the case may be, commits an offence:

Provided that -

- (aa) it shall be a defence in any prosecution for an offence under this subsection for the defendant to prove that the fish concerned in the alleged offence was not taken, caught or captured in the fishing waters;
- (bb) it shall be a defence for the owner of any fishing boat or aircraft concerned in the alleged offence to prove —
 - (i) that at the time of the alleged offence the fishing boat or aircraft was chartered to another person; and
 - (ii) that he did not know of the transhipment or export taking place, or if he did know of it, that he could not reasonably have prevented it taking place;
- (cc) it shall be a defence in any prosecution for an offence under this subsection for the owner of any land store concerned in the alleged offence to prove —
 - (i) that at the time of the alleged offence, the land store in question was leased to or occupied by another person; and
 - (ii) that he did not know that the transhipment was taking place, or if he did know of it, that he could not reasonably have prevented it taking place.

PENALTY £100,000. "

(3) Subsection (4) of section 7 of the principal Ordinance is repealed and replaced by the following new subsection (4) -

"(4) Licences to which this section relates may be granted --

(a) in the case of a transhipment licence -

- to the owner or charterer of a specified fishing boat from which fish is to be transferred;
- (ii) to the owner or charterer of a fishing boat by which fish is to be received; and
- (iii) to the owner, lessee or occupier of a land store by which fish is to be received; and

- (b) in the case of an export licence
 - (i) to the owner or charterer of a specified fishing boat on board which the fish is to be exported,
 - (ii) to the owner or charterer of a specified aircraft on board which the fish is to be exported.

and any such licence may —

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- (aa) authorise the licensee to tranship or export any fish at any time during the period specified in the licence;
- (bb) authorise the licensee to tranship or export fish at any time during the period specified in the licence but contain a limitation in relation to the species or the aggregate weight or quantity of fish of any species or the weight or quantity of species of the kind mentioned in the licence, the transport or export of which the licence authorises;
- (cc) in the case of a transhipment licence limit the area within which fish or fish of a particular species may be transhipped under the authority of the licence;
- (dd) limit the periods or times during which fish may be transhipped or exported during the currency of the licence;
- (ee) in the case of a transhipment licence require notice of the length and kind specified in the licence to be given to the Director of Fisheries before any transhipment of fish is made from or to the fishing boat or to a land store;
- (ff) in the case of a transhipment licence, require that no transhipment shall take place unless Fisheries Protection Officer is on board the fishing boat to which the licence relates or, in the case of a land store to which the licence relates, unless a Fisheries Protection Officer is present at that land store;
- (gg) in the case of a transhipment licence, limit the number of transhipments which may be undertaken under authority of the licence;
- (hh) in the case of an export licence, limit the number of times that the fishing boat or aircraft specified in the licence may export fish; and
- (ii) contain such other limitations or conditions as the Director of Fisheries may consider necessary or expedient for the regulation of the transhipment or export of fish. "

(4) Subsections (5) and (6) of section 7 of the principal Ordinance are repealed and replaced by the following new subsections (5) and (6) -

"(5) Without prejudice to the generality of paragraph (ii) of subsection (4), conditions under that paragraph may include conditions as to -

- (a) treatment on board a fishing boat whether or not it is a transport vessel or as a land store receiving fish of the fish received by that fishing boat or by that land store; and
- (b) (in respect of a land store) the security of a land store licensed to receive fish.

(6) Any person who, without the consent of the Director of Fisheries, removes or receives any fish from a land store other than under the authority of an export licence and for the purpose of export of the fish under that licence, commits an offence under this subsection:

Provided that the Director of Fisheries shall not refuse his consent to the removal of reasonable quantities of fish by the licensee from a land store for the purpose of the sale or disposal of that fish for consumption by persons resident in the Falkland Islands. PENALTY £20,000. "

(5) Subsection (7) of the section 7 of the principal Ordinance is amended by -.

- (a) the insertion immediately after the words "fishing boat" appearing therein, of the words "or, in the case of an aircraft, the owner or charterer of the aircraft";
- (b) the insertion, immediately after the words "export licence" appearing therein, of the words "and, in the case of a land store named in a transhipment licence, the owner, lessee or occupier of that land store;";

- (c) by the deletion, immediately after the words "agent named" appearing therein of the words "in the licence" and the substitution in their place of the words "in any such licence".
- 6. Section 9 of the principal Ordinance is amended by -
 - (a) the deletion of all words appearing in subsection (1) before paragraph (a) thereof, and the substitution of the following words —

"The Governor shall appoint a public officer to be the Director of Fisheries and may appoint another public officer to be the Deputy Director of Fisheries. The Deputy Director of Fisheries may, subject to any directions of the Governor to the contrary, exercise any power and discharge any responsibility conferred upon the Director of Fisheries by this Ordinance or by any Order made thereunder. The Director of Fisheries' responsibilities under this Ordinance include — "

7. (1) Section 21 of the principal Ordinance is repealed and replaced by the following new section 21 -

"21 (1) Except as expressed in subsection (2) of this section, the Fisheries Ordinance shall not, after the commencement of this Ordinance, apply to those parts of the fishing waters as do not fall within the territorial waters or internal waters of the Falkland Islands.

(2) Regulations made before the commencement of this Ordinance under section 3 of the Fisheries Ordinance shall, notwithstanding subsection (1) of this section, continue to apply to the whole of the fishing waters except insofar as they may be inconsistent with this Ordinance or any regulations made under this Ordinance. "

(2) Section 21 of the principal Ordinance in the form enacted in this Ordinance shall be deemed to have formed part of the principal Ordinance as originally enacted.

OBJECTS AND REASONS

The objects of this Bill are -

- (a) to amend certain definitions and add new definitions;
- (b) to provide for a post of Deputy Director of Fisheries;
- (c) to amend certain provisions as to licences.

Amendment of section 9 of the principal Ordinance.

Repeal and replacement of section 21 of the principal Ordinance Cap. 27.

The Immigration (Amendment) Bill 1987

(No. of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title and commencement.
- 2. The principal ordinance.
- 3. Amendment of Section 2 of the principal Ordinance.
- 4. Amendment of Section 3 of the principal Ordinance.
- 5. Amendment of Section 5 of the principal Ordinance.
- 6. Amendment of Section 8 of the principal Ordinance.
- 7. Repeal and replacement of Section 23 of the principal Ordinance.
- 8. Amendment of Section 25 (2) of the principal Ordinance.

A Bill for An Ordinance To Amend the Immigration Ordinance.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Immigration (Amendment) Ordinance 1987, and shall come into force on 1st January 1988.

2. In this Ordinance, "the principal Ordinance" means the Immigration Ordinance 1987.

3. Section 2 of the principal Ordinance is amended by the insertion in the definition of "enter" appearing in that section, immediately after paragraph (c) of that definition —

"(d) without prejudice to (a) above a vessel enters or arrives in the Falkland Islands at the moment it first enters the territorial waters of the Falkland Islands other than for the purpose of immediate transit through those waters on voyage to a port or harbour outside the Falkland Islands; ".

4. (1) Subsection (2) of section 3 of the principal Ordinance is amended by the deletion of the words "section 5 (1) (c)" and the insertion in their place of the words "section 5 (1) (b) and (c)".

(2) Section 3 of the principal Ordinance is further amended by the addition thereto, immediately after subsection (2) thereof, of the following new subsections (3), (4) and (5) -

"(3) Except as provided by subsections (4) and (5) of this section, nothing in this Ordinance applies to any person who is a member of Her Majesty's Forces entering or remaining in the Falkland Islands in the course of his duties as a member of such Forces;

but otherwise this Ordinance applies to that person.

- (4) The principal immigration officer may require a person claiming to be a person exempted from the provisions of this Ordinance by virtue of subsection (3) of this section to produce such documents or other evidence as may be reasonably necessary to satisfy himself that that person is such a person.
- (5) A certificate in writing signed by or by the authority of the Commander of British Forces in the Falkland Islands that a person is a member of Her Majesty's Forces or of a visiting force and is on duty in the Falkland Islands shall be conclusive as to those facts in accordance with its tenor. "

Short title and commencement

The principal Ordinance. No. 15 of 1987 Amendment of section 2 of the principal Ordinance.

Amendment of section 3 of the principal Ordinance.

- 5. Section 5 of the principal Ordinance is of amended
 - (a) by the insertion immediately after the word "Ordinance" where it first appears in subsection (1) of that section of the punctuation and words ", subject to this section";
 - (b) by the insertion in paragraph (a) of subsection (1) of that section, immediately after the word "ship" of the punctuation and word ", aircraft";
 - (c) by the renumbering of subsections (2), (3), (4) and (5) of that section as subsections (3), (4), (5) and (6) respectively;
 - (d) by the insertion therein immediately after subsection (1) of that section of the following new subsection (2) —
 - "(2) The Principal Immigration Officer shall not, without the consent of the commanding officer of a ship or aircraft belonging to Her Majesty or of the Commander British Forces in the Falkland Islands, exercise his powers under paragraph (a) of subsection (1) to enter upon or into and search that ship or aircraft?";
 - (e) in subsection (4) of that section (as renumbered by paragraph (c) above) by the deletion of the parentheses and numeral "(2)" and by the substitution in their place of the parentheses and numeral "(3)".
- 6. Section 8 of the principal Ordinance is amended -

"Appeals

- (a) by inserting therein at the commencement thereof, and immediately before the words "The citizens" appearing therein, the parentheses and numeral "(1)" (so constituting the existing section as subsection (1) of that section); and
- (b) by inserting therein, immediately after subsection (1) thereof as so constituted, the following new subsections ---
 - "(2) Without prejudice to subsection (1), the Governor may, by Order in Council, exempt such classes or categories of persons as are specified in such Order from any requirement to possess a valid visa.
 - (3) An Order under subsection (2) of this section may prescribe conditions to be performed or observed by any person exempted thereby from any requirement to possess a valid visa and may further provide —
 - (a) that any breach by a person of any such condition shall render that person's presence in the Falkland Islands unlawful and an offence under paragraph (i) of subsection (1) of section 24 of this Ordinance;
 - (b) whether by such condition or otherwise that a person to whom such an exemption applies shall be permitted to enter at such place or places and remain in the Falkland Islands only in such area or areas as a may be specified in such an Order and that if a person enters or, as the case may be remains, otherwise than as so prescribed he commits an offence under the said paragraph (i) of subsection (1) of section 24 of this Ordinance?'

7. Section 23 of the principal ordinance is repealed and replaced by the following new section 23 -

Repeal and replacement of section 23 of the principal Ordinance.

23. (1) A person aggrieved by a decision of the principal immigration officer may, subject to this section, appeal against that decision to the Governor in Council.

(2) No appeal lies under at the instance of any person against a decision not to grant a visa, to limit the period of validity of a visa, not to extend the period of validity of a visa, not to vary the conditions of a visa or not to renew a visa, unless subsection (3) of this section applies in the circumstances of the case.

(3) An appeal lies against a decision not to grant a visa, to extend the validity of a visa, or to renew a visa if the ground on which the application was not granted was that the applicant is, in the opinion of the Principal Immigration Officer, a person to whom paragraphs (d), (f) or (g) of subsection (2) of section 16 of this Ordinance applies.

Amendment of section 5 of the principal

Ordinance.

Amendment of section 8 of the principal

Ordinance.

(4) An appeal to which subsection (3) of this section applies shall operate as an appeal against the finding of the Principal Immigration Officer that the person affected thereby is a prohibited person under one of the provisions mentioned in subsection (3) of this section and, accordingly, if the appeal is allowed, the case shall be remitted to the Principal Immigration Officer for reconsideration of the application on the basis that the applicant is not a prohibited person under the relevant provision mentioned in subsection (3) of this section, and the Principal Immigration Officer shall forthwith reconsider that application and may again refuse to grant that application on any other ground on which he could have refused it in the first instance.

(5) Subject to subsection (6), a person who is aggrieved by a decision of the Principal Immigration Officer not to grant, renew, extend or vary the conditions of a permit may appeal in accordance with this section against that decision.

(6) No appeal lies under subsection (5) of this section against a decision of the Principal Immigration Officer -

- (a) not to grant, renew or extend a permit where the person to whom the decision relates is the subject of an order under section 19; or
- (b) where the person concerned
 - (i) is outside the Falkland Islands; and
 - (ii) has not during any time within the preceding three years held a permit, other than a visitor's permit, granted under this Ordinance; and
 - (iii) is not a person who, by Order made under section 8 (1) of this Ordinance, is exempted from visa requirements.

(7) An appeal made under this section shall be made in such manner as may be prescribed by Regulations.

(8) Subject to subsection (4) of this section, on determining an appeal to which this section relates the Governor in Council may —

- (a) allow the appeal; or
- (b) dismiss the appeal,

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and if the Governor in Council allows an appeal, he may on doing so direct the Principal Immigration Officer to grant, extend, renew or vary any permit to which the appeal relates either unconditionally or subject to any condition or limitation which the Principal Immigration Officer could himself lawfully impose on the grant, extension, renewal or variation of that permit, and the Principal Immigration Officer shall comply with that direction.

(9) The decision of the Governor in Council on an appeal under this section shall not except on a point of law be called into question in any court in any manner whatsoever; but this subsection shall not apply to any decision on such an appeal which is alleged to contravene any provision of sections 1 to 15 inclusive of Schedule 1 to the Falklands Islands Constitution Order 1985, (fundamental rights and freedoms) insofar as is necessary to enable the question of such alleged contravention to be determined and any order consequential upon such determination to be made.

(10) A further appeal lies to the Supreme Court, but on a point of law only, against the decision of the Governor in Council on any appeal to which subsections (1) to (8) of this section relate; and on the determination of such further appeal the Supreme Court may make such order as it considers just and expedient in the circumstances of the case.

(11) For the purposes of this section, any reference in it to a decision not to grant, renew, extend or vary a permit includes a failure within a reasonable time to notify the applicant in question of a decision on his application."

Amendment of section 25 (2) of the principal Ordinance.

- 8. Subsection (2) of section 25 of the principal Ordinance is amended -
 - (a) by the deletion of the full stop at the end thereof and the insertion in its place of a semicolon;
 - (b) by the addition of the following new paragraphs (d) and (e) immediately after paragraph (c) of that subsection
 - "(d) any act or omission specified therein to be an offence and that on conviction of any offence so specified, the offender shall be liable to imprisonment for such period and to a fine of such amount or to a fine of such amount as is thereby specified but so that no term of imprisonment so specified in respect of any such offence shall exceed three months and no fine thereby specified shall exceed one thousand pounds;
 - (e) that in respect of such offences under this Ordinance or any regulations made thereunder specified in such Regulations, and in the circumstances specified in such Regulations, the alleged offender may, if he wishes, elect to pay a sum ("an administrative penalty") to the Government (being not greater than the maximum sum he might be ordered to pay by way of fine if he were convicted of that offence), and if he pays that administrative penalty, he shall not be convicted of or prosecuted in respect of, that offence."

OBJECTS AND REASONS

The objects of this Bill are -

- (a) to exempt servicemen from entry requirements;
- (b) to enable conditions to be attached to visa exemptions;
- (c) to make different provisions as to appeals; and
- (d) to extend the matters which may be dealt with by regulations.

The Old Age Pensions (Amendment) (No. 2) Bill 1987

(No. of 1987)

ARRANGEMENT OF SECTIONS

Clause

1. Short title.

- 2. The principal Ordinance.
- 3. Amendment of the principal Ordinance.

A Bill for

An Ordinance

To amend the Old Age Pensions Ordinance.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Old Age Pensions (Amendment) (No. 2) Ordinance Short title. 1987.

2. In this Ordinance, "the principal Ordinance" means the Old Age Pensions Ordinance 1952.

3. The principal Ordinance is amended by the addition thereto of the following new section 26 -

"Discretionary pensions.

26. (1) Where the Governor is advised by the Executive Council that it considers that it would be desirable so to do having regard -

(a) to the facts of the particular case; and

(b) the personal circumstances of the person concerned,

he may be writing authorise the payment of a pension to a person who is not entitled to any pension under the foregoing provisions of this Ordinance, subject to subsection (2) of this section, of such amount or on such basis of calculation and from such date as he thinks fit ("an ex gratia pension").

(2) An ex gratia pension shall -

- (a) not exceed in amount the maximum amount of pension payable under any foregoing provision of this Ordinance to any person thereby entitled to a pension; and
- (b) not be payable as of right; and
- (c) may be brought to an end at any time by the Governor on the advice of the Executive Council revoking the authority for such payment?'

OBJECTS AND REASONS

The objects of this Bill are to enable an old age pension to be paid if it just and equitable so to do, notwithstanding that the person concerned is not strictly entitled to a pension on the basis of contributions.

The principal Ordinance

Amendment of the principal Ordinance.

The Pensions (Amendment) Bill 1987

(No. of 1987)

Arrangement of Clauses

Clause

- 1. Short title.
- 2. The principal Ordinance.
- 3. Amendment of the principal Ordinance.

A Bill for

An Ordinance

To amend the Pensions Ordinance 1965.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Pensions (Amendment) Ordinance 1987.

2. In this Ordinance "the principal Ordinance" means the Pensions Ordinance 1965.

3. The principal Ordinance is amended by the repeal of section 18F thereof and by the insertion in its place of the following new section 18F -

"Commencement and application of Part II. 18F. (1) The foregoing provisions of this Part of this Ordinance shall be deemed to have effect from 1st July 1977 in respect of all officers in the public service of the Government of the Falkland Islands on or after that date.

(2) The foregoing provisions of this Part of this Ordinance shall apply to widows and children of officers in the public service of the Government of the Falkland Islands who are not by virtue of the effect of subsection (1) of this section entitled to a pension under the provisions of section 18A or 18B of this Ordinance, subject to subsection (3) of this section and the following conditions —

- (a) the person concerned is the widow or child of a deceased officer who, at some time prior to his death, was in the public service of the Government of the Falkland Islands;
- (b) the person concerned would have been entitled to a pension under section 18A or 18B of this Ordinance (whichever, in the circumstances of the case, is appropriate) if the deceased officer had been alive and an officer in the public service of the Government of the Falkland Islands on 1st July 1977,

and for the purposes of this section, the references in section 18A and 18B of this Ordinance to a pensioner or officer having completed ten years' pensionable service shall be construed as a reference to his or her having completed ten years' pensionable service at the time of his retirement from the public service of the Government of the Falkland Islands or at the time of his or her death (whichever is in the circumstances of the case appropriate).

(3) No pension shall be paid to a person entitled thereto by the operation of subsection (2) of this section and not by subsection (1) of this section in respect of any period elapsed before 1st July 1987."

OBJECTS AND REASONS

The objects of this Bill are to enable pensions to be paid to the families of public officers who retired as a public officer or died while a public officer before 1st July 1977, so as to put them on the same footing as those of public officers dying or retiring after that date.

Short title. The principal

Ordinance.

Amendment of

the principal Ordinance.

The Road Traffic (Amendment) Bill 1987

(No. of 1987)

Arrangement of Provisions

Clause

- 1. Short title and commencement.
- 2. Meaning of "the principal Ordinance".
- 3. New sections 8, 9, 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H, 9I, 9J, 9K, 9L, 9M, 9N, 9P and 9Q of the principal Ordinance.
- 4. Miscellaneous amendments to the principal Ordinance.
- 5. New sections 17A and 17B of the principal Ordinance.

Schedule Amendments to Principal Ordinance.

- PART I General Amendments to the principal Ordinance.
- PART II Miscellaneous amendments of particular provisions and repeals of particular provisions of the principal Ordinance.

A Bill for An Ordinance To amend the Road Traffic Ordinance.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Road and Traffic (Amendment) Ordinance 1987, Short title and and shall come into operation on such date as the Governor in Council may, by notice commencement. published in the Gazette, appoint.

2. In this Ordinance "the principal Ordinance" means the Road Traffic Ordinance.

Meaning of "the principal Ordinance" Cap. 38. New sections of principal Ordinance.

3. Sections 8 and 9 of the principal Ordinance are repealed and the principal Ordinance is amended by the insertion therein, immediately after section 7A, of the following new sections -

"Causing death by reckless driving. 8. (1) A person commits an offence who causes the death of another person by driving a motor vehicle on a road or in a public place recklessly.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for seven years and to a fine of ten thousand pounds and shall be disqualified from holding or obtaining a driving licence for such period as will result in him being so disqualified for a period of at least five years but, if on the same occasion he is sentenced to a term of imprisonment in respect of that offence, for a period of at least five years following his release from prison, and a court convicting a person of an offence against subsection (1) who has on a previous occasion been convicted of such an offence shall disqualify that person from holding or obtaining a driving licence at any time during the remainder of his lifetime.

(3) A person who is indicted with an offence of manslaughter shall, if he is acquitted of that offence by the Supreme Court, be convicted of an offence under subsection (1) if the court considers that, on the evidence before the court, he has committed an offence under subsection (1), and notwithstanding that he has not been indicted with an offence under that subsection.

(4) A person shall not, in respect of the same facts, be convicted both of an offence under subsection (1) and of the offence of manslaughter.

Manslaughter: disqualification from holding or obtaining a driving licence. 9. Whenever a person is convicted of the offence of manslaughter and the court convicting him is satisfied that the death of another person giving rise to the conviction was caused by the driving on a road or in a public place by the convicted person of a motor vehicle, that court shall, in addition to any other punishment, disqualify the convicted person from holding or obtaining a driving licence for such period as will result in him being so disqualified for a period of at least seven years from the date of his conviction but, if on the same occasion he is sentenced to a term of imprisonment, for a period of at least seven years following his release from prison:

Provided that where the court is satisfied that the convicted person has on a previous occasion been convicted -

- (a) of an offence of manslaughter in respect of which obligatory disqualification from holding or obtaining a driving licence under this subsection arose, or would have arisen if this subsection had been in force at the time of such conviction; or
- (b) of an offence under section 8 (1), the court shall disqualify him from holding or obtaining a driving licence during his lifetime.

9A. (1) A person commits an offence who causes serious injury to another person by driving a motor vehicle on a road or in a public place recklessly.

(2) A person who is convicted of an offence under subsection (1) is liable to imprisonment for twelve months and to a fine of five thousand pounds and shall be disqualified from holding or obtaining a driving licence for a period of at least twelve months from the date of his conviction, but, if on the same occasion he is sentenced to imprisonment, for a period of at least twelve months following his release from prison.

(3) A person commits an offence who drives a motor vehicle on a road or in a public place recklessly.

(4) A person who is convicted of an offence under subsection (3) is liable to imprisonment for six months and to a fine of one thousand pounds and shall be disqualified from holding or obtaining a driving licence for a period of at least six months but, if on the same occasion he is sentenced to imprisonment, for a period of at least six months following his release from prison.

(5) A person who is charged with an offence under subsection (1) shall, if he is acquitted of that offence be convicted of an offence under subsection (3) if the court considers that, on the evidence before the court, he has committed an offence under subsection (3) and notwithstanding that he has not been charged with an offence under that subsection.

(6) A person may not be convicted, upon the same facts, both of an offence under subsection (1) and of an offence under subsection (3).

(7) A person who is acquitted of an offence under subsection (1) and is not convicted of an offence under subsection (3) by virtue of subsection (5), and a person who is charged with and acquitted of an offence under subsection (3), shall be convicted of an offence under section 9C (1) if the court considers that on the evidence before the court he has committed an offence under section 9C (1), and notwithstanding that he has not been charged with an offence under that subsection.

Obvious and serious risk test.

9B. (1) A person shall not be convicted of an offence under section 8 (1) or section 9A (1) or (3) by reason of the manner of his driving unless the court is satisfied that that person was driving the motor vehicle in such a manner as to create an obvious and serious risk of causing physical injury to some other person who might happen to be using the road or in close proximity to the road or of doing substantial damage to property, ("an obvious and serious risk"), and the court is further satisfied that in driving in that manner the accused did so without having given any thought to the possibility of there being any such risk or, having recognised that there was some risk involved, the accused had nevertheless gone on to take it.

Reckless driving.

(2) In considering whether, for the purposes of subsection (1), the risk created by the manner in which the vehicle was being driven was both obvious and serious, the court shall apply what appears to it to be the standard of the ordinary prudent motorist.

(3) If the court is satisfied that an obvious and serious risk was created by the manner of the accused's driving, the court shall be entitled to infer that the accused was in one or other of the states of mind required under subsection (1) but before so inferring the court shall give regard to any explanation the accused gives as to his state of mind which may displace that inference.

(4) It is irrelevant for the purposes of this section that the accused was at the time in question by reason of a self-induced state of intoxication by drink or drugs incapable of thinking of or recognising the risk referred to in subsection (1).

(5) The foregoing subsections of this section shall apply in relation to an indictment of manslaughter where it is alleged that the death of another was caused by the manner in which the accused drove a motor vehicle with the following modifications -

- (a) for the words "as to create an obvious and serious risk of causing physical injury to some other person" in subsection (1) there shall be substituted the words "as to render it more likely than not that physical injury of some kind would be done to some other person" and the words "or of doing substantial damage to property" shall be omitted;
- (b) in subsection (2) for the words "was both obvious and serious" shall be substituted the words "was such as to render it more likely than not that physical injury would be done to some other person"; and
- (c) in subsection (3) for the words "an obvious and serious risk was created" there shall be substituted the words "it was more likely than not that physical injury would be done to some other person".

Driving without due care and attention. **9C.** (1) A person commits an offence who drives a motor vehicle on a road without due care and attention.

(2) A person commits an offence who drives a motor vehicle on a road without reasonable consideration for other persons using that road.

(3) A person convicted of an offence under subsection (1) or (2) is liable -

- (a) on the first occasion on which he is so convicted, to a fine of two hundred pounds;
- (b) on any subsequent conviction on which he is so convicted to a fine of one thousand pounds.

(4) A person who, prior to the commencement of this section was convicted to an offence under section 8 (4) of this Ordinance as it existed immediately prior to the commencement of this section shall for the purposes of subsection (3) of this section be deemed to have been convicted of an offence under subsection (1) or (2) of this section.

(5) A person shall not be convicted on the same facts of offences -

- (a) both under subsection (1) and under subsection (2) of this section; or
- (b) both under subsection (1) or (2) of this section and of an offence under section 8 (1), section 9A (1) or section 9A (2) of this Ordinance.

9D. (1) A person commits an offence who, when driving or attempting to drive a motor vehicle on a road or in a public place, is unfit to drive through drink or drugs.

(2) Without prejudice to subsection (1), a person commits an offence who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs.

Driving or being in charge, while under the influence of drink or drugs. (3) For the purposes of subsection (2), a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of driving so long as he remained unfit to drive through drink or drugs but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

(4) For the purposes of this section a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

9E. (1) A police officer may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing or has committed a relevant offence.

(2) For the purpose of arresting a person under the power conferred by subsection (1), a police officer may enter (if need be by force) any place where that person is, or where the police officer, with reasonable cause, suspects him to be.

(3) For the purposes of subsection (1), "relevant offence" means an offence under sections 8, 9A or 9D of this Ordinance.

- 9F. (1) A person commits an offence who -
 - (a) drives or attempts to drive a motor vehicle on a road or in a public place; or

(b) is in charge of a motor vehicle on a road or other public place, after consuming so much alcohol that the proportion of it in his breath exceeds the prescribed limit.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that at the time he is alleged to have committed the offence the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath remained likely to exceed the prescribed limit; but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

9G. (1) For the purposes of the sections 9F, 9H, 9L and 9M "the prescribed limit" means such amount of alcohol in his breath as is prescribed by regulations.

(2) For the purposes of this Ordinance, a person does not provide a specimen of breath for a breath test or for analysis unless the specimen is sufficient to enable the test or analysis to be carried out and it is provided in such a way as to enable the objective of the test or analysis to be achieved.

(3) The Governor in Council may make regulations for the purposes of subsection (1) of this section.

9H. (1) If a police officer in uniform has reasonable cause to suspect —

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion; or
- (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or in a public place with alcohol in his body and that that person still has alcohol in his body; or
- (c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the vehicle was in motion,

he may, subject to section 91, require him to provide a specimen of breath for a breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place a police officer may require any person whom he has reasonable cause to believe was driving or attempting to drive or

Powers of arrest etc. in respect of offences under 8 (1), 9A (1), 9A(3), 9D (1), and 9D (2).

motor vehicle with alcohol concentration above prescribed limit.

Driving or being

in charge of a

Meaning of "prescribed limit" etc.

Breath tests.

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in charge of the vehicle at the time of the accident to provide a specimen of breath for a breath test, but subject to section 91.

(3) A person may be required under subsection (1) or subsection (2) of this section to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) and the police officer thinks fit, at a police station specified by the police officer.

(4) A person commits an offence who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section.

(5) A police officer may arrest a person without warrant if —

- (a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath exceeds the prescribed limit; or
- (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the police officer has reasonable cause to suspect that he has alcohol in his body,

but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.

(6) For the purpose of requiring a person to provide a specimen of breath under subsection (2) in a case where he has reasonable cause to suspect that the accident involved injury to another person or of arresting him in such a case under subsection (5) a police officer may enter (if need be by force) any place where that person is or where the police officer, with reasonable cause, suspects him to be.

(7) In this section "traffic offence" means any offence under sections 7, 8, 9A, 9C, 9D, 9F, 9N or 9P.

91. (1) In the course of an investigation whether a person has committed an offence under section 9D or 9F of this Ordinance a police officer may, subject to this section, require him to provide two specimens of breath for analysis by means of a device of a type approved by the Governor in Council.

(2) A requirement under this section to provide specimens of breath can only be made at a police station.

(3) On requiring any person to provide a specimen of breath in pursuance of this section a police officer shall warn him that a failure to provide it may render him liable to prosecution.

(4) A person commits an offence who, without reasonable excuse, fails to supply a specimen of breath when required to do so under this section.

9J. (1) When a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test under section 9H unless the medical practitioner in immediate charge of his case has been notified of the proposal to make a requirement and if the requirement is then made it shall be for the breath test to be undertaken at the hospital, but if the medical practitioner objects on the ground specified in subsection (2), the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement would be prejudicial to the proper care and treatment of the patient.

9K. (1) A person convicted of an offence under respect of section 9D(1), 9D(2), 9F(1), 9H(4) or 9I(4) is subject to subsection (3) of this section, liable on conviction to imprisonment not exceeding twelve months and to a fine of not exceeding one thousand pounds.

(2) A person who is convicted of an offence to which subsection (1) relates shall, unless for special reasons to be recorded in writing the court otherwise orders, be disqualified from holding or obtaining a driving licence, subject to subsection (3), for a period of not less than twelve months from the date of his conviction.

Provision of specimens for analysis.

hospital patients.

Protection for

Penalties in respect of offences under sections 9D (1), 9D (2), 9F (1), 9H (4) and 91 (4). (3) A person who is convicted of an offence to which subsection (1) relates who has, on any previous occasion within the ten years preceding the date of conviction of the offence of which he is then convicted, been convicted of any offence to which subsection (1) relates or of any offence under 8 (2) of section of the Ordinance in the form it was immediately before the commencement of this section shall -

- (a) be liable to imprisonment for three years or to a fine of five thousand pounds or both such imprisonment and such fine; and
- (b) unless for special reasons to be recorded in writing the court otherwise orders, be disqualified from holding or obtaining a driving licence for a period of not less than three years from that date.

(4) A court convicting a person of an offence to which subsection (1) relates shall order that any driving licence he may hold shall be endorsed with particulars of that conviction.

(5) In this section, "special reasons" means special reasons related to the commission of the offence and does not, except insofar as they may be related to the commission of the offence, extend to circumstances related to the offender.

9L. (1) The following provisions apply with respect to proceedings for an offence under section 9D or section 9F of this Ordinance.

(2) Evidence of the proportion of alcohol in a specimen of breath provided by the accused shall in all cases be taken into account, and it shall be assumed that the proportion of alcohol in the accused's breath at the time of the alleged offence was not less than in the specimen; but if the proceedings are for an offence under section 9F of this Ordinance, or for an offence under section 9D of this Ordinance in a case where the accused is alleged to be unfit through drink, the assumption shall not be made if the accused proves —

- (a) that he consumed alcohol after he had ceased to drive or be in charge of a motor vehicle on a road or other public place and before he provided the specimen; and
- (b) that had he not done so the proportion of alcohol in his breath would not have exceeded the prescribed limit and, if the proceedings are for an offence under section 9D of this Ordinance, would not have been such as to impair his ability to drive properly.

(3) Evidence of the proportion of alcohol in a specimen of breath may, subject to subsection (4) of this section, be given by the production of a document purporting to be a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement.

(4) A document purporting to be such a statement or such a certificate as or both such a statement and such a certificate is mentioned in subsection (3) of this section is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing; but a document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than three days before the hearing, or within such further time as the court may in special circumstances allow, has served notice on the Chief Police Officer requiring the attendance at the hearing of the police officer by whom the document purports to be signed.

Evidence in proceedings for an offence under sections 9D or 9E.

Detention of persons affected by alcohol.

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9M. A person required to provide a specimen of breath may thereafter be detained at a police by station until it appears to a police officer that, were that person then driving or attempting to drive a motor vehicle on

a road or other public place, he would not be committing an offence under section 9D or section 9F of this Ordinance; but a person shall not be detained in pursuance of this section if it appears to a police officer that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath exceeds the prescribed limit.

Speed limit.

9N. (1) Subject to subsection (4), a person commits an offence who drives a motor vehicle —

- (a) on a road within the boundaries of Stanley or on any other road designated by the Governor by Order in Council as an urban road at a speed greater than twenty five miles per hour; or
- (b) on any other road designated by the Governor as a restricted road at a speed greater than forty miles an hour or greater than such lower speed as the Governor may by Order in Council prescribe for that road.

(2) A person who is convicted of any offence under subsection (1) shall be liable in the case of a first conviction to a fine not exceeding two hundred pounds and in the case of any later conviction of any offence under that subsection to a fine of one thousand pounds.

(3) A person who prior to the commencement of this section was convicted of any offence under section 8 (3) of this Ordinance in the form it was at any time before the commencement of this section existing shall be deemed for the purposes of subsection (2) of this section to have been convicted of that offence under subsection (1) of this section.

9P. (1) Section 12 of the Theft Act 1968 shall cease to have effect in the Falkland Islands and the following provisions of this section shall have effect in place of that section.

(2) Subject to subsections (6) and (7) of this section, a person commits an offence if, without having the consent of the owner or other lawful authority, he takes or attempts to take any conveyance for his own or another's use or, knowing that any conveyance has been taken without such authority, he drives it or attempts to drive it or allows himself to be carried on it.

(3) A person convicted of an offence under subsection (2) of this section shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five thousand pounds or both such imprisonment and such fine.

(4) The court convicting a person of an offence under subsection (2) or (6) may make any compensation order which a court in England might make under the Powers of Criminal Courts Act 1973 and the provisions of that Act, subject only to such variations and modifications as are necessary in relation to the differing authorities of and courts having jurisdiction in the Falkland Islands, shall apply in respect of any such order.

(5) If a court on trial of a person for theft of a conveyance acquits the accused but is nevertheless satisfied on the evidence before it that the accused committed an offence under subsection (2) or subsection (6) that court shall convict the accused of the appropriate offence under subsection (2) or subsection (6) even if he has not been charged with it.

(6) Subsection (2) does not apply in relation to pedal cycles, but subject to subsection (7), a person who, without the consent of the owner or other lawful authority takes or attempts to take a pedal cycle for his own or another's use, or rides or attempts to ride a pedal cycle knowing it to have been so taken, commits an offence and is liable on conviction to a fine not exceeding two hundred pounds.

(7) A person does not commit an offence under this section by anything done in the belief that he has lawful authority to do it or that he would have the owner's consent if the owner knew of his doing it and of the circumstances of it.

Taking motor vehicles etc. without authority.

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- (8) For the purposes of this section
 - (a) "conveyance" means any conveyance constructed or adapted for the carriage of a person or persons whether by land, water, or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried on it, and "drive" shall be construed accordingly;
 - (b) "owner" in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement means the person in possession under that agreement;
 - (c) "theft" has the same meaning as it has under the Theft Act 1968.

(9) The court, upon convicting a person of an offence under subsection (2) shall order that his driving licence be endorsed with particulars of that conviction and may disqualify him from holding or obtaining a driving licence for such period as the court thinks fit.

(10) A police officer may arrest without warrant any person reasonably suspected by him of having committed, being in the course of committing, having attempted or being in the course of attempting an offence under this section.

Summary offences. 9Q. (1) A person commits an offence who contravenes any of the regulations made under this Ordinance and relating to the use of motor vehicles.

(2) Subject to subsection (3) a person commits an offence who drives a motor vehicle on the pavement or footway of a road or without lawful authority on a public jetty.

(3) A person shall not be convicted of an offence under subsection (2) if he satisfies the court that the motor vehicle was driven for the purpose of saving life or extinguishing fire or any like emergency.

(4) A person who is convicted of an offence under this section is liable to a fine of not exceeding two hundred pounds but if he has previously been convicted of an offence of the like kind under this section or, prior to the commencement of this section, under section 8 of this Ordinance in the form it then was, to a fine of not exceeding five hundred pounds."

- 4. The principal Ordinance is further amended
 - (a) generally, in the manner specified in Part I of the Schedule to this Ordinance; and
 - (b) in relation to the provisions specified in the lefthand column of Part II of that Schedule in the manner specified in the righthand column thereof.

5. The principal Ordinance is further amended by the insertion therein of the following new sections 17A and 17B —

"Restrictions on prosecution. (24 & 25 Vic. c. 100)

(24 & 25 Vic. c.

100)

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17A. (1) After the commencement of this section, no prosecution may be brought in respect of an alleged offence under section 35 of the Offences Against the Person Act 1861 in its application to the Falkland Islands where -

- (a) the alleged offence was committed after the commencement of this section;
- (b) the alleged offence arises out of the furious driving or racing of a carriage within the meaning of that provision; and
- (c) that carriage or vehicle is a motor vehicle within the meaning of that expression under section 2 of this Ordinance,

but section 35 of the Offences Against the Person Act 1861 shall otherwise remain in full force and effect in the Falkland Islands.

(2) No prosecution in respect of an alleged offence under section 8 (1) (causing death by reckless driving) or section 9A (1) (causing serious injury by reckless driving) may be brought except by or with the written consent of the Attorney General.

(3) No prosecution may be commenced in respect of an alleged offence under section 3, section 4, section 4A, section 5, section 6, section 7, Miscellaneous amendments to the principal Ordinance. section 9C, section 9D, section 9F, section 9H, section 9I, section 9N, or section 9Q of this Ordinance after the expiration of six months from the date of the alleged offence and for the purposes of this subsection, a prosecution is commenced when a person is charged by the police with that offence or a summons is issued in respect of it, whichever is the earlier.

Jurisdiction of the courts.

17B. (1) The Senior Magistrate has jurisdiction to try and determine any alleged offence under this Ordinance and, on conviction of any person of such an offence, to sentence any such person to any imprisonment for any period for thereby and provided to order him to pay any fine provided for, and to make any other order provided for by this Ordinance.

(2) The Court of Summary Jurisdiction has the like jurisdiction as the Senior Magistrate has under subsection (1) except that it has no jurisdiction in respect of alleged offences under section 8 (1) or section 9A(1)."

SCHEDULE

AMENDMENTS TO PRINCIPAL ORDINANCE

PART I

GENERAL AMENDMENTS TO PRINCIPAL ORDINANCE

- (a) The words "Officer in Charge of Police" are deleted wherever they appear and are replaced by the words "Chief Police Officer";
- (b) The words "Civil Commissioner" shall be deleted wherever they appear and are replaced by the word "Governor";
- (c) The words "police constable" are deleted wherever they appear and are replaced by the words "police officer".

PART II

MISCELLANEOUS AMENDMENTS OF PARTICULAR PROVISIONS AND REPEALS OF PARTICULAR PROVISIONS OF THE PRINCIPAL ORDINANCE

Provision

(i) section 1. The whole section is restored to the form it had before the commencement of the Road Traffic (Amendment) Ordinance 1977.

(ii) section 2.

(a) The full stop at the end of the definition of "Hire car" or "taxi" is removed and the following words are added after the word "vehicle" appearing in that definition "constructed or adapted for the carriage of not more than nine persons in addition to the driver thereof. ".

Amendment

(b) The following additional definitions are added at the end of the section -

" "Coach" means a Public Service Vehicle which is not a Hire car or taxi.

"Police officer" means any person who is a member of the Falkland Islands Police Force and includes a reserve member of that Force.

"Drug" means any substance, other than alcohol, the consumption of which may have the effect of impairing a person's ability of drive.

"Serious injury" means any injury to a person -

- (a) whereby any of the bodily senses of touch, sight, hearing or taste is significantly and permanently impaired;
- (b) whereby any permanent scar of cosmetic importance is occasioned;
- (c) involving any damage to any of his vital organs;
- (d) involving the loss of any digit;
- (e) involving any fracture of any bone; or
- (f) whereby that person's enjoyment of life is significantly and permanently impaired or his expectation of life is significantly diminished.

"Fail" includes refuse.

"Hospital" means an institution which provides medical or surgical treatment for inpatients or out-patients.

"public place" means any place within the boundaries of Stanley to which the public are for the time being admitted and whether or not on payment of any admission or other charge or subject to conditions.

- (iii) section 3 (1). There is inserted after the word "Governor" the words "and those in respect of which no duty is payable by virtue of paragraph (d) of section 4 (3)".
- (iv) section 5 (8).
- (a) at the end of paragraph (a) thereof, and immediately before the semi-colon appearing therein are added the words "but where any provision of this Ordinance provides that a court shall so disqualify him, the court shall so disqualify him and where a minimum period of disqualification is specified in any such provision, the court shall so disqualify him for at least that period, but may disqualify him for any greater period the court thinks fit.";
 - (b) Paragraph (b) is repealed.
- (v) section 5 (9).
- (a) The word "may" is deleted and there is substituted for it the words "shall, unless it is empowered to do otherwise by any provision of this Ordinance and in any such case may";
- (b) Immediately after the word "conviction" the words "of a driving offence" are inserted.

(vi) section 5 (14).

Immediately after paragraph (b) is inserted a new paragraph -

"(bb) ten years if the disqualification is for the person's lifetime; ".

OBJECTS AND REASONS

The above Bill seeks to amend the Road Traffic Ordinance by -

- (a) creating new offences;
- (b) increasing the punishment on conviction of certain offences;
- (c) abolishing or altering the definition of certain offences;
- (d) making summary minor amendments thereto.

The Swimming Pool (Trust Fund) Bill 1987

(No. of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title and commencement.
- 2. Interpretation.
- 3. The Trust Fund.
- 4. Payment of money into the Trust Fund.
- 5. Expenditure out of the Trust Fund.
- 6. Land.
- 7. Application of balance of the Trust Fund.

A Bill for

An Ordinance

To establish a Swimming Pool Trust Fund, and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Swimming Pool (Trust Fund) Ordinance 1987, and shall come into force on such date as the Governor, by Order published in the Gazette, may appoint.

2. In this Ordinance —

"the Constitution" means Schedule 1 to the Falkland Islands Constitution Order 1985; "Government" means the Government of the Falkland Islands;

"Government money" has the meaning ascribed to that phrase by section 4 (1) (a) of this Ordinance;

"person" includes a body of persons, corporate or unincorporate;

"private money" has the meaning ascribed to that phrase by section 4 (1) (b) of this Ordinance;

"a repayment condition" means a condition within the meaning ascribed to that phrase by section 6 (2) of this Ordinance;

"swimming pool" means a swimming pool for public use intended to be constructed, opened and operated in Stanley;

"the Trust Fund" means the Trust Fund established by section 3 (1) of this Ordinance.

3. (1) There is hereby established a fund to be known as the Stanley Swimming Pool Trust Fund.

(2) The Trust Fund shall form part of the Consolidated Fund established by section 68 of the Constitution.

(3) The Trust Fund shall form a separate fund within the Consolidated Fund and accounts relating thereto shall be maintained by the Financial Secretary separately from all other monies forming part of the Consolidated Fund and shall form part of, and be published in, the public accounts.

(4) The Trust Fund shall be audited by the Principal Auditor in accordance with section 74 of the Constitution and he shall have and may exercise in relation thereto all the powers conferred upon him by that section or any other provision of law relating to the audit of the public accounts of the Falkland Islands.

(5) The Trust Fund is a public fund for the purpose of section 69 (2) of the Constitution.

Interpretation. SI. 1985 No. 444

The Trust Fund.

- 4. (1) There may be paid into or transferred to the Trust Fund -
 - (a) such moneys belonging to the Government as are authorised by appropriation legislation to be paid into or transferred to the Trust Fund (hereinafter in this Ordinance called "Government money"); and
 - (b) such moneys not belonging to the Government as any person pays to or transfers to the Government for the purpose of the same being paid into the Trust Fund (hereinafter in this Ordinance called "private money").

(2) Private money may be paid or transferred to the Trust Fund subject to a condition that if the money so paid or transferred is not within a specified period of years expended in accordance with section 5 of this Ordinance, that money or so much of the same as may remain unexpended shall be repaid with any interest earned thereby to the person so paying or transferring the same or to such other person as he may direct (such a condition being hereinafter in this Ordinance called "a repayment condition").

(3) A repayment condition shall be of no effect unless prior to the private money being paid or transferred to the Trust Fund an agreement in writing, setting out sufficiently the provisions of the repayment condition, has been entered into between the Financial Secretary of the Government and the person so paying or transferring the private money.

(4) The accounts maintained pursuant to section 3 (3) shall contain such particulars as the Principal Auditor may require of all agreements to which subsection (2) of this section relates.

(5) For the purposes of this Ordinance all moneys paid or transferred to the Trust Fund subject to a repayment condition, whenever paid or transferred, shall be deemed to be expended *pari passu* with all other money so paid or transferred whenever paid or transferred to the Trust Fund, and shall be deemed to have been so paid or transferred on the date of commencement of this Ordinance.

(6) All Government money paid or transferred to the Trust Fund shall be deemed to have been so paid or transferred subject to a repayment condition to the effect that it shall be repaid or transferred out of the Trust Fund on the day following the day on which the latest date on which any private money paid into or transferred to the Trust Fund subject to a repayment condition is (subject to subsection (7)) repayable in whole or in part by virtue thereof.

(7) The earliest date which may be specified in a repayment condition under subsection (2) of this section is three years from the date of the payment or transfer and the latest date which may be so specified is six years from the date of commencement of this Ordinance, and in the event that any repayment date earlier or later than that permitted by this subsection is so specified, the earliest date (or, as the case may be, the latest date) for repayment permitted by this subsection to be specified shall be deemed to have been specified in the repayment condition instead of that actually specified.

5. (1) The Trust Fund may be expended subject to subsection (3), for the following purposes -

Expenditure out of the Trust Fund.

- (a) upon the cost of obtaining a feasibility study or studies as to the siting, construction, design and operation of a swimming pool for public use in Stanley;
- (b) the cost of acquiring, levelling or otherwise preparing land in Stanley for the construction or building of a swimming pool for use by the public, including the cost of obtaining any necessary easements, wayleaves or other rights necessary to enable that swimming pool to be constructed or built and when constructed or built to be operated as a public swimming pool;
- (c) the cost of obtaining or providing electricity, water or other services to the land to be used for construction of the swimming pool, the provision of boundary walls or fences for or in respect of that land, the construction of any necessary or convenient roads, footpaths and parking areas within the land and the cost of landscaping the land (including if appropriate the planting of trees and shrubs or other plants); and
- (d) the cost of operating the swimming pool when constructed.

Payment of money into the Trust Fund. (2) For the purposes of subsection (1) and subject to subsection (3) any reference to the construction of the swimming pool includes (without prejudice to anything else it may include) the provision of means of heating the swimming pool and any facilities used in connection therewith, the provision of showers, changing-rooms, footbaths, diving boards, water-filtration plants, means of lighting and equipment necessary or convenient for the safe and efficient operation of the swimming pool or calculated to enhance the public enjoyment thereof, and any reference to the cost of operating the swimming pool includes the cost of operating anything included in the cost of construction and the cost of repairing, renewing replacing and maintaining any such thing and the cost of subsection (1).

(3) It shall not be lawful for any part of the Trust Fund to be expended in payment or reimbursement of the salary, allowances or other remuneration of any pubic officer.

(4) The foregoing provisions of this section constitute for the purposes of section 69 (2) of the Constitution a law authorising the withdrawal of moneys from a public fund.

6. (1) It shall be lawful for the Governor in Council to dedicate any land in Stanley belonging Land. to the Crown as land for the construction and operation of a public swimming pool and any land so dedicated shall be held by the Governor or other officer for the time being administering the Government under the Crown upon trust for the public but shall not constitute an asset or part of the Trust Fund.

(2) Any land acquired out of moneys provided by the Trust Fund shall be acquired in the name of the Governor, or the officer for the time being administering the Government under the Crown, who shall hold the same upon perpetual trust for the public for purposes the same, so far as may be applicable, as moneys in the Trust Fund may be expended under section 5 of this Ordinance but such land shall not constitute an asset or part of the Trust Fund.

7. (1) In the event that the Trust Fund is not wholly expended by the sixth anniversary of the coming into force of this Ordinance -

Application of balance of the Trust Fund.

- (a) any money still forming part thereof and subject to a repayment condition shall subject to subsection (3) be repaid in accordance with that condition; and
- (b) any other money still forming part thereof shall be applied in accordance with subsection (2).

(2) Moneys to which paragraph (b) of subsection (1) of this section relates shall be applied as if -

- (a) it had been given for charitable purposes;
- (b) the expenditure of the money on any charitable purpose for the benefit of the people of the Falkland Islands generally were authorised by an instrument under which the money was given or set aside.

(3) A person entitled to the benefit of a repayment condition may at any time by writing under his hand authorise the application of any money which would otherwise fall to be repaid to him under paragraph (a) of subsection (1) (or otherwise at an earlier date in accordance with that condition) to be applied as it were not subject to that condition and, if not wholly expended on the date mentioned in subsection (1) of this section, to be applied in accordance with subsection (2) of this section.

OBJECTS AND REASONS

The object of this Bill is to establish a Swimming Pool Trust Fund in which Government and charitable funds may be mixed, to provide how the Fund may be spent and related matters.

(No. of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title.
- 2. Interpretation.
- 3. Grant of Exemptions.
- 4. Applications for exemptions under section 3.
- 5. Consideration of applications under section 3.
- 6. Application of section 3: avoidance of doubt.
- 7. No right of appeal etc.
- 8. Offences.
- 9. Conditions in Orders under section 3 (1).
- 10. Repeal and saving.

A Bill for

An Ordinance

To repeal the Taxes and Duties (Special Exemptions) Ordinance 1983 and section 8A of the Income Tax Ordinance and to make new provision in relation to their subject matter.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Taxes and Duties (Special Exemptions) Ordinance Short title. 1987.

2. In this Ordinance -

"the Governor" means the Governor acting after consultation with the Standing Finance Committee and, where appropriate, the Executive Council;

"the Standing Finance Committee" means the Committee of that name established by the Legislative Council;

"person" includes a body of persons, corporate or unincorporate and a corporation sole;

"tax" includes any tax, duty, impost or levy of any description payable by any person under any provision of any law for the time being in force in the Falkland Islands and payable by that person to the Government of the Falkland Islands or to any public officer acting in his capacity as such.

3. (1) The Governor may by Order under this subsection, and subject to such conditions (if any) as may be contained therein, exempt any person from liability to pay or discharge any tax which that person is otherwise liable to pay or discharge under any law of the Falkland Islands.

(2) No Order made under subsection (1) shall be expressed so as to be of application in respect of any tax for a period exceeding fifteen years from the date beginning with which it is expressed to apply but, subject to the foregoing —

- (a) an Order may be expressed to apply so as to exempt the person in whose favour it is made from liability to pay any tax from a date preceding the date on which it is made (and which may be a date preceding the date of the coming into force of this Ordinance);
- (b) an Order may exempt the person in whose favour it is made from liability to pay tax, or tax in respect of any income derived from any specified activity of that person or by reason of the occurrence of a specified event which would otherwise result in a liability to pay tax,

Interpretation.

Grant of exemptions.

- (i) for a different period from that which he is thereby exempted in respect of another tax or in respect of a different activity or event specified in that Order;
- (ii) from different dates in respect of different taxes or different activities or events specified in the Order;
- (c) an Order may exempt a person from tax in respect of a specified activity or income, profits or gains from a specified source or the occurrence of specified events and not exempt him from or exclude any exemption from applying to income, profits or gains from any other activity or source or on the occurrence of other events.
- (3) Every Order made under subsection (1) shall be published in the Gazette.

(4) An Order under subsection (1) may be expressed to be revocable by the Governor at any time if the person in whose favour it is made contravenes any condition set out in the Order.

4. (1) Any person wishing to apply for an Order under section 3 shall make application in writing to the Financial Secretary and such application shall contain the information specified in subsection (2).

Applications for exemptions under section 3.

(2) The information referred to in subsection (1) is -

- (a) the full name and address of the applicant, and where the applicant is a company, additionally —
 - (i) the date and place of incorporation of that company;
 - (ii) the full address of its registered office;
 - (iii) its registration number;
 - (iv) if it is not a company incorporated in the Falkland Islands, whether or not it is registered under the Companies Act 1948 (in its application to the Falkland Islands) as a foreign company having established a place of business in the Falkland Islands and, if so, the address of its principal placeof business in the Falkland Islands;
- (b) the tax or taxes in respect of which the application is made;
- (c) the activity or activities or events in respect of which the application is made;
- (d) if the application is made in respect of an existing business or enterprise established in the Falkland Islands and so far as the same may be applicable —
 - (i) the amount of capital invested in the Falkland Islands in that business or enterprise;
 - (ii) the number of persons employed in the Falkland Islands in that business or enterprise;
 - (iii) any proposals the applicant may have as to the expansion of that business or enterprise and -
 - (aa) the amount of capital the applicant intends to invest in such expansion;
 - (bb) the source of such capital investment, stating how much of the same is intended to be furnished by the applicant, how much is to be provided by re-investment of profits and how much is to be provided by borrowed funds or grants and the source or intended source of such borrowed funds or grants; and
 - (cc) the intended application of such capital investment;
 - (dd) the period over which the applicant intends to make such capital investment, detailing so far as may be possible the amounts which are intended to be invested by reference to calendar years;
 - (ee) the number of additional persons the applicant intends to employ in the Falkland Islands and, if so
 - (I) the number and likely date of their engagement;
 - (II) the place or places that the applicant intends to recruit such persons; and
 - (III) insofar as the applicant may have stated that he intends to recruit employees overseas, the proposals of the applicant in relation to the housing or accommodation of such employees;

- (e) if the application is made in respect of a proposed new business or enterprise in the Falkland Islands the like information (with all necessary modifications in relation to the circumstances of the case) as is required under paragraph (d) above and, additionally, the dates on which the applicant intends to commence and complete the establishment of the business or enterprise; and
- (f) the economic social or other benefits which the applicant envisages accruing to the Falkland Islands from his proposals, if implemented.

(3) On receipt of an application made under this section, the Financial Secretary may, require the applicant to furnish him with such further information or documents as may, in the Financial Secretary's opinion, be of assistance to him and the Standing Finance Committee in considering the application.

(4) Subject to the applicant having furnished everything he has been required to furnish under subsection (3), the Financial Secretary shall forward the application with any comments or recommendations he may wish to make thereon to the Chairman of the Standing Finance Committee who shall cause the same to be considered at the next convenient meeting of that Committee.

5. (1) The Standing Finance Committee on considering an application under section 3 shall take into account the following matters ---

Consideration of applications under section 3.

- (a) whether the granting of the application is, in its opinion, in the public interest of the Falkland Islands;
- (b) whether, if the application is granted, any person carrying on in the Falkland Islands an activity or enterprise of a similar nature and not having the benefit of exemptions similar to those to which the application relates would be prejudiced in his ability fairly to compete with the applicant;
- (c) the likely effect, if the application is granted, on the public revenues of the Falkland Islands;
- (d) any comments or recommendations made by the Financial Secretary in relation to the application.

(2) Without prejudice to the generality of its meaning, "public interest" in subsection (1) is declared to include —

- (a) the economic, social or other benefits which would accrue to the Falkland Islands from the implementation of the applicant's proposals; and
- (b) any detriment to economic, social or environmental conditions in the Falkland Islands or any part or locality thereof which might flow from the implementation of the applicant's proposals; and
- (c) where the application is made by a person belonging to the Falkland Islands, the desirability of encouraging persons so belonging profitably to establish or expand businesses or enterprises in the Falkland Islands.

(3) In considering any application under the provisions of this section, the Standing Finance Committee shall also take into account, but is not bound to follow, any recommendation made by it under subsection (5) in relation to an application which it considers to have been a similar application.

(4) If the Standing Finance Committee is of opinion that further information or documents should be obtained from the applicant, it may defer further consideration of the application in question until such time as that information or documents are before it, but otherwise it shall proceed to deal with the application in accordance with the following provisions of this section.

(5) The Standing Finance Committee may recommend to the Governor that an application shall —

- (a) be refused;
- (b) be granted; or
- (c) that exemptions be granted to the applicant but differing in scope or period from those specified in the application,

and any such recommendation shall be communicated by the Chairman of the Standing Finance Committee to the Governor.

(6) Upon the recommendation of the Standing Finance Committee being communicated to him, the Governor may —

- (a) cause the recommendation to be considered by the Executive Council, with a view to its being dealt with by that Council under subsection (7); or
- (b) make an Order under section 3 forthwith giving effect to the recommendation.

(7) Upon the recommendation of the Standing Finance Committee being referred to it pursuant to subsection (6), the Executive Council shall —

- (a) recommend that the matter be remitted to the Standing Finance Committee for reconsideration;
- (b) recommend that the decision of the Standing Finance Committee be varied in such manner as the Council shall specify; or
- (c) recommend that the decision of the Standing Finance Committee shall stand,

and, subject to the Falkland Islands Constitution Order 1985, the Governor shall act in accordance with the recommendation of the Executive Council.

(8) Upon application being remitted to it under paragraph (a) of subsection (7) the Standing Finance Committee shall reconsider the application and upon such reconsideration may deal with it in any manner it could have dealt with it under the preceding provisions of this section and, thereafter the Chairman of the Committee shall communicate its decision to the Governor who may then make an Order under section 3 above.

(9) Section 34 of the Interpretation and General Clauses Ordinance 1977 shall apply to any Order under section 3 of this Ordinance, and the Legislative Council may additionally, on such an Order being submitted to it in accordance with section 34 of the Interpretation and General Clauses Ordinance 1977, by resolution annul the Order.

6. For the sake of avoidance of doubt, it is expressly declared that an Order under section 3 above may be made on the application of any person whether he is resident or ordinarily resident in the Falkland Islands or not.

7. No appeal shall lie from any decision upon any application under this Ordinance, nor shall the same or the manner in which that decision was reached be subject to review, variation, alteration or modification by any court in any manner whatsoever.

8. (1) A person who, whether or not he is himself the applicant for an Order under section
3 (1) above, in support of such an application makes any statement or produces any document —

- (a) which he knows to be false or does not believe to be true;
- (b) which he knows to be misleading in a material particular;
- (c) recklessly as to its truth or falsehood,

commits an offence and is liable on conviction to a fine of £10,000 or to imprisonment for twelve months.

(2) Subsection (1) above also applies with all necessary modifications to any statement, document, return or information as a person entitled to the benefit of an Order under section 3 (1) above is, by any condition set out in or referred to in such an Order, required to make, lodge, forward or submit to the Government, the Crown or to any public officer acting in his official capacity.

(3) The Magistrate's Court shall have jurisdiction to try any offence under this section and to impose any sentence or punishment thereby provided for.

9. An Order under section 3 (1) above may contain or refer to conditions to be observed or complied with by the person in whose favour the Order is made, and if that person shall not observe and comply with those conditions he shall not be entitled to the benefit of any exemption from any tax conferred by that Order and may be charged to and be made liable to pay that tax accordingly.

10. (1) The Taxes and Duties (Special Exemptions) Ordinance 1983 and section 8A of the Income Tax Ordinance ("the previous provisions") are repealed.

(2) Notwithstanding the repeal of the previous provisions, any person entitled to the benefit of any Order or Resolution made under the previous provisions shall continue to be entitled to the benefit therof, as if the previous provisions had not been repealed, until or unless the Order or Resolution is revoked under subsection (3) below.

Application of section 3 : avoidance of doubt. No right of appeal etc.

Offences.

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Conditions in Orders under section 3 (1).

Repeal and saving. (Cap. 32). (3) An Order or Resolution referred to in subsection (2) above may be revoked by Order signed by the Governor acting in accordance with the advice of the Executive Council.(4) An Order under subsection (3) above shall be published in the Gazette.

OBJECTS AND REASONS

As stated in the long title to the Bill.



THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVI

30th November 1987

No. 17

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 30th November 1987, was in fact published on 22nd February 1988. D. G. LANG,

Attorney General.

Appointments	Resignations
Miss Carmen Adriana Lazo, Auxiliary Nurse, Medical	Miss Leann Whitney, Clerk, Public Service, 21.11.87.
Department, 2.6.87.	Mrs. Rhona Smith, Clerk, Public Service, 22.11.87.
Dr. Norena Winifred McAdam, M.B., B.Ch., B.A.O., D.C.H., D.R.C.O.G., M.R.C.G.P., F.P.C., Medical Officer, Medical Department, 11.9.87.	Miss Teresa Ann Clifton, Clerk, Public Service, 23.11.87.
Erling Kenny, Storeman, Central Store, Treasury Department, 21.9.87.	NOTICES
Brian Charles Porter, Fire Officer, Police, Fire & Rescue Service, 1.11.87.	No. 40. 17th November 1987.
Fraser Barrett Wallace, Storekeeper/Clerk, Aviation Department, 2.11.87.	The Merchant Shipping (Confirmation of Legisla- tion) (Falkland Islands) Order 1987
Miss Mandy Gail Harrod, S.R.N., S.C.M., Nursing Sister, Medical Department, 3.11.87.	" The Merchant Shipping (Confirmation of Legisla- tion) (Falkland Islands) Order 1987 (S.I. 1987 No.
Peter William Armitage, Veterinary Officer, Agricultural Department, 25.11.87.	1827) is published in this issue of the Gazette for public information. It came into force on 20th
Acting Appiontment	November 1987."
Derek Richard Pettersson, Acting Communications Officer, Posts & Telecommunications Department, 21.11.87.	Ref: AG/LEG/57.

27th November 1987

School Terms 1988

Stanley Schools

1st Term	4th February to 18th May
2nd Term	2nd June to 24th August
3rd Term	14th September to 14th December

Recognised Camp Schools

Term dates for recognised Camp Schools may be modified to suit the convenience of the farms, provided that the days worked are not fewer than those in Stanley Schools, and that the Education Office is notified of alterations in dates.

Holidays

Good Friday		lst April
Her Majesty the Que	en's Birthday	21st April
Liberation Day		15th June
Spring Holiday		3rd October
Battle Day		8th December
Camp Sports		to March 4th e - one week).

Holidays for Travelling Teachers

Tuition shall take place except during Public Holidays and the following periods:

18th December 1987 to 7th January 1988 Three additional days (to be taken by arrangement with the Chief Education Officer).

16th December 1988 to 5th January 1989.

REF: EDU/21/1.

Ref: LEGCO/20/10.

No. 42

30th November 1987.

By - Election of a Legislative Councillor for the Stanley Constituency

I, Sharon Halford, being the Returning Officer at this by - election of a Legislative Councillor for the Stanley Constituency **Do Hereby Give Notice** of the results of the election as follows —

Harold Bennett	100 votes
William Edward Bowles	125 votes
Carol Wendy Teggart	137 votes.
I Therefore Declare Carol Wendy	Teggart Elected.

Dated this 30th day of November 1987.

.

S. HALFORD Returning Officer.

STATUTORY INSTRUMENTS

1987 No. 1827

MERCHANT SHIPPING

The Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1987

Made	21st October 1987
Laid Before Parliament	29th October 1987
Coming into Force	20th November 1987

At the Court of Saint James, the 21st cay of October 1987

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 17th day of September 1987, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefor, His Royal Highness The Prince Andrew Duke of York and Her Royal Highness The Princess Royal, being authorised thereto by the said Letters Patent, and in pursuance of the power conferred by section 735 (1) of the Merchant Shipping Act 1894 (a) and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:

1. This Order may be cited as the Merchant Shipping (Confirmation of Legislation) (Falkland Islands) Order 1987 and shall come into force on 20th November 1987.

2. The Merchant Shipping (Registry) Ordinance, 1987 (b) is hereby confirmed.

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

EXPLANATORY NOTE

(This note is not part of the order)

This Order, made under section 735 (1) of the Merchant Shipping Act 1894, confirms a Law enacted by the Legislature of the Falkland Islands which repeals, in relation to the registration of ships in the Falkland Islands, certain provisions of Part I of the Merchant Shipping Act 1894 regarding such registration and in relation to fishing boats Part IV of that Act as it applies to the Islands.

Printed by the Government Printer. FALKLAND ISLANDS.

⁽a) 1894 c. 60.

⁽b) Ordinance No. 7 of 1987 of the Falkland Islands.

STATUTORY INSTRUMENTS

1987 No. 1828 PRISONERS

The Repatriation of Prisoners (Overseas Territories) (Amendment) Order 1987

Made21st October 1987Coming into Force16th November 1987

At the Court of Saint James, the 21st day of October 1987

Present,

The Counsellors of State in Council

Whereas Her Majesty in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 17th day of September 1987, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefor, His Royal Highness The Prince Andrew Duke of York and Her Royal Highness The Princess Royal, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by section 9 (4) of the Repatriation of Prisoners Act 1984 (a) and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:

1. This order may be cited as the Repatriation of Prisoners (Overseas Territories) (Amendment) Order 1987 and shall come into force on 16th November 1987.

2. The Repatriation of Prisoners (Overseas Territories) Order 1986 (b) shall be amended as follows:

- (a) the following shall be substituted for paragragh 1 (3) (a) of Schedule 1 to that Order:
 "that person is a British citizen or a British Dependent Territories citizen or a British National (Overseas);"
- (b) Hong Kong shall be added to the Territories specified in Schedule 2 to that Order.

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

EXPLANATORY NOTE

(This note is not part of the order)

This Order extends the provisions of the Repatriation of Prisoners Act 1984, subject to exceptions, adaptations and modifications, to Hong Kong, and includes British Nationals (Overseas) as a specific category of persons in respect of whom warrants under the Repatriation of Prisoners (Overseas Territories) Order 1986 may be issued.

(a) 1984 c. 47.

(b) S.I. 1986/2226.



THE

FALKLAND ISLANDS GAZETTE

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Date of Publication

It is hereby notified that this issue of the Gazette, although dated 31st December 1987, was in fact published on 23rd March 1988.

D. G. LANG, Attorney General.

Арј	ointment			
Miss Paula Pole-Eva	ns, Clerk, Put	olic Service,	No. 44.	1st December 1987
17.12.87.			Appointmen	t of Temporary Registrar
Completion of Contract Miss Anne Rosa Coward, Teacher, Education Depart- ment, 19.12.87.		In exercise of the powers conferred upon me by Sec tion 4 of the Marriage Ordinance I, Gordon Wesley Jewkes, Companion of the Most Distinguished Orde		
				Re
Miss Jill Doris Doyle, Office Manager, Agricultural		ony of the Falkland Islands and its Dependencies		
Research Centre, 12.12			Hereby Appoint -	_
NOTICES		Raymond Evans a Registrar for the purpose of the marriage at Pebble Island of Anthony Hirtle and Susan Mary Lee.		
No. 43.	1st Dec	ember 1987.	Given under my h	and at Stanley this 1st day o
Currenc	y Notes Rules		December 1987.	
In exercise of the powers conferred by Rule 3 of the Currency Notes Rules, His Excellency The Governor has been pleased to approve the appointment of Mr Michael Luxton to be a Currency Officer with effect		Ref: LEG/19/2.	G. W. JEWKES, Governor.	
		No. 45	10th December 198	
		Marriage Ord	inance (Cap 43, Section 5)	
from 1st December 19	87.			
The appointment of M hereby cancelled.	r Simon Peter N	1iller Goss is	With reference to Gazette Notice No. 9/87 of 30th January 1987 the following name is added to the lis of Ministers for celebrating marriages —	
Ref: TRE/19/1.		The Reverend Father John Francis Doran - Assistar Priest, St. Mary's Church.		
			Ref: 1NT/39/1	

No. 46

10th December 1987

The Falkland Islands Constitution Order 1985 Schedule 1 (Section 80 (1)) Appointment of Acting Judge

Whereas it appears to me, after consulting the Chief Justice, Sir Dermot Renn Davis Officer of the Most Excellent Order of the British Empire, that the state of business in the Supreme Court during such time or times as the Chief Justice is absent from the Falkland Islands so requires;

And Whereas after such consultation as aforesaid I am satisfied that John Aian Bowran Esquire possesses such legal qualifications and experience as are appropriate for him to be so appointed;

Now I Gordon Wesley Jewkes, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Falkland Islands, In Exercise of my powers under section 80(i) of Schedule 1 to the Falkland Islands Constitution Order 1985 Do Appoint the said John Aian Bowran to sit as an acting judge of the Supreme Court during such time or times as the Chief Justice is absent from the Falkland Islands, but in relation only to such causes matters proceedings or things as are hereinafter specified, And Further appoint the said John Aian Bowran to discharge the functions in the Falkland Islands of the Chief Justice but in relation to such causes matters and proceedings and only insofar as may be reasonably necessary and incidental thereto And Provided that nothing in these presents shall operate so as to prevent the Chief Justice himself adjudicating in any such cause matter or proceeding or from exercising any of his functions in relation thereto.

And I Declare that the causes, matters proceedings and things to which this appointment relates are such causes matters and proceedings below described as in relation to which the Chief Justice has not indicated to the said John Aian Bowran that he wishes himself to exercise his powers and are also of one or other of the following descriptions —

 (a) undefended causes matters or proceedings falling within the ambit or purview of Part II of the Matrimonial Causes Ordinance 1979;

- (b) matters (defended or not) falling within the ambit or purview of Parts III, IV or V of the Matrimonial Causes Ordinance 1979;
- (c) applications for a minor to be made a Ward of Court;
- (d) applications by way of interlocutory relief for any injunction or other order (but so that any injunction or order made on any such application shall be made <u>ex parte</u> only with liberty to apply to the Chief Justice for its variation or discharge and shall not, in any case be expressed so as to have effect for a period exceeding three months from the date thereof unless extended by the Chief Justice);
- (e) non-contentious probate matters and contentious probate jurisdiction to the extent that the order or relief sought could be granted in England <u>ex parte</u> by a judge master or district probate registrar of the High Court and would be within the jurisdiction of the Chief Justice to grant and subject as expressed in (d) above;
- (f) jurisdiction of the Chief Justice which, in England, would be within the jurisdiction of a judge or master of the High Court sitting as a judge or master of the Court of Protection;
- (g) such interlocutory matters in proceedings in the Supreme Court (not being matters included in any of the foregoing descriptions) as in England would be within the jurisdiction of a master or registrar of the High Court.

And This appointment shall be effective until such time as the Governor of the Falkland Islands for the time being signifies to the contrary or until 31st day of December 1990 whichever is the sooner.

Given under my hand and the Public Seal this 10th day of December 1987

G. W. JEWKES Governor The following are published in this Gazette —

The Income Tax (Amendment) Ordinance 1987 (No. 23 of 1987);

The Income Tax (Amendment) (No. 2) Ordinance 1987 (No. 24 of 1987); The Income Tax (Amendment) (No. 3) Ordinance 1987 (No. 25 of 1987); The Taxes and Duties (Special Exemptions) Ordinance 1987 (No. 26 of 1987);

The Agency (Adopted Laws) Ordinance 1987 (No. 27 of 1987);

The Estate Duty (Repeal) (Amendment) Ordinance 1987 (No. 28 of 1987);

The Fisheries (Conservation and Management) (Amendment) Ordinance 1987 (No. 29 of 1987);

The Fishing Vesseis (Safty Provisions) Ordinance 1987 (No. 30 of 1987);

The Immigration (Amendment) Ordinance 1987 (No. 31 of 1987);

The Old Age Pensions (Amendment) (No. 2) Ordinance 1987 (No. 32 of 1987);

The Pensions (Amendment) Ordinance 1987 (No. 33 of 1987);

The Road Traffic (Amendment) Ordinance 1987 (No. 34 of 1987);

The Swimming Pool (Trust Fund) Ordinance 1987 (No. 35 of 1987);

The Deductions (Employees) Regulations 1987 (S.R. & O. No. 23 of 1987);

The Fishing Regulations Order 1987 (S.R. & O. No. 24 of 1987);

The Immigration (General) Regulations Order 1987 (S.R. & O. No. 25 of 1987);

The Immigration (Visa Exemptions) Order 1987 (S.R. & O. No. 26 of 1987);

The Fisheries (Transhipment and Export) (Fees) Regulations Order 1987 (S.R. & O. No. 27 of 1987).

The Income Tax (Amendment) Ordinance 1987

(No. 23 of 1987)

ARRANGEMENT OF SECTIONS

Section

- 1. Short title.
- 2. The principal Ordinance Cap. 32.
- 3. Amendment of section 2 of the principal Ordinance.
- 4. Amendment of section 10 of the principal Ordinance.
- 5. Amendment of section 21 of the principal Ordinance.
- 6. Miscellaneous amendments of the principal Ordinance.
- 7. This Ordinance only to apply in respect of years of assessment commencing after 31st December 1987.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Income Tax (Amendment) Ordinance 1987.

No. 23 of 1987

An Ordinance to amend the Income Tax Ordinance.

(Assented to : 10th December 1987) (Commencement : 1st January 1988) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance 1987, and Short title, shall come into force on the 1st of January 1988.

2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

3. Section 2 of the principal Ordinance is amended by -

(a) constituting that section as subsection (1) of that section; and

- (b) adding thereto new subsections (2), (3), (4) and (5) -
 - "(2) Subject to subsections (3) and (4) below, in this Ordinance, "earned income" means, in relation to any individual
 - (a) any income arising in respect of any remuneration from any office or employment held by the individual, or in respect of any pension, superannuation or other allowance, deferred pay or compensation for loss of office, given in respect of the past services of the individual or of the husband or parent of the individual in any office or employment or given to the individual in respect of the past services of any deceased person, whether the individual or husband or parent of the individual shall have contributed to such pension, superannuation allowance or deferred pay or not; and
 - (b) any income from any property which is attached to or forms part of the emoluments of any office or employment held by the individual; and
 - (c) any income which is immediately derived by the individual from the carrying on or exercise by him of his trade, profession or vocation, either as an individual or, in the case of a partnership, as a partner personally acting therein.

In cases where the income of a wife is deemed to be income of the husband any reference in this subsection to the individual includes either the husband or the wife.

(3) Without prejudice to the generality of the provisions of subsection (1) above, in this Ordinance, except so far as is otherwise expressly provided, "earned income" also includes, in relation to any individual any annuity, pension or annual payment which is a voluntary pension. The principal Ordinance Cap. 32. Amendment of section 2 of the principal Ordinance.

- (4) For the purposes of this Ordinance, "unearned income" means any income which is not by virtue of subsections (2) and (3) earned income and which is not, by virtue of any other provision of this Ordinance to be treated as earned income.
- (5) The provisions of this section are without prejudice to any other provision of this Ordinance directing income to be treated as earned income."
- 4. Section 10 of the principal Ordinance is amended -
 - (a) by renumbering subsection (1) thereof as subsection (3) thereof; and
 - (b) by inserting at the commencement thereof the following subsections -
 - "(1) For the purpose of ascertaining the part of the earned income of an individual which is chargeable income, there shall be first deducted therefrom one tenth of that income ("earned income relief") and subject to the provisions of subsection (2), the deductions allowed under subsection (3) shall be allowed after the deduction of earned income relief.
 - (2) To the extent that the earned income of an individual is sufficient, any deductions allowed under subsection (3) shall be allowed against earned income after deduction of earned income relief and only to the extent (if any) that that earned income is insufficient shall they be allowed against unearned income"; and
 - (c) In subsection (3) (as renumbered by paragraph (a) above) by deleting the proviso to paragraph (aa) of that subsection.
 - (d) In subsection (3) (as renumbered by paragraph (a) above) by the addition of a new paragraph (h) as follows
 - "(h) any allowance paid to a public officer in addition to his salary which the Commissioner is satisfied is paid to that public officer in order to enable him to meet the increased expenses incurred or to be incurred by him and arising wholly or mainly by virtue of the fact that he is required to perform the duties of his office outside the Falkland Islands.".

5. Subsection (1) of section 21 of the principal Ordinance is amended by deleting therefrom all words and figures appearing from and including the words "On every pound of" up to and including the figures and words "50 per cent" and by substituting in their place the words and figures —

"On every pound of -

the first £10,000 of chargeable income 25 per cent;

the next £5,000 of chargeable income, 30 per cent;

the next £10,000 of chargeable income 40 per cent;

the remainder of chargeable income 50 per cent".

- 6. The principal Ordinance is further amended
 - (a) in subsection (1) of section 14, by the deletion of the symbol and figures "£2100" and by the substitution in their place of the symbol and figures "£2500";
 - (b) in subsection (1) of section 15, by the deletion of the symbol and figures "£1200" and by the substitution in their place of the symbol and figures "£1500";
 - (c) in subsection (2) of section 15, by the deletion of the symbol and figures "£650" and by the substitution in their place of the symbol and figures "£800";
 - (d) in subsection (3) of subsection 15, by the deletion of the symbol and figures "£1150" and by the substitution in their place of the symbol and figures "£1700" and by the deletion of the symbol and figures "£650" and by the substitution in their place of the symbol and figures "£800";
 - (e) in subsection (4) of section 15, by the deletion of the symbol and figures "£2100" and by the substitution in their place of the symbol and figures "£2500"; and
 - (f) in section 16 A, by the deletion of the symbol and figures "£3900" wherever they appear in that section and by the substitution in their place of the symbol and figures "£5000".

Miscellaneous amendments of the principal Ordinance.

Amendment of

Ordinance.

section 21 of the principal

Amendment of section 10 of the principal Ordinance.

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7. The amendments to the principal Ordinance effected by the foregoing provisions of this Ordinance shall apply in relation only to the income of an individual in respect of any year of assessment commencing after 31st December 1987.

This Ordinance only to apply in respect of years of assessment commencing after 31st December 1987.

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Ref: INC/10/5.

The Income Tax (Amendment) (No. 2) Ordinance 1987 (No. 24 of 1987)

ARRANGEMENT OF SECTIONS

Section

- 1. Short title and commencement.
- 2. The principal Ordinance.
- 3. Amendment of section 2 of the principal Ordinance.

Schedule

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Income Tax (Amendment) (No. 2) Ordinance 1987.

No. 24 of 1987

An Ordinance to amend the Income Tax Ordinance.

(Assented to : 10th December 1987) (Commencement : 1st January 1988) (Published : Extraordinary Gazette 22nd December 1987)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Income Tax (Amendment) (No. 2) Ordinance 1987, and shall come into force on the 1st of January 1988.

2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

3. the principal Ordinance is amended by the insertion therein, immediately after section 32 of -

(a) the new cross-heading --

"PAYMENTS ON ACCOUNT OF TAX BY EMPLOYED PERSONS";

(b) immediately after that cross-heading, the new sections set out in the Schedule to this Ordinance.

SCHEDULE

Application of this section and sections 32B inclusive 32A. (1) This and the next following sections apply in respect of remuneration paid on or after 31st December 1987 notwithstanding that any such remuneration is paid in respect of -

- (a) a period of employment falling partly before 1st January 1988 and partly after the 31st December 1987; or
- (b) a period of employment falling wholly before 1st January 1988; and for the purposes of this section and the next following seven sections —
 - (i) any payment of remuneration made on or after 1st January 1988 in respect of any holidays or leave accrued due, overtime, or terminal bonus or gratuity or any other payment made by an employer to an employee or former employee or for or on account of employment; or
 - (ii) any payment of any pension retirement annuity or compensation for loss of employment made by an employer to his employee or former employee, made on or after 1st January 1988 shall be deemed —

Short title and commencement.

principal Ordinance

Amendment of the principal Ordinance.

- (aa) to be earned income; and
- (bb) to have been made in respect of a period of employment falling entirely after 31st December 1987.

(2) This section and the next following seven sections apply only in respect of payments made by a person ("the employer") to another person ("the employee") exclusively related to and arising out of a contract of service or expired contract of service (in writing or not) between the employer and the employee.

(3) For the purposes of subsections (1) and (5), a contract of service is a contract whereby a person ("the employee") is obliged to render services to another ("the employer") and other than in the course of a profession trade or business carried on by the person who would otherwise be the employee. A person who is a public officer is deemed to be the subject of a contract of service with the Crown, and a director of a company is an employee of that company.

(4) Subject to the foregoing provisions of this section, the next following seven sections apply --

- (a) where the employee is resident and ordinarily resident in the Falkland Islands, and does not perform his duties under the contract of service wholly outside the Falkland Islands in the year of assessment (and the remuneration is not excepted under this Ordinance whether as foreign remuneration or otherwise);
- (b) where the employee is not resident or, if resident, then not ordinarily resident in the Falkland Islands (and the remuneration is not excepted under this Ordinance whether as foreign remuneration or otherwise), to any remuneration paid to the employee in respect of duties under the contract of service performed in the Falkland Islands and whether or not that remuneration is paid to him in the Falkland Islands; and
- (c) where the employee is resident in the Falkland Islands (whether ordinarily resident or not), to any remuneration received in the Falkland Islands in any calendar year, being remuneration either for that period or for any earlier period in which he has been resident there, and any remuneration received by him in the Falkland Islands in respect of any earlier period of employment under a contract of service with that employer.
- (5) For the purposes of subsection (4) "foreign remuneration" means
 - (a) any remuneration paid to a person by the United Kingdom Government in the United Kingdom whether or not any part of that remuneration is subsequently transferred to the Falkland Islands (and whether or not there is a contract of service between that Government and that person);
 - (b) any remuneration paid to a person not ordinarily resident in the Falkland Islands (and whether or not any part of that remuneration is paid in or subsequently transferred to the Falkland Islands) by an employer who is a person, body of persons or partnership resident outside, and not resident in, the Falkland Islands;
 - (c) any pension or annuity paid by a person not resident in the Falkland Islands (and whether or not any part of that pension is paid in or subsequently transferred to the Falkland Islands).

(6) For the purposes of this section and the next following seven sections, any payment to which this section and those sections would apply if made to the employee in question shall be deemed to have been paid to the employee if -

- (a) they are paid to another person by the employer at the request or by authority of the employee;
- (b) they are paid to the employee's wife, husband, widow, personal representative or dependents, either by order of any court or by reason of the employee's death or incapacity.

and this section and those sections shall apply in respect of any such payment.

(7) Foreign remuneration to which paragraph (a) of subsection (5) of this section relates is exempt from income tax, and shall be disregarded for all purposes of this Ordinance.

32B. (1) Where a person —

- (a) has ceased to be an employee of a particular employer; and
- (b) a pension or annuity is paid to him, or to his widow or child, or to any relative or dependant of his, by that employer or by that employer's successors; and
- (c) that pension or annuity is paid otherwise than by or on behalf of a person outside the Falkland Islands,

then, notwithstanding that the pension or annuity is paid voluntarily, or is capable of being discontinued, it shall be deemed to be earned income and subject to the provisions of section 32A and the next following six sections.

(2) No deduction is required to be made from any payment of any pension or annuity (voluntary or otherwise) by virtue of any such provision unless the person making the payment has reason to believe that the total amount of such payments when aggregated with other earned income paid by him or any other person on his behalf to the recipient will in the calendar year in question exceed the relevant amount.

(3) For the purposes of subsection (2) of this section, "the relevant amount" means such amount as is below £4,400 or such other higher amount prescribed by regulations under section 32E.

32C. (1) Every person before paying to an employee or former employee of his any sum to which this section applies by virtue of any of the provisions of the last two foregoing sections above shall withold from such payment such sum as is required to be witheld by regulations made under section 32E below, and shall account to the Commissioner for all sums so deducted in the manner and at the time or times required by such regulations.

(2) Any contract agreement or arrangement whatsoever between an employer and any other person inconsistent with the obligation of the employer under subsection (1) of this section is, to the extent of the inconsistency, void.

(3) Any sum required by regulations under section 32D to be witheld from any payment and not paid to the Commissioner as required by such regulations, may be recovered by the Commissioner in civil proceedings brought against the employer by him; and the Senior Magistrate shall have jurisdiction to try and determine any suit or action brought by the Commissioner to which this subsection relates and to make any order that the Supreme Court could have made in civil proceedings in that court in respect of that sum, and notwithstanding that the amount claimed would otherwise be beyond his jurisdiction.

(4) Any sum not paid to the Commissioner in accordance with the provisions of regulations under section 32E shall bear interest in favour of the Crown at the rate of ten per cent a year on the sum for the time being remaining unpaid, before as well as after any judgment, and subsection (3) of this section shall additionally apply in respect of such interest.

Voluntary pensions and pensions generally.

Amounts to be withheld from earned income etc. (5) Nothing in subsection (3) of this section shall operate so as to prevent proceedings being brought in the Supreme Court, but if so brought subsection (4) of this section shall apply in respect of interest claimed.

Supplemental to section 32C.

Regulations.

32D. (1) It shall be a defence to any action brought by an employee against his employer to recover any sum which the employer is obliged to deduct under subsection (1) of the above section 32c for the employer to show that he was obliged to deduct that sum and a certificate of the Commissioner that the employer was so obliged to deduct any sum shall, as between employer and employee, be conclusive in accordance with its tenor.

(2) As between an employee and the Commissioner or the Crown, any sum deducted by his employer under the last foregoing three sections shall be deemed to have been paid by the employee to the Commissioner on account of his liability to pay income tax, and irrespective of whether the employer has accounted to the Commissioner for such deduction or not.

(3) If any sum deducted in accordance with the last foregoing three sections is lost, mislaid or destroyed before it is received by the Commissioner, the employer and not the Commissioner or the Crown shall bear the loss: accordingly, the employer in such an event remains liable to pay the same to the Commissioner.

(4) An employer shall within seven days of the expiration or determination of an employee's contract of service (or, if the employee is a former employee paid a pension or annuity, or the employee continues in the employer's employment, within seven days of the 31st December) furnish to the employee a certificate of the total amount deducted under the last foregoing three sections up to the relevant date, and shall transmit a copy thereof to the Commissioner.

(5) In subsections (4) and (6) of this section, "relevant date" means the date of determination or expiration of the employee's contract of service in the calendar year in question or, in the case of a contract of service which continues thereafter, the thirty-first of December in that calendar year.

(6) The certificate referred to in subsection (4) of this section shall contain the following information -

- (a) the name of the employer and his principal place of business in the Falkland Islands;
- (b) the full name of the employee and, if known, his address;
- (c) the amount of the total remuneration in money, gross of all deductions, of the employee under that employer during the calendar year in question or (where appropriate) up to the date of the certificate; and
- (d) the aggregate amount of deductions by that employer during the calendar year in question under the last foregoing three sections.

32E. (1) The Governor may make regulations prescribing the amounts which employers are required under this Ordinance to deduct from earnings or other money paid to employees (but being, in any case, earned income) and such regulations shall —

- (a) make provision for sums deducted to be related to the earned income of the employee under that employer, in such manner as is calculated so far as is possible to achieve the result that the total sum deducted in respect of any employee does not (in respect of persons ordinarily resident) exceed the likely liability of the employee for income tax when next assessed for income tax (but, nevertheless, the regulations shall not be invalid merely because, for any reason, they fail to achieve that result);
- (b) in respect of persons resident, prescribe the amounts to be deducted in respect of any pay period in respect of employees having regard either —

- (i) to that employee's gross earnings from that employment during the calendar year to date; or to
- (ii) the amount of the cash or money earnings under that employer during that pay period,

and for the purposes of this subsection "pay period" means the period in respect of which an employee is paid, but such regulations may make such provision as may be necessary to cater for pay periods of differing length and shall, in any case, make provision for monthly and weekly pay periods;

- (c) prescribe the times at which employers shall submit information to the Commissioner as to deductions made, the information to be submitted and the time or times at which employers shall pay over to the Commissioner sums deducted under subsection (1) of section 32;
- (d) exempt from liability to suffer from deduction the earnings of any employee of an employer (not being a pensioner or annuitant of that employer) who has not worked for that employer —
 - (i) in the case of weekly paid employees at least fifteen hours during that pay period and who has not worked eighty-four hours in aggregate during that pay period and the three pay periods preceding that pay period;
 - (ii) in the case of monthly paid employees, at least sixty hours during the month constituting the pay period,

and such regulations may -

- (A) provide for other exemptions from deductions under subsection(1) of section 32;
- (B) provide for any other matter necessary or convenient to be prescribed thereunder, including, without prejudice to the generality of the foregoing, notices, forms and notifications to be used, the preservation and production to employees of records and information relating to deductions made, confidentiality of information and that acts or omissions specified therein shall be offences punishable with a fine not exceeding one thousand pounds or imprisonment for three months or both; and
- (C) prescribe different rates of deductions in respect of residents and non-residents.

32F. (1) For the sake of avoidance of doubt, it is hereby declared that deductions made under the last foregoing five sections are not payments of income tax, but payments on account of the income tax liability whether determined or yet to be determined of the employee in respect of whom they are made and may be applied by the Commissioner in payment of or reduction of that employee's income tax liability in respect of any calendar year, not being a future calendar year which has not yet commenced at the time of such application.

(2) Where an employee has an outstanding liability which has been determined in amount for income tax in respect of any year of assessment preceding the date of application of payments under subsection (1) of this section, the Commissioner shall apply such payments to or towards any such liability in respect of years of assessment in chronological order (and so that any such liability in respect of an earlier year of assessment is wholly discharged before any such payments are applied in respect of any year of assessment which it preceeds).

Payment on Account of Tax: application.

Repayments of tax deductions

32G. (1) If a resident, on submission of a return of his income or otherwise, satisfies the Commissioner that the deductions made in respect of his remuneration exceed the aggregate of -

- (a) his liability for payment of income tax in respect of that remuneration; and
- (b) any outstanding liability of his in respect of any preceding year of assessment,

the Commissioner shall repay to him the excess without undue delay.

- (2) If a resident or non-resident
 - (a) satisfies the Commissioner that he intends to leave the Falkland Islands and is not likely to be employed in the Falkland Islands thereafter during the current calendar year; and
 - (b) satisfies the Commissioner that he has discharged any outstanding tax liability and that the deductions made in respect of him under subsection (1) of section 32C exceed his likely tax liability in the next following year of assessment,

the Commissioner shall —

- (i) repay to him the excess without undue delay; and
- (ii) furnish him with a certificate that he has satisfied his liability in respect of tax.

Bankruptcy and liquidation.

32H. If an employer, being an individual, is adjudicated bankrupt or, being a company, has a winding up order made in respect of it and is insolvent, then, notwithstanding any other provision of law, sums deducted under this Ordinance from employees' remuneration and not paid to the Commissioner by that employer shall rank in priority to all debts which are not secured debts of the individual or company and shall be discharged in full before any other unsecured debts, preferred or unpreferred, of the individual or company may rank for dividend or otherwise be paid in whole or in part.

Passed by the Legislature of the Colony of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: INC/10/5.

P. T. KING, Clerk of Councils.

The Income Tax (Amendment) (No. 3) Ordinance 1987 (No. 25 of 1987)

Arrangement of Sections

Section

- 1. Short title and commencement.
- 2. The principal Ordinance.
- 3. Amendment of the principal Ordinance.
- 4. Saving.

Schedule - Amendments to the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Income Tax (Amendment) (No. 3) Ordinance 1987.

No. 25 of 1987

An Ordinance to amend the Income Tax Ordinance.

(Assented to : 10th December 1987) (Commencement : 1st January 1988) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Income Tax (Amendment) (No.3) Ordinance 1987 and shall come into force on 1st January 1988.

2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

3. The principal Ordinance is amended in the manner specified in the Schedule to this Ordinance.

4. The amendments to the principal Ordinance shall not have effect in relation to any year of assessment commencing before 1st January 1988.

SCHEDULE

Amendments to the principal Ordinance.

1. Subsections (2), 2(A) and 2 (B) of section 21 of the principal Ordinance are repealed.

2. Subsection (3) of section 21 of the principal Ordinance is re-numbered as subsection (4) of that section.

3. The following new subsections are inserted in section 21 of the principal Ordinance, immediately after subsection (1) —

"(2) The chargeable income of a company shall be charged to tax at the following rates —

- (a) on such part of the same as is not transferred to reserves, 45 per cent; and
- (b) on such part of the same as is transferred to reserves 35 per cent.

(3) Where a sum which has been transferred to reserves, and in accordance with paragraph (b) tax has been charged thereon at 35 per cent, then if any part of that sum is subsequently distributed to shareholders the company shall be liable to pay tax on such part of that sum as is distributed at the rate of 10 per cent."

4. Paragraph 3 of the Seventh Schedule to the principal Ordinance is amended by inserting at the commencement thereof and immediately after the words "1st January 1979" the words "and before 1st January 1987".

5. The Seventh Schedule to the Ordinance is further amended by inserting therein, immediately after paragraph 3, the following new paragraph 3A —

Short title and commencement.

The principal Ordinance. Amendment of the principal Ordinance Saving. "Depreciation allowances: expenditure incurred after 31st December 1986. 3A. The following depreciation allowances shall be given for capital expenditure incurred on projects commenced on or after the 1st January 1987 -

- (a) on machinery and plant including ships, motor vehicles and aircraft an initial allowance in the year in which the expenditure is incurred of up to 100 per cent; where the full 100 per cent is not claimed, in subsequent years a writing down allowance of 25 per cent per annum of the written-down value of the asset shall be given;
- (b) on industrial buildings used for the purpose of productive manufacturing or processing, mining or fishing - an initial allowance of up to 30 per cent and thereafter a writing down allowance of 10 per cent per annum of the written-down value of the asset shall be given;
- (c) on hotel buildings an initial allowance of up to 20 per cent and thereafter a writing down allowance of 10 per cent per annum of the written-down value of the asset shall be given;
- (d) on agricultural buildings an initial allowance of up to 30 per cent and thereafter a writing down allowance of 10 per cent per annum of the written-down value of the asset shall be given;
- (e) on other buildings including housing a writing down allowance of 10 per cent per annum of the written-down value of the asset shall be given?

Passed by the Legislature of the Colony of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: INC/10/5.

P. T. KING, Clerk of Councils.

The Taxes and Duties (Special Exemptions) Ordinance 1987 (No. 26 of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title.
- 2. Interpretation.
- 3. Grant of Exemptions.
- 4. Applications for exemptions under section 3.
- 5. Consideration of applications under section 3.
- 6. Application of section 3: avoidance of doubt.
- 7. No right of appeal etc.
- & Offences.
- 9. Conditions in Orders under section 3 (1).
- 10. Repeal and saving.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Taxes and Duties (Special Exemptions) Ordinance 1987.

No. 26 of 1987

An Ordinance

To repeal the Taxes and Duties (Special Exemptions) Ordinance 1983 and section 8A of the Income Tax Ordinance and to make new provision in relation to their subject matter.

(Assented to : 10th December 1987) (Commencement : on publication) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Taxes and Duties (Special Exemptions) Ordinance Shor 1987.

2. In this Ordinance —

"the Governor" means the Governor acting after consultation with the Standing Finance Committee and, where appropriate, the Executive Council;

"the Standing Finance Committee" means the Committee of that name established by the Legislative Council;

"person" includes a body of persons, corporate or unincorporate and a corporation sole;

"tax" includes any tax, duty, impost or levy of any description payable by any person under any provision of any law for the time being in force in the Falkland Islands and payable by that person to the Government of the Falkland Islands or to any public officer acting in his capacity as such.

3. (1) The Governor may by Order under this subsection, and subject to such conditions (if any) as may be contained therein, exempt any person from liability to pay or discharge any tax which that person is otherwise liable to pay or discharge under any law of the Falkland Islands.

(2) No Order made under subsection (1) shall be expressed so as to be of application in respect of any tax for a period exceeding fifteen years from the date beginning with which it is expressed to apply but, subject to the foregoing -

- (a) an Order may be expressed to apply so as to exempt the person in whose favour it is made from liability to pay any tax from a date preceding the date on which it is made (and which may be a date preceding the date of the coming into force of this Ordinance);
- (b) an Order may exempt the person in whose favour it is made from liability to pay tax, or tax in respect of any income derived from any specified activity of that person or by reason of the occurrence of a specified event which would otherwise result in a liability to pay tax,

Short title.

Interpretation.

Grant of exemptions.

- (i) for a different period from that which he is thereby exempted in respect of another tax or in respect of a different activity or event specified in that Order;
- (ii) from different dates in respect of different taxes or different activities or events specified in the Order;
- (c) an Order may exempt a person from tax in respect of a specified activity or income, profits or gains from a specified source or the occurrence of specified events and not exempt him from or exclude any exemption from applying to income, profits or gains from any other activity or source or on the occurrence of other events.
- (3) Every Order made under subsection (1) shall be published in the Gazette.

(4) An Order under subsection (1) may be expressed to be revocable by the Governor at any time if the person in whose favour it is made contravenes any condition set out in the Order.

4. (1) Any person wishing to apply for an Order under section 3 shall make application in writing to the Financial Secretary and such application shall contain the information specified in subsection (2).

Applications for exemptions under section 3.

(2) The information referred to in subsection (1) is -

- (a) the full name and address of the applicant, and where the applicant is a company, additionally
 - (i) the date and place of incorporation of that company;
 - (ii) the full address of its registered office;
 - (iii) its registration number;
 - (iv) if it is not a company incorporated in the Fakkland Islands, whether or not it is registered under the Companies Act 1948 (in its application to the Fakkland Islands) as a foreign company having established a place of business in the Fakkland Islands and, if so, the address of its principal placeof business in the Fakkland Islands;
- (b) the tax or taxes in respect of which the application is made;
- (c) the activity or activities or events in respect of which the application is made;
- (d) if the application is made in respect of an existing business or enterprise established in the Falkland Islands and so far as the same may be applicable —
 - (i) the amount of capital invested in the Falkland Islands in that business or enterprise;
 - (ii) the number of persons employed in the Falkland Islands in that business or enterprise;
 - (iii) any proposals the applicant may have as to the expansion of that business or enterprise and
 - (aa) the amount of capital the applicant intends to invest in such expansion;
 - (bb) the source of such capital investment, stating how much of the same is intended to be furnished by the applicant, how much is to be provided by re-investment of profits and how much is to be provided by borrowed funds or grants and the source or intended source of such borrowed funds or grants; and
 - (cc) the intended application of such capital investment;
 - (dd) the period over which the applicant intends to make such capital investment, detailing so far as may be possible the amounts which are intended to be invested by reference to calendar years;
 - (ee) the number of additional persons the applicant intends to employ in the Falkland Islands and, if so
 - (I) the number and likely date of their engagement;
 - (II) the place or places that the applicant intends to recruit such persons; and
 - (III) insofar as the applicant may have stated that he intends to recruit employees overseas, the proposals of the applicant in relation to the housing or accommodation of such employees;

- (e) if the application is made in respect of a proposed new business or enterprise in the Falkland Islands the like information (with all necessary modifications in relation to the circumstances of the case) as is required under paragraph (d) above and, additionally, the dates on which the applicant intends to commence and complete the establishment of the business or enterprise; and
- (f) the economic social or other benefits which the applicant envisages accruing to the Falkland Islands from his proposals, if implemented.

(3) On receipt of an application made under this section, the Financial Secretary may, require the applicant to furnish him with such further information or documents as may, in the Financial Secretary's opinion, be of assistance to him and the Standing Finance Committee in considering the application.

(4) Subject to the applicant having furnished everything he has been required to furnish under subsection (3), the Financial Secretary shall forward the application with any comments or recommendations he may wish to make thereon to the Chairman of the Standing Finance Committee who shall cause the same to be considered at the next convenient meeting of that Committee.

5. (1) The Standing Finance Committee on considering an application under section 3 shall take into account the following matters —

Consideration of applications under section 3.

- (a) whether the granting of the application is, in its opinion, in the public interest of the Falkland Islands;
- (b) whether, if the application is granted, any person carrying on in the Falkland Islands an activity or enterprise of a similar nature and not having the benefit of exemptions similar to those to which the application relates would be prejudiced in his ability fairly to compete with the applicant;
- (c) the likely effect, if the application is granted, on the public revenues of the Falkland Islands;
- (d) any comments or recommendations made by the Financial Secretary in relation to the application.

(2) Without prejudice to the generality of its meaning, "public interest" in subsection
 (1) is declared to include —

- (a) the economic, social or other benefits which would accrue to the Falkland Islands from the implementation of the applicant's proposals; and
- (b) any detriment to economic, social or environmental conditions in the Falkland Islands or any part or locality thereof which might flow from the implementation of the applicant's proposals; and
- (c) where the application is made by a person belonging to the Falkland Islands, the desirability of encouraging persons so belonging profitably to establish or expand businesses or enterprises in the Falkland Islands.

(3) In considering any application under the provisions of this section, the Standing Finance Committee shall also take into account, but is not bound to follow, any recommendation made by it under subsection (5) in relation to an application which it considers to have been a similar application.

(4) If the Standing Finance Committee is of opinion that further information or documents should be obtained from the applicant, it may defer further consideration of the application in question until such time as that information or documents are before it, but otherwise it shall proceed to deal with the application in accordance with the following provisions of this section.

(5) The Standing Finance Committee may recommend to the Governor that an application shall —

- (a) be refused;
- (b) be granted; or
- (c) that exemptions be granted to the applicant but differing in scope or period from those specified in the application,

and any such recommendation shall be communicated by the Chairman of the Standing Finance Committee to the Governor.

(6) Upon the recommendation of the Standing Finance Committee being communicated to him, the Governor may —

(a) cause the recommendation to be considered by the Executive Council, with a view to its being dealt with by that Council under subsection (7); or

(b) make an Order under section 3 forthwith giving effect to the recommendation.

(7) Upon the recommendation of the Standing Finance Committee being referred to it pursuant to subsection (6), the Executive Council shall —

- (a) recommend that the matter be remitted to the Standing Finance Committee for reconsideration;
- (b) recommend that the decision of the Standing Finance Committee be varied in such manner as the Council shall specify; or
- (c) recommend that the decision of the Standing Finance Committee shall stand,

and, subject to the Falkland Islands Constitution Order 1985, the Governor shall act in accordance with the recommendation of the Executive Council.

(8) Upon application being remitted to it under paragraph (a) of subsection (7) the Standing Finance Committee shall reconsider the application and upon such reconsideration may deal with it in any manner it could have dealt with it under the preceding provisions of this section and thereafter the Chairman of the Committee shall communicate its decision to the Governor who may then make an Order under section 3 above.

(9) Section 34 of the Interpretation and General Clauses Ordinance 1977 shall apply to any Order under section 3 of this Ordinance, and the Legislative Council may additionally, on such an Order being submitted to it in accordance with section 34 of the Interpretation and General Clauses Ordinance 1977, by resolution annul the Order.

6. For the sake of avoidance of doubt, it is expressly declared that an Order under section 3 above may be made on the application of any person whether he is resident or ordinarily resident in the Falkland Islands or not.

7. No appeal shall lie from any decision upon any application under this Ordinance, nor shall the same or the manner in which that decision was reached be subject to review, variation, alteration or modification by any court in any manner whatsoever.

8. (1) A person who, whether or not he is himself the applicant for an Order under section Of
3 (1) above, in support of such an application makes any statement or produces any document —

- (a) which he knows to be false or does not believe to be true;
- (b) which he knows to be misleading in a material particular; or
- (c) recklessly as to its truth or falsehood,

commits an offence and is liable on conviction to a fine of £10,000 or to imprisonment for twelve months.

(2) Subsection (1) above also applies with all necessary modifications to any statement, document, return or information as a person entitled to the benefit of an Order under section 3 (1) above is, by any condition set out in or referred to in such an Order, required to make, lodge, forward or submit to the Government, the Crown or to any public officer acting in his official capacity.

(3) The Magistrate's Court shall have jurisdiction to try any offence under this section and to impose any sentence or punishment thereby provided for.

9. An Order under section 3 (1) above may contain or refer to conditions to be observed or complied with by the person in whose favour the Order is made, and if that person shall not observe and comply with those conditions he shall not be entitled to the benefit of any exemption from any tax conferred by that Order and may be charged to and be made liable to pay that tax accordingly.

10. (1) The Taxes and Duties (Special Exemptions) Ordinance 1983 and section 8A of the Income Tax Ordinance ("the previous provisions") are repealed.

(2) Notwithstanding the repeal of the previous provisions, any person entitled to the benefit of any Order or Resolution made under the previous provisions shall continue to be entitled to the benefit therof, as if the previous provisions had not been repealed, until or unless the Order or Resolution is revoked under subsection (3) below.

Application of section 3 : avoidance of doubt. No right of appeal etc.

Offences.

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Conditions in Orders under section 3 (1).

Repeal and saving. (Cap. 32). (3) An Order or Resolution referred to in subsection (2) above may be revoked by Order signed by the Governor acting in accordance with the advice of the Executive Council.(4) An Order under subsection (3) above shall be published in the Gazette.

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: INC/10/6.

P. T. KING, Clerk of Councils.

The Agency (Adopted Laws) Ordinance 1987 (No. 27 of 1987)

ARRANGEMENT OF PROVISIONS

Clause

1. Snort title and commencement.

2. Adoption of English Acts.

3. Restriction on effect of section 78 of Interpretation and General Clauses Ordinance 1977.

Schedule English Acts adopted and modifications adaptions and exceptions subject to which they are adopted as laws of the Falkland Islands.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Agency Adopted Laws Ordinance 1987.

No. 27 of 1987

An Ordinance

To adopt certain English Acts of Parliament relating to agency as laws of the Falkland Islands subject to certain modifications, adaptions and exceptions.

(Assented to : 10th December 1987) (Commencement : on publication) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Agency (Adopted Laws) Ordinance 1987, and shall come into force on such a date as it is first published in the Gazette. Short title and commencement.

2. The Acts of the United Kingdom Parliament ("the Acts") specified in Column 1 of the Schedule to this Ordinance are adopted as law of the Falkland Islands to the extent and subject to the modifications, adaptions and exceptions specified in Column 2 of the said Schedule.

3. Notwithstanding section 78 of the Interpretation and General Clauses Ordinance 1977, no amendment, statutory modification or replacement of any of the Acts specified in the Schedule made by Act of Parliament in the United Kingdom after 1st day of July 1984 shall have effect in the Falkland Islands.

Adoption of English Acts.

Restriction on effect of section 78 of Interpretation and General Clauses Ordinance 1977.

SCHEDULE

ENGLISH ACTS ADOPTED AND MODIFICATIONS ADAPTIONS AND EXCEPTIONS SUBJECT TO WHICH THEY ARE ADOPTED AS LAWS OF THE FALKLAND ISLANDS.

Title of Act. Extent to which adopted and modifications and adaptions.

Column 1

The whole act, subject to the following modification -

1. Factors Act 1889 (52 & 53 Vic. c. 45).

In paragraph (ii) of section 9 the words "which is a consumer credit agreement within the meaning of the Consumer Credit Act 1974" shall be omitted.

Column 2

2. Accomodation Agencies Act 1953 (1 & 2 Eliz. 2 c. 23).

3. Powers of Attorney Act (1971 c. 27).

The whole Act subject to the following modifications -

- (a) in subsection (3) of section 1 the words "legal practitioners" shall be substituted for the word "solicitor"; and
- (b) in subsection (5) of section 1 the words "one thousand pounds" shall be substituted for the words "level 3 on the standard scale".

Sections 1, 3, 4, 5 and 7 and 10 subject to the following exceptions, modifications and adaptions —

- (a) in subsection (3) of section 1 the words "any other law of or having effect in the Falkland Islands" shall be substituted for the words "any other Act";
- (b) in paragraph (b) of subsection (1) of section 3 the words "justice of the peace, notary or legal practitioners" shall be substituted for the words "solicitors or stockbrokers";
- (c) subsection (3) of section 3 shall be omitted;
- (d) the following subsection shall be substituted for subsection (4) of section 3 —

"(4) This section is without prejudice to any other method of proof authorised by law";

 (e) the following subsection shall be substituted for subsection (6) of section 5 —

"(6) In this section "purchaser" shall mean a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who for valuable consideration aquires an interest in property, (except that where expressly so provided by any law of or having effect in the Falkland Islands "purchaser" only means a person who aquires an interest in or charge a property for money or money's worth) and where the context so requires "purchaser" includes an intending purchaser; "purchase" has a meaning corresponding with that of "purchase" and, for the purpose of this subsection "valuable consideration" includes marriage but does not include a nominal consideration in money".

(f) subsections (2) and (3) of section 7 shall be omitted and the following subsections shall have effect in place thereof —

"(2) This section shall have effect subject to any provisions of law of or having effect in the Falkland Islands whereby any instrument is required to be executed or signed by a person himself and which excludes explicitly or implicitly execution or signature of that instrument on his behalf by the donee of a power of attorney executed by him.

(3) Any provision of or applying any law of in the Falkland Islands which requires that an instrument shall be executed or signed in the name of a person ("that person") may, subject to subsection (2) of this section, be executed or signed in the name of that person by the

donee, under a power of attorney executed by that person which would extend to authorise such donee to execute or sign that instrument if it were not required to be executed or signed in the name of that person".

(g) in subsection (2) of section 10 all words appearing after the words "personal representative" shall be omitted.

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/66.

P. T. KING, Clerk of Councils.

The Estate Duty (Repeal) (Amendment) Ordinance 1987 (No. 28 of 1987)

ARRANGEMENT OF CLAUSES

Clause

1. Short title.

2. The principal Ordinance.

3. Amendment of section 1 of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Estate Duty (Repeal) (Amendment) Ordinance 1987.

No. 28 of 1987

An Ordinance

To amend the Estate Duty (Repeal) Ordinance 1987.

(Assented to : 10th December 1987) (Commencement : on publication) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Estate Duty (Repeal) (Amendment) Ordinance 1987. Short title.

2. In this Ordinance, "the principal Ordinance" means the Estate Duty (Repeal) Ordinance 1987.

3. Section 1 of the principal Ordinance is amended by the deletion of the word "June" and the substitution therefor of the word "May".

The principal Ordinance. (No. 12 of 1987) Amendment of section 1 of the principal Ordinance.

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: TRE/10/6.

P. T. KING, Clerk of Councils.

Printed by the Government Printer. FALKLAND ISLANDS.

The Fisheries (Conservation and Management) (Amendment) Ordinance 1987 (No. 29 of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title and commencement.
- 2. The principal Ordinance.
- 3. Amendment of section 2 of the principal Ordinance.
- 4. Amendment of section 4 of the principal Ordinance.
- 5. Amendment of section 7 of the principal Ordinance.
- 6. Amendment of section 9 of the principal Ordinance.
- 7. Repeal and replacement of section 21 of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Fisheries (Conservation and Management) (Amendment) Ordinance 1987.

No. 29 of 1987

An Ordinance

To amend the Fisheries (Conservation and Management) Ordinance 1987.

> (Assented to : 10th December 1987) (Commencement : 1st January 1988) (Published : Extraordinary Gazette 22nd December 1987)

ENACTED by the Legislature of the Falkland Islands, as follows ---

1. This Ordinance may be cited as the Fisheries (Conservation and Management) (Amendment) Ordinance 1987, and shall come into operation at the 1st day of January 1988.

2. In this Ordinance "the principal Ordinance" means the Fisheries (Conservation and Management) Ordinance 1986.

- 3. Section 2 of the principal Ordinance is amended by
 - (a) the insertion of the following definitions immediately after the definition of "fish" contained in that section —

"operational transhipment of fish" means the transfer of fish during the course of any activity described in paragraphs (a) and (b) of the definition appearing in this section of "fishing" from a fishing boat engaged in such an activity and licensed under section 4 to another fishing boat which is licensed under section 4 of this Ordinance to carry out fishing; and included in this definition is any transfer of fish from the nets or other devices for taking fish employed by a fishing boat engaged in the activities mentioned in this definition to another fishing boat engaged in those activities and which is not a "transport vessel" as defined in this section; "primary transhipment of fish" means any transhipment of fish whereby other than by way of operational transhipment of fish, fish is first transferred within the fishing waters from a fishing boat, to —

- (a) another fishing boat (and whether or not that fishing boat is licensed under section 4); or
- (b) a land store;

and "secondary transhipment of fish" means any transhipment of fish which is not -

- (i) an operational transhipment of fish, or
- (ii) a primary transhipment of fish; "

Short title and commencement.

The principal Ordinance (No. 11 of 1986). Amendment of section 2 of the principal Ordinance (b) by the insertion of the following new definition immediately after the definition of "transhipment of fish" appearing therein —

" "transport vessel" means a vessel designed and constructed or in fact used for the transport of fish not caught or taken by that vessel and whether or not -

- (a) other fish are caught or taken by that vessel;
- (b) it is intended that fish received by that vessel shall subsequently be transhipped to another vessel or to a land store;
- (c) any process is intended to be carried out aboard that vessel upon or in relation to fish transferred to that vessel; "
- (c) the deletion of the definition of "fishing" appearing therein and by the insertion of the following new definition of "fishing"
 - " "fishing" means --
 - (a) the catching or taking of fish; and
 - (b) any other operation or activity likely as a direct result thereof to result in the catching or taking of fish or intended as a direct result thereof to result in the catching or taking of fish; "
- (d) by the amendment of the definition of "transhipment of fish" appearing in that section by the insertion immediately after the word "another" appearing therein of the words "or to a land store";
- (e) by the deletion of the definition of "Director of Fisheries" and the insertion of the following new definition of "Director of Fisheries" —

""Director of Fisheries" means the Director of Fisheries appointed under section 9 (1) and includes any Deputy Director of Fisheries appointed under that provision; ".

4. Section 4 of the principal Ordinance is amended by the addition thereto of the following new subsection -

Amendment of section 4 of the principal Ordinance.

"(11) A fishing licence may be endorsed with a statement that the licence shall also operate as a licence for transhipment of fish or export by the fishing boat to which the fishing licence relates and, if so endorsed, the fishing licence —

- (a) shall be deemed to constitute a transhipment and export licence granted under section 7 (4) of this Ordinance;
- (b) may contain such authorisations, limitations or conditions as may lawfully be imposed or inserted in a licence granted under section 7 (4) by that subsection or by section 7 (5) of this Ordinance;
- (c) may be granted subject to payment of such additional fee or fees as would be payable in respect of a licence granted under section 7 (4) or section 7 (5) of this Ordinance;
- (d) notwithstanding paragraph (a) of this subsection shall, unless otherwise specifically stated in the endorsement, authorise only transhipment of fish from the fishing boat to which the fishing licence relates and not the receiving of fish by that fishing boat from any other fishing boat;
- (e) shall not operate so as to excuse from the requirements of section 7 of this Ordinance any fishing boat receiving fish from the fishing boat to which the fishing licence so endorsed relates.

Subsections (7), (8), (9), (10) and (11) of section 7 shall apply to the fishing licence insofar as it constitutes also a transhipment licence or export licence to the same extent as they apply to a transhipment licence or export licence applied for and granted under section 7. "

5. (1) Subsection (1) of section 7 of the principal Ordinance is repealed and replaced by the following new subsection (1) —

"(1) This section applies to -

(a) a primary transhipment of fish from a fishing boat to another fishing boat or to a land store;

Amendment of section 7 of the principal Ordinance. (b) the transport aboard any vessel or aircraft of any fish from the fishing waters or the Falkland Islands to any other place not within the fishing waters or the Falkland Islands, and any transhipment of fish to which this section applies and the removal or transport (in this section called "export") of any fish from the fishing waters or from the Falkland Islands subject to section 4 (ii) of this Ordinance is unlawful unless it is authorised by, and carried out in accordance with a transhipment licence or export licence granted under subsection (4) of this section. "

(2) Subsection (2) of section 7 of the principal Ordinance is repealed and replaced by the following new subsection (2) -

"(2) If -

- (a) a fishing boat (whether or not it is a transport vessel);
- (b) an aircraft; or
- (c) a land store,

as the case may be, is used for the transhipping or export of fish contrary to subsection (1) —

- (i) the owner, any charterer and the master of any fishing boat from which the fish is transferred contrary to subsection (1):
- (ii) the owner, any charterer and the master of any fishing boat by which the fish is received contrary to subsection (1);
- (iii) the owner, any charterer and the master of any fishing boat upon which fish is exported contrary to subsection (1);
- (iv) the owner, any charterer and the person in command of any aircraft on which the fish is exported;
- (v) the owner, lessee and any occupier of any land store at which the fish is received,

as the case may be, commits an offence:

Provided that -

- (aa) it shall be a defence in any prosecution for an offence under this subsection for the defendant to prove that the fish concerned in the alleged offence was not taken, caught or captured in the fishing waters;
- (bb) it shall be a defence for the owner of any fishing boat or aircraft concerned in the alleged offence to prove —
 - (i) that at the time of the alleged offence the fishing boat or aircraft was chartered to another person; and
 - (ii) that he did not know of the transhipment or export taking place, or if he did know of it, that he could not reasonably have prevented it taking place;
- (cc) it shall be a defence in any prosecution for an offence under this subsection for the owner of any land store concerned in the alleged offence to prove —
 - (i) that at the time of the alleged offence, the land store in question was leased to or occupied by another person; and
 - (ii) that he did not know that the transhipment was taking place, or if he did know of it, that he could not reasonably have prevented it taking place.
- PENALTY £100,000. "

(3) Subsection (4) of section 7 of the principal Ordinance is repealed and replaced by the following new subsection (4) -

"(4) Licences to which this section relates may be granted --

- (a) in the case of a transhipment licence -
 - (i) to the owner or charterer of a specified fishing boat from which fish is to be transferred;
 - (ii) to the owner or charterer of a fishing boat by which fish is to be received; and
 - (iii) to the owner, lessee or occupier of a land store by which fish is to be received; and

- (b) in the case of an export licence -
 - (i) to the owner or charterer of a specified fishing boat on board which the fish is to be exported,
 - (ii) to the owner or charterer of a specified aircraft on board which the fish is to be exported.

and any such licence may -

- (aa) authorise the licensee to tranship or export any fish at any time during the period specified in the licence;
- (bb) authorise the licensee to tranship or export fish at any time during the period specified in the licence but contain a limitation in relation to the species or the aggregate weight or quantity of fish of any species or the weight or quantity of species of the kind mentioned in the licence, the transport or export of which the licence authorises;
- (cc) in the case of a transhipment licence limit the area within which fish or fish of a particular species may be transhipped under the authority of the licence;
- (dd) limit the periods or times during which fish may be transhipped or exported during the currency of the licence;
- (ee) in the case of a transhipment licence require notice of the length and kind specified in the licence to be given to the Director of Fisheries before any transhipment of fish is made from or to the fishing boat or to a land store;
- (ff) in the case of a transhipment licence, require that no transhipment shall take place unless Fisheries Protection Officer is on board the fishing boat to which the licence relates or, in the case of a land store to which the licence relates, unless a Fisheries Protection Officer is present at that land store;
- (gg) in the case of a transhipment licence, limit the number of transhipments which may be undertaken under authority of the licence;
- (hh) in the case of an export licence, limit the number of times that the fishing boat or aircraft specified in the licence may export fish; and
- (ii) contain such other limitations or conditions as the Director of Fisheries may consider necessary or expedient for the regulation of the transhipment or export of fish. "

(4) Subsections (5) and (6) of section 7 of the principal Ordinance are repealed and replaced by the following new subsections (5) and (6) -

"(5) Without prejudice to the generality of paragraph (ii) of subsection (4), conditions under that paragraph may include conditions as to -

- (a) treatment on board a fishing boat whether or not it is a transport vessel or as a land store receiving fish of the fish received by that fishing boat or by that land store; and
- (b) (in respect of a land store) the security of a land store licensed to receive fish.

(6) Any person who, without the consent of the Director of Fisheries, removes or receives any fish from a land store other than under the authority of an export licence and for the purpose of export of the fish under that licence, commits an offence under this subsection:

Provided that the Director of Fisheries shall not refuse his consent to the removal of reasonable quantities of fish by the licensee from a land store for the purpose of the sale or disposal of that fish for consumption by persons resident in the Falkland Islands. PENALTY £20,000. "

(5) Subsection (7) of the section 7 of the principal Ordinance is amended by —

- (a) the insertion immediately after the words "fishing boat" appearing therein, of the words "or, in the case of an aircraft, the owner or charterer of the aircraft";
- (b) the insertion, immediately after the words "export licence" appearing therein, of the words "and, in the case of a land store named in a transhipment licence, the owner, lessee or occupier of that land store;";

- (c) by the deletion, immediately after the words "agent named" appearing therein of the words "in the licence" and the substitution in their place of the words "in any such licence".
- 6. Section 9 of the principal Ordinance is amended by --
 - (a) the deletion of all words appearing in subsection (1) before paragraph (a) thereof, and the substitution of the following words —

"The Governor shall appoint a public officer to be the Director of Fisheries and may appoint another public officer to be the Deputy Director of Fisheries. The Deputy Director of Fisheries may, subject to any directions of the Governor to the contrary, exercise any power and discharge any responsibility conferred upon the Director of Fisheries by this Ordinance or by any Order made thereunder. The Director of Fisheries' responsibilities under this Ordinance include — "

7. (1) Section 21 of the principal Ordinance is repealed and replaced by the following new section 21 -

"21 (1) Except as expressed in subsection (2) of this section, the Fisheries Ordinance shall not, after the commencement of this Ordinance, apply to those parts of the fishing waters as do not fall within the territorial waters or internal waters of the Falkland Islands.

(2) Regulations made before the commencement of this Ordinance under section 3 of the Fisheries Ordinance shall, notwithstanding subsection (1) of this section, continue to apply to the whole of the fishing waters except insofar as they may be inconsistent with this Ordinance or any regulations made under this Ordinance."

(2) Section 21 of the principal Ordinance in the form enacted in this Ordinance shall be deemed to have formed part of the principal Ordinance as originally enacted.

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: FIS/29/16.

P. T. KING, Clerk of Councils. Amendment of section 9 of the principal Ordinance.

Repeal and replacement of section 21 of the principal Ordinance Cap. 27.

The Fishing Vessels (Safety Provisions) Ordinance 1987 (No. 30 of 1987)

ARRANGEMENT OF SECTIONS

Section

1. Short title.

2. Interpretation.

3. Adoption of the 1970 Act and the rules.

4. Modifications and adaptation of the 1970 Act and rules.

5. Department of Transport authority etc.

Schedule

Part I Modifications and Adaptations of the 1970 Act.

Part II Modifications and adaptations of the Fishing Vessels (Safety Provisions) Rules 1975.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Fishing Vessels (Safety Provisions) Ordinance 1987.

No. 30 of 1987

An Ordinance

To adopt the Fishing Vessels (Safety Provisions) Act 1970 as law of the Falkland Islands and for connected purposes.

(Assented to : 10th December 1987) (Commencement : on publication) (Published : Extraordinary Gazette 22nd December 1987)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Fishing Vessels (Safety Provisions) Ordinance 1987. Short title.

2. In this Ordinance —

"the 1970 Act" means the Fishing Vessels (Safety Provisions) Act 1970 of the United Kingdom, as amended or replaced from time to time and whether before or after the enactment of this Ordinance;

"the rules" mean the Fishing Vessels (Safety Provisions) Rules 1975 and any other rules (S.) made under any provision of the 1970 Act in every case as amended or replaced from time No to time and whether before or after the enactment of this Ordinance.

3. (1) Subject to the modifications and adaptations made thereto by or under this Ordinance, the 1970 Act (except section 8 thereof) and the rules are adopted as laws of the Falkland Islands and apply to fishing vessels registered in the Falkland Islands.

(2) Subsection (1) of this section shall cease to have effect forthwith in the event that an Order in Council made under section 8 of the 1970 Act takes effect in the Falkland Islands.

4. (1) In their application to the Falkland Islands and any fishing vessel registered in the Falkland Islands -

(a) the 1970 Act is modified and adapted as specified in Part I of the Schedule to this Ordinance; and

(b) the rules are modified and adapted as specified in Part II of the Schedule to this Ordinance.

(2) The Governor may by Order published in the Gazette amend, vary, add to or replace the Schedule to this Ordinance.

Interpretation. (1970 c.27)

(S.I. 1975 No.471)

Adoption of 1970 Act and the rules.

Modifications and adaptation of the 1970 Act and the rules. 5. (1) The Governor may authorise the Department of Transport of Her Majesty's Government in the United Kingdom to exercise, in relation to any fishing vessel registered in the Falkland Islands any function it is authorised under the 1970 Act or the rules to exercise in relation to a fishing vessel registered in the United Kingdom.

(2) In subsection (1), "functions" includes powers and duties.

SCHEDULE

PART I

MODIFICATIONS AND ADAPTATIONS OF THE 1970 ACT

1. In sections 1 (1), 2(1) and 4 (3) of the 1970 Act the words "the United Kingdom" wherever they appear therein, shall be construed as if they read "the Falkland Islands".

2. In section 3 (1) of the 1970 Act in place of the words "or any person authorised by them" appearing therein shall be inserted the words "or any person authorised by the Governor or by them".

3. In section 4 (2) of the 1970 Act, in place of the fine specified therein shall be inserted a reference to a fine of such amount under the law of the United Kingdom for the time being (and whether by reference to a specific amount expressed in pounds sterling or by reference to a level of fines) could be imposed by a court in the United Kingdom convicting a person of an offence under the corresponding provision in relation to a fishing vessel registered in the United Kingdom.

4. In section 6 of the 1970 Act in relation to the Falkland Islands and any fishing vessel registered therein, the reference to the Consolidated Fund shall be construed as a reference to the Consolidated Fund of the Falkland Islands.

5. In section 10 of the 1970 Act the words "by Parliament" shall, in relation to the Falkland Islands and to any fishing vessel registered therein, be construed as a reference to the Legislative Council.

PART II

MODIFICATIONS AND ADAPTATIONS OF THE FISHING VESSELS (SAFETY PRO-VISIONS) RULES 1975

1. In rule 1 (2), Schedule 1 and Schedule 2, the words "the United Kingdom shall be amended to read "the Falkland Islands".

2. In rule 1 (3) the following definition of "Distant water voyage" shall be substituted for that therein appearing -

" "Distant water voyage" means any voyage during the course of which the vessel proceeds further from the Falkland Islands than two hundred and fifty nautical miles from the nearest point on the outer boundary of the Falkland Islands Interim Conservation and Management Zone (as that Zone is declared in Proclamation No. 4 of 1986)"

3. In Schedule 1 the words "the Secretary of State for Transport" shall be amended to read "the Governor".

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4. Schedule 24 is deleted and replaced by the following new Schedule 24 -

"SCHEDULE 24

LIMITS OF SMOOTH WATERS AND PARTIALLY SMOOTH WATERS

District	Smooth Water Areas	Partially Smooth Water Areas
Port Stanley.	Within the area of water known as Stanley Harbour and on the Stanley side of The Narrows.	No partially smooth waters.

Passed by the Legislature of the Colony of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: LEG/10/68.

P. T. KING, Clerk of Councils. .,

The Immigration (Amendment) Ordinance 1987 (No. 31 of 1987)

ARRANGEMENT OF CLAUSES

Clause

- 1. Short title and commencement.
- 2. The principal ordinance.
- 3. Amendment of Section 2 of the principal Ordinance.
- 4. Amendment of Section 3 of the principal Ordinance.
- 5. Amendment of Section 5 of the principal Ordinance.
- 6. Amendment of Section 8 of the principal Ordinance.
- 7. Repeal and replacement of Section 23 of the principal Ordinance.
- 8. Amendment of Section 25 (2) of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Immigration (Amendment) Ordinance 1987.

No. 31 of 1987

An Ordinance To Amend the Immigration Ordinance.

> (Assented to : 10th December 1987) (Commencement : 1st January 1988) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Immigration (Amendment) Ordinance 1987, and shall come into force on 1st January 1988.

2. In this Ordinance, "the principal Ordinance" means the Immigration Ordinance 1987.

- 3. Section 2 of the principal Ordinance is amended by the insertion in the definition of "enter" appearing in that section, immediately after paragraph (c) of that definition
 - "(d) without prejudice to (a) above a vessel enters or arrives in the Falkland Islands at the moment it first enters the territorial waters of the Falkland Islands other than for the purpose of immediate transit through those waters on voyage to a port or harbour outside the Falkland Islands; ".

4. (1) Subsection (2) of section 3 of the principal Ordinance is amended by the deletion of the words "section 5 (1) (c)" and the insertion in their place of the words "section 5 (1) (b) and (c)".

(2) Section 3 of the principal Ordinance is further amended by the addition thereto, immediately after subsection (2) thereof, of the following new subsections (3), (4) and (5) -

"(3) Except as provided by subsections (4) and (5) of this section, nothing in this Ordinance applies to any person who is a member of Her Majesty's Forces entering or remaining in the Falkland Islands in the course of his duties as a member of such Forces;

but otherwise this Ordinance applies to that person.

- (4) The principal immigration officer may require a person claiming to be a person exempted from the provisions of this Ordinance by virtue of subsection (3) of this section to produce such documents or other evidence as may be reasonably necessary to satisfy himself that that person is such a person.
- (5) A certificate in writing signed by or by the authority of the Commander of British Forces in the Falkland Islands that a person is a member of Her Majesty's Forces or of a visiting force and is on duty in the Falkland Islands shall be conclusive as to those facts in accordance with its tenor. "

Short title and commencement

The principal Ordinance. No. 15 of 1987 Amendment of section 2 of the principal Ordinance.

Amendment of section 3 of the principal Ordinance.

Amendment of

section 5 of the

Amendment of section 8 of the

principal

Ordinance.

principal

Ordinance.

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- 5. Section 5 of the principal Ordinance is of amended ---
 - (a) by the insertion immediately after the word "Ordinance" where it first appears in subsection (1) of that section of the punctuation and words ", subject to this section";
 - (b) by the insertion in paragraph (a) of subsection (1) of that section, immediately after the word "ship" of the punctuation and word ", aircraft";
 - (c) by the renumbering of subsections (2), (3), (4) and (5) of that section as subsections (3), (4), (5) and (6) respectively;
 - (d) by the insertion therein immediately after subsection (1) of that section of the following new subsection (2) —
 - "(2) The Principal Immigration Officer shall not, without the consent of the commanding officer of a ship or aircraft belonging to Her Majesty or of the Commander British Forces in the Falkland Islands, exercise his powers under paragraph (a) of subsection (1) to enter upon or into and search that ship or aircraft.";
 - (e) in subsection (4) of that section (as renumbered by paragraph (c) above) by the deletion of the parentheses and numeral "(2)" and by the substitution in their place of the parentheses and numeral "(3)".
- 6. Section 8 of the principal Ordinance is amended --
 - (a) by inserting therein at the commencement thereof, and immediately before the words
 "The citizens" appearing therein, the parentheses and numeral "(1)" (so constituting the existing section as subsection (1) of that section); and
 - (b) by inserting therein, immediately after subsection (1) thereof as so constituted, the following new subsections -
 - "(2) Without prejudice to subsection (1), the Governor may, by Order in Council, exempt such classes or categories of persons as are specified in such Order from any requirement to possess a valid visa.
 - (3) An Order under subsection (2) of this section may prescribe conditions to be performed or observed by any person exempted thereby from any requirement to possess a valid visa and may further provide —
 - (a) that any breach by a person of any such condition shall render that person's presence in the Falkland Islands unlawful and an offence under paragraph (i) of subsection (1) of section 24 of this Ordinance;
 - (b) whether by such condition or otherwise that a person to whom such an exemption applies shall be permitted to enter at such place or places and remain in the Falkland Islands only in such area or areas as a may be specified in such an Order and that if a person enters or, as the case may be remains, otherwise than as so prescribed he commits an offence under the said paragraph (i) of subsection (1) of section 24 of this Ordinance."

7. Section 23 of the principal ordinance is repealed and replaced by the following new section 23 -

Repeal and replacement of section 23 of the principal Ordinance.

"Appeals.

23. (1) A person aggrieved by a decision of the principal immigration officer may, subject to this section, appeal against that decision to the Governor in Council.

(2) No appeal lies under at the instance of any person against a decision not to grant a visa, to limit the period of validity of a visa, not to extend the period of validity of a visa, not to vary the conditions of a visa or not to renew a visa, unless subsection (3) of this section applies in the circumstances of the case.

(3) An appeal lies against a decision not to grant a visa, to extend the validity of a visa, or to renew a visa if the ground on which the application was not granted was that the applicant is, in the opinion of the Principal Immigration Officer, a person to whom paragraphs (d), (f) or (g) of subsection (2) of section 16 of this Ordinance applies.

(4) An appeal to which subsection (3) of this section applies shall operate as an appeal against the finding of the Principal Immigration Officer that the person affected thereby is a prohibited person under one of the provisions mentioned in subsection (3) of this section and, accordingly, if the appeal is allowed, the case shall be remitted to the Principal Immigration Officer for reconsideration of the application on the basis that the applicant is not a prohibited person under the relevant provision mentioned in subsection (3) of this section, and the Principal Immigration Officer shall forthwith reconsider that application and may again refuse to grant that application on any other ground on which he could have refused it in the first instance.

(5) Subject to subsection (6), a person who is aggrieved by a decision of the Principal Immigration Officer not to grant, renew, extend or vary the conditions of a permit may appeal in accordance with this section against that decision.

(6) No appeal lies under subsection (5) of this section against a decision of the Principal Immigration Officer -

- (a) not to grant, renew or extend a permit where the person to whom the decision relates is the subject of an order under section 19; or
- (b) where the person concerned -
 - (i) is outside the Falkland Islands; and
 - (ii) has not during any time within the preceding three years held a permit, other than a visitor's permit, granted under this Ordinance; and
 - (iii) is not a person who, by Order made under section 8 (1) of this Ordinance, is exempted from visa requirements.

(7) An appeal made under this section shall be made in such manner as may be prescribed by Regulations.

(8) Subject to subsection (4) of this section, on determining an appeal to which this section relates the Governor in Council may —

- (a) allow the appeal; or
- (b) dismiss the appeal,

and if the Governor in Council allows an appeal, he may on doing so direct the Principal Immigration Officer to grant, extend, renew or vary any permit to which the appeal relates either unconditionally or subject to any condition or limitation which the Principal Immigration Officer could himself lawfully impose on the grant, extension, renewal or variation of that permit, and the Principal Immigration Officer shall comply with that direction.

(9) The decision of the Governor in Council on an appeal under this section shall not except on a point of law be called into question in any court in any manner whatsoever; but this subsection shall not apply to any decision on such an appeal which is alleged to contravene any provision of sections 1 to 15 inclusive of Schedule 1 to the Falklands Islands Constitution Order 1985, (fundamental rights and freedoms) insofar as is necessary to enable the question of such alleged contravention to be determined and any order consequential upon such determination to be made.

(10) A further appeal lies to the Supreme Court, but on a point of law only, against the decision of the Governor in Council on any appeal to which subsections (1) to (8) of this section relate; and on the determination of such further appeal the Supreme Court may make such order as it considers just and expedient in the circumstances of the case.

(11) For the purposes of this section, any reference in it to a decision not to grant, renew, extend or vary a permit includes a failure within a reasonable time to notify the applicant in question of a decision on his application? 8. Subsection (2) of section 25 of the principal Ordinance is amended —

- (a) by the deletion of the full stop at the end thereof and the insertion in its place of a semicolon;
- (b) by the addition of the following new paragraphs (d) and (e) immediately after paragraph (c) of that subsection
 - "(d) any act or omission specified therein to be an offence and that on conviction of any offence so specified, the offender shall be liable to imprisonment for such period and to a fine of such amount or to a fine of such amount as is thereby specified but so that no term of imprisonment so specified in respect of any such offence shall exceed three months and no fine thereby specified shall exceed one thousand pounds;
 - (e) that in respect of such offences under this Ordinance or any regulations made thereunder specified in such Regulations, and in the circumstances specified in such Regulations, the alleged offender may, if he wishes, elect to pay a sum ("an administrative penalty") to the Government (being not greater than the maximum sum he might be ordered to pay by way of fine if he were convicted of that offence), and if he pays that administrative penalty, he shall not be convicted of or prosecuted in respect of, that offence."

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: IMM/10/1.

P. T. KING, Clerk of Councils. Amendment of section 25 (2) of the principal Ordinance.

The Old Age Pensions (Amendment) (No. 2) Ordinance 1987 (No. 32 of 1987)

Arrangement of Clauses

Clause

1. Short title.

- 2. The princips! Ordinance.
- 3. Amendment of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Old Age Pensions (Amendment) (No. 2) Ordinance 1987.

No. 32 of 1987

An Ordinance

To amend the Old Age Pensions Ordinance.

(Assented to : 10th December 1987) (Commencement : on publication) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Old Age Pensions (Amendment) (No. 2) Ordinance Short title. 1987.

2. In this Ordinance, "the principal Ordinance" means the Old Age Pensions Ordinance 1952.

Ordinance. (No. 3 of 1952) ew Amendment of the principal Ordinance.

The principal

3. The principal Ordinance is amended by the addition thereto of the following new section 26 -

"Discretionary pensions. 26. (1) Where the Governor is advised by the Executive Council that it considers that it would be desirable so to do having regard -

- (a) to the facts of the particular case; and
- (b) the personal circumstances of the person concerned,

he may by writing authorise the payment of a pension to a person who is not entitled to any pension under the foregoing provisions of this Ordinance, subject to subsection (2) of this section, of such amount or on such basis of calculation and from such date as he thinks fit ("an ex gratia pension").

- (2) An ex gratia pension
 - (a) shall not exceed in amount the maximum amount of pension payable under any foregoing provision of this Ordinance to any person thereby entitled to a pension; and

- (b) shall not be payable as of right; and
- (c) may be brought to an end at any time by the Governor on the advice of the Executive Council revoking the authority for such payment."

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: TRE/2/1.

P. T. KING, Clerk of Councils.

Printed by the Government Printer. FALKLAND ISLANDS.

The Pensions (Amendment) Ordinance 1987 (No. 33 of 1987)

ARRANGEMENT OF CLAUSES

Clause

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- 1. Short title.
- 2. The principal Ordinance.
- 3. Amendment of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Pensions (Amendment) Ordinance 1987.

No. 33 of 1987

An Ordinance To amend the Pensions Ordinance 1965.

> (Assented to : 10th December 1987) (Commencement : on publication) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Pensions (Amendment) Ordinance 1987.

2. In this Ordinance "the principal Ordinance" means the Pensions Ordinance 1965.

3. The principal Ordinance is amended by the repeal of section 18F thereof and by the insertion in its place of the following new section 18F -

"Commencement and application of Part II. 18F. (1) The foregoing provisions of this Part of this Ordinance shall be deemed to have effect from 1st July 1977 in respect of all officers in the public service of the Government of the Falkland Islands on or after that date.

(2) The foregoing provisions of this Part of this Ordinance shall apply to widows and children of officers in the public service of the Government of the Falkland Islands who are not by virtue of the effect of subsection (1) of this section entitled to a pension under the provisions of section 18A or 18B of this Ordinance, subject to subsection (3) of this section and the following conditions —

- (a) the person concerned is the widow or child of a deceased officer who, at some time prior to his death, was in the public service of the Government of the Falkland Islands;
- (b) the person concerned would have been entitled to a pension under section 18A or 18B of this Ordinance (whichever, in the circumstances of the case, is appropriate) if the deceased officer had been alive and an officer in the public service of the Government of the Falkland Islands on 1st July 1977,

and for the purposes of this section, the references in section 18A and 18B of this Ordinance to a pensioner or officer having completed ten years' pensionable service shall be construed as a reference to his or her having completed ten years' pensionable service at the time of his retirement from the public service of the Government of the Falkland Islands or at the time of his or her death (whichever is in the circumstances of the case appropriate).

Short title.

The principal Ordinance. Amendment of the principal Ordinance. (3) No pension shall be paid to a person entitled thereto by the operation of subsection (2) of this section and not by subsection (1) of this section in respect of any period elapsed before 1st July 1987."

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Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P.ef: TRE/10/7.

P. T. KING, Clerk of Councils.

The Road Traffic (Amendment) Ordinance 1987 (No. 34 of 1987)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short title and commencement.
- 2. Meaning of "the principal Ordinance".
- 3. New sections 8, 9, 9A, 9B, 9C, 9D, 9E, 9F, 9G, 9H, 91, 9J, 9K, 9L, 9M, 9N, 9P and 9Q of the principal Ordinance.
- 4. Miscellaneous amendments to the principal Ordinance.
- 5. New sections 17A and 17B of the principal Ordinance.

Schedule Amendments to Principal Ordinance.

- PART I General Amendments to the principal Ordinance.
- PART II Miscellaneous amendments of particular provisions and repeals of particular provisions of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Road Traffic (Amendment) Ordinance 1987.

No. 34 of 1987

An Ordinance

To amend the Road Traffic Ordinance.

(Assented to : 10th December 1987) (Commencement : to be fixed) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Road and Traffic (Amendment) Ordinance 1987, and shall come into operation on such date as the Governor in Council may, by notice published in the Gazette, appoint.

2. In this Ordinance "the principal Ordinance" means the Road Traffic Ordinance.

3. Sections 8 and 9 of the principal Ordinance are repealed and the principal Ordinance is amended by the insertion therein, immediately after section 7A, of the following new sections -

"Causing death by reckless driving. 8. (1) A person commits an offence who causes the death of another person by driving a motor vehicle on a road or in a public place recklessly.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for seven years and to a fine of ten thousand pounds and shall be disqualified from holding or obtaining a driving licence for such period as will result in him being so disqualified for a period of at least five years but, if on the same occasion he is sentenced to a term of imprisonment in respect of that offence, for a period of at least five years following his release from prison, and a court convicting a person of an offence against subsection (1) who has on a previous occasion been convicted of such an offence shall disqualify that person from holding or obtaining a driving licence at any time during the remainder of his lifetime.

(3) A person who is indicted with an offence of manslaughter shall, if he is acquitted of that offence by the Supreme Court, be convicted of an offence under subsection (1) if the court considers that, on the evidence before the court, he has committed an offence under subsection (1), and notwithstanding that he has not been indicted with an offence under that subsection.

(4) A person shall not, in respect of the same facts, be convicted both of an offence under subsection (1) and of the offence of manslaughter.

Short title and commencement.

Meaning of "the principal Ordinance" Cap. 38. New sections of principal Ordinance. Manslaughter: disqualification from holding or obtaining a driving licence. 9. Whenever a person is convicted of the offence of manslaughter and the court convicting him is satisfied that the death of another person giving rise to the conviction was caused by the driving on a road or in a public place by the convicted person of a motor vehicle, that court shall, in addition to any other punishment, disqualify the convicted person from holding or obtaining a driving licence for such period as will result in him being so disqualified for a period of at least seven years from the date of his conviction but, if on the same occasion he is sentenced to a term of imprisonment, for a period of at least seven years following his release from prison:

Provided that where the court is satisfied that the convicted person has on a previous occasion been convicted --

- (a) of an offence of manslaughter in respect of which obligatory disqualification from holding or obtaining a driving licence under this subsection arose, or would have arisen if this subsection had been in force at the time of such conviction; or
- (b) of an offence under section 8 (1), the court shall disqualify him from holding or obtaining a driving licence during his lifetime.

9A. (1) A person commits an offence who causes serious injury to another person by driving a motor vehicle on a road or in a public place recklessly.

(2) A person who is convicted of an offence under subsection (1) is liable to imprisonment for twelve months and to a fine of five thousand pounds and shall be disqualified from holding or obtaining a driving licence for a period of at least twelve months from the date of his conviction, but, if on the same occasion he is sentenced to imprisonment, for a period of at least twelve months following his release from prison.

(3) A person commits an offence who drives a motor vehicle on a road or in a public place recklessly.

(4) A person who is convicted of an offence under subsection (3) is liable to imprisonment for six months and to a fine of one thousand pounds and shall be disqualified from holding or obtaining a driving licence for a period of at least six months but, if on the same occasion he is sentenced to imprisonment, for a period of at least six months following his release from prison.

(5) A person who is charged with an offence under subsection (1) shall, if he is acquitted of that offence be convicted of an offence under subsection (3) if the court considers that, on the evidence before the court, he has committed an offence under subsection (3) and notwithstanding that he has not been charged with an offence under that subsection.

(6) A person may not be convicted, upon the same facts, both of an offence under subsection (1) and of an offence under subsection (3).

(7) A person who is acquitted of an offence under subsection (1) and is not convicted of an offence under subsection (3) by virtue of subsection (5), and a person who is charged with and acquitted of an offence under subsection (3), shall be convicted of an offence under section 9C (1) if the court considers that on the evidence before the court he has committed an offence under section 9C (1), and notwithstanding that he has not been charged with an offence under that subsection.

Obvious and serious risk test.

9B. (1) A person shall not be convicted of an offence under section 8 (1) or section 9A (1) or (3) by reason of the manner of his driving unless the court is satisfied that that person was driving the motor vehicle in such a manner as to create an obvious and serious risk of causing physical injury to some other person who might happen to be using the road or in close proximity to the road or of doing substantial damage to property, ("an obvious and serious risk"), and the court is further satisfied that in driving in that manner the accused did so without having given any thought to the possibility of there being any such risk or, having recognised that there was some risk involved, the accused had nevertheless gone on to take it.

Reckless driving.

(2) In considering whether, for the purposes of subsection (1), the risk created by the manner in which the vehicle was being driven was both obvious and serious, the court shall apply what appears to it to be the standard of the ordinary prudent motorist.

(3) If the court is satisfied that an obvious and serious risk was created by the manner of the accused's driving, the court shall be entitled to infer that the accused was in one or other of the states of mind required under subsection (1) but before so inferring the court shall give regard to any explanation the accused gives as to his state of mind which may displace that inference.

(4) It is irrelevant for the purposes of this section that the accused was at the time in question by reason of a self-induced state of intoxication by drink or drugs incapable of thinking of or recognising the risk referred to in subsection (1).

(5) The foregoing subsections of this section shall apply in relation to an indictment of manslaughter where it is alleged that the death of another was caused by the manner in which the accused drove a motor vehicle with the following modifications -

- (a) for the words "as to create an obvious and serious risk of causing physical injury to some other person" in subsection (1) there shall be substituted the words "as to render it more likely than not that physical injury of some kind would be done to some other person" and the words "or of doing substantial damage to property" shall be omitted;
- (b) in subsection (2) for the words "was both obvious and serious" shall be substituted the words "was such as to render it more likely than not that physical injury would be done to some other person"; and
- (c) in subsection (3) for the words "an obvious and serious risk was created" there shall be substituted the words "it was more likely than not that physical injury would be done to some other person".

9C. (1) A person commits an offence who drives a motor vehicle on a road without due care and attention.

(2) A person commits an offence who drives a motor vehicle on a road without reasonable consideration for other persons using that road.

(3) A person convicted of an offence under subsection (1) or (2) is liable -

- (a) on the first occasion on which he is so convicted, to a fine of two hundred pounds;
- (b) on any subsequent conviction on which he is so convicted to a fine of one thousand pounds.

(4) A person who, prior to the commencement of this section was convicted to an offence under section 8 (4) of this Ordinance as it existed immediately prior to the commencement of this section shall for the purposes of subsection (3) of this section be deemed to have been convicted of an offence under subsection (1) or (2) of this section.

(5) A person shall not be convicted on the same facts of offences -

- (a) both under subsection (1) and under subsection (2) of this section; or
- (b) both under subsection (1) or (2) of this section and of an offence under section 8 (1), section 9A (1) or section 9A (2) of this Ordinance.

9D. (1) A person commits an offence who, when driving or attempting to drive a motor vehicle on a road or in a public place, is unfit to drive through drink or drugs.

(2) Without prejudice to subsection (1), a person commits an offence who, when in charge of a motor vehicle which is on a road or other public place, is unfit to drive through drink or drugs.

Driving without due care and attention.

Driving or being in charge, while under the influence of drink or drugs. (3) For the purposes of subsection (2), a person shall be deemed not to have been in charge of a motor vehicle if he proves that at the material time the circumstances were such that there was no likelihood of driving so long as he remained unfit to drive through drink or drugs but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

(4) For the purposes of this section a person shall be taken to be unfit to drive if his ability to drive properly is for the time being impaired.

9E. (1) A police officer may arrest a person without warrant if he has reasonable cause to suspect that that person is or has been committing or has committed a relevant offence.

(2) For the purpose of arresting a person under the power conferred by subsection (1), a police officer may enter (if need be by force) any place where that person is, or where the police officer, with reasonable cause, suspects him to be.

(3) For the purposes of subsection (1), "relevant offence" means an offence under sections 8, 9A or 9D of this Ordinance.

9F. (1) A person commits an offence who --

(a) drives or attempts to drive a motor vehicle on a road or in a public place; or

(b) is in charge of a motor vehicle on a road or other public place, after consuming so much alcohol that the proportion of it in his breath exceeds the prescribed limit.

(2) It is a defence for a person charged with an offence under subsection (1) to prove that at the time he is alleged to have committed the offence the circumstances were such that there was no likelihood of his driving the vehicle whilst the proportion of alcohol in his breath remained likely to exceed the prescribed limit; but in determining whether there was such a likelihood the court may disregard any injury to him and any damage to the vehicle.

9G. (1) For the purposes of the sections 9F, 9H, 9L and 9M "the prescribed limit" means such amount of alcohol in his breath as is prescribed by regulations.

(2) For the purposes of this Ordinance, a person does not provide a specimen of breath for a breath test or for analysis unless the specimen is sufficient to enable the test or analysis to be carried out and it is provided in such a way as to enable the objective of the test or analysis to be achieved.

(3) The Governor in Council may make regulations for the purposes of subsection (1) of this section.

9H. (1) If a police officer in uniform has reasonable cause to suspect —

- (a) that a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his body or has committed a traffic offence whilst the vehicle was in motion; or
- (b) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or in a public place with alcohol in his body and that that person still has alcohol in his body; or
- (c) that a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place and has committed a traffic offence whilst the vehicle was in motion,

he may, subject to section 91, require him to provide a specimen of breath for a breath test.

(2) If an accident occurs owing to the presence of a motor vehicle on a road or other public place a police officer may require any person whom he has reasonable cause to believe was driving or attempting to drive or

Powers of arrest etc. in respect of offences under 8 (1), 9A (1), 9A (3), 9D (1), and 9D (2).

in charge of a motor vehicle with alcohol concentration above prescribed limit.

Driving or being

Meaning of "prescribed limit" etc.

Breath tests.

in charge of the vehicle at the time of the accident to provide a specimen of breath for a breath test, but subject to section 9J.

(3) A person may be required under subsection (1) or subsection (2) of this section to provide a specimen either at or near the place where the requirement is made or, if the requirement is made under subsection (2) and the police officer thinks fit, at a police station specified by the police officer.

(4) A person commits an offence who, without reasonable excuse, fails to provide a specimen of breath when required to do so in pursuance of this section.

(5) A police officer may arrest a person without warrant if -

- (a) as a result of a breath test he has reasonable cause to suspect that the proportion of alcohol in that person's breath exceeds the prescribed limit; or
- (b) that person has failed to provide a specimen of breath for a breath test when required to do so in pursuance of this section and the police officer has reasonable cause to suspect that he has alcohol in his body,

but a person shall not be arrested by virtue of this subsection when he is at a hospital as a patient.

(6) For the purpose of requiring a person to provide a specimen of breath under subsection (2) in a case where he has reasonable cause to suspect that the accident involved injury to another person or of arresting him in such a case under subsection (5) a police officer may enter (if need be by force) any place where that person is or where the police officer, with reasonable cause, suspects him to be.

(7) In this section "traffic offence" means any offence under sections 7, 8, 9A, 9C, 9D, 9F, 9N or 9P.

91. (1) In the course of an investigation whether a person has committed an offence under section 9D or 9F of this Ordinance a police officer may, subject to this section, require him to provide two specimens of breath for analysis by means of a device of a type approved by the Governor in Council.

(2) A requirement under this section to provide specimens of breath can only be made at a police station.

(3) On requiring any person to provide a specimen of breath in pursuance of this section a police officer shall warn him that a failure to provide it may render him liable to prosecution.

(4) A person commits an offence who, without reasonable excuse, fails to supply a specimen of breath when required to do so under this section.

9J. (1) When a person is at a hospital as a patient he shall not be required to provide a specimen of breath for a breath test under section 9H unless the medical practitioner in immediate charge of his case has been notified of the proposal to make a requirement and if the requirement is then made it shall be for the breath test to be undertaken at the hospital, but if the medical practitioner objects on the ground specified in subsection (2), the requirement shall not be made.

(2) The ground on which the medical practitioner may object is that the requirement would be prejudicial to the proper care and treatment of the patient.

9K. (1) A person convicted of an offence under respect of section 9D(1), 9D(2), 9F(1), 9H(4) or 9I(4) is subject to subsection (3) of this section, liable on conviction to imprisonment not exceeding twelve months and to a fine of not exceeding one thousand pounds.

(2) A person who is convicted of an offence to which subsection (1) relates shall, unless for special reasons to be recorded in writing the court otherwise orders, be disqualified from holding or obtaining a driving licence, subject to subsection (3), for a period of not less than twelve months from the date of his conviction.

Provision of specimens for analysis.

Protection for hospital patients.

Penalties in respect of offences under sections 9D (1), 9D (2), 9F (1), 9H (4) and 91 (4). (3) A person who is convicted of an offence to which subsection (1) relates who has, on any previous occasion within the ten years preceding the date of conviction of the offence of which he is then convicted, been convicted of any offence to which subsection (1) relates or of any offence under 8 (2) of section of the Ordinance in the form it was immediately before the commencement of this section shall —

- (a) be liable to imprisonment for three years or to a fine of five thousand pounds or both such imprisonment and such fine; and
- (b) unless for special reasons to be recorded in writing the court otherwise orders, be disqualified from holding or obtaining a driving licence for a period of not less than three years from that date.

(4) A court convicting a person of an offence to which subsection (1) relates shall order that any driving licence he may hold shall be endorsed with particulars of that conviction.

(5) In this section, "special reasons" means special reasons related to the commission of the offence and does not, except insofar as they may be related to the commission of the offence, extend to circumstances related to the offender.

9L. (1) The following provisions apply with respect to proceedings for an offence under section 9D or section 9F of this Ordinance.

(2) Evidence of the proportion of alcohol in a specimen of breath provided by the accused shall in all cases be taken into account, and it shall be assumed that the proportion of alcohol in the accused's breath at the time of the alleged offence was not less than in the specimen; but if the proceedings are for an offence under section 9F of this Ordinance, or for an offence under section 9D of this Ordinance in a case where the accused is alleged to be unfit through drink, the assumption shall not be made if the accused proves —

- (a) that he consumed alcohol after he had ceased to drive or be in charge of a motor vehicle on a road or other public place and before he provided the specimen; and
- (b) that had he not done so the proportion of alcohol in his breath would not have exceeded the prescribed limit and, if the proceedings are for an offence under section 9D of this Ordinance, would not have been such as to impair his ability to drive properly.

(3) Evidence of the proportion of alcohol in a specimen of breath may, subject to subsection (4) of this section, be given by the production of a document purporting to be a statement automatically produced by the device by which the proportion of alcohol in a specimen of breath was measured and a certificate signed by a police officer (which may but need not be contained in the same document as the statement) that the statement relates to a specimen provided by the accused at the date and time shown in the statement.

(4) A document purporting to be such a statement or such a certificate as or both such a statement and such a certificate is mentioned in subsection (3) of this section is admissible in evidence on behalf of the prosecution in pursuance of this section only if a copy of it either has been handed to the accused when the document was produced or has been served on him not later than seven days before the hearing; but a document purporting to be a certificate (or so much of a document as purports to be a certificate) is not so admissible if the accused, not later than three days before the hearing, or within such further time as the court may in special circumstances allow, has served notice on the Chief Police Officer requiring the attendance at the hearing of the police officer by whom the document purports to be signed.

Detention of persons affected by alcohol.

9M. A person required to provide a specimen of breath may thereafter be detained at a police by station until it appears to a police officer that, were that person then driving or attempting to drive a motor vehicle on

Evidence in proceedings for an offence under sections 9D or 9E a road or other public place, he would not be committing an offence under section 9D or section 9F of this Ordinance; but a person shall not be detained in pursuance of this section if it appears to a police officer that there is no likelihood of his driving or attempting to drive a motor vehicle whilst his ability to drive properly is impaired or whilst the proportion of alcohol in his breath exceeds the prescribed limit.

Speed limit.

9N. (1) Subject to subsection (4), a person commits an offence who drives a motor vehicle —

- (a) on a road within the boundaries of Stanley or on any other road designated by the Governor by Order in Council as an urban road at a speed greater than twenty five miles per hour; or
- (b) on any other road designated by the Governor as a restricted road at a speed greater than forty miles an hour or greater than such lower speed as the Governor may by Order in Council prescribe for that road.

(2) A person who is convicted of any offence under subsection (1) shall be liable in the case of a first conviction to a fine not exceeding two hundred pounds and in the case of any later conviction of any offence under that subsection to a fine of one thousand pounds.

(3) A person who prior to the commencement of this section was convicted of any offence under section 8 (3) of this Ordinance in the form it was at any time before the commencement of this section existing shall be deemed for the purposes of subsection (2) of this section to have been convicted of that offence under subsection (1) of this section.

9P. (1) Section 12 of the Theft Act 1968 shall cease to have effect in the Falkland Islands and the following provisions of this section shall have effect in place of that section.

(2) Subject to subsections (6) and (7) of this section, a person commits an offence if, without having the consent of the owner or other lawful authority, he takes or attempts to take any conveyance for his own or another's use or, knowing that any conveyance has been taken without such authority, he drives it or attempts to drive it or allows himself to be carried on it.

(3) A person convicted of an offence under subsection (2) of this section shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five thousand pounds or both such imprisonment and such fine.

(4) The court convicting a person of an offence under subsection (2) or (6) may make any compensation order which a court in England might make under the Powers of Criminal Courts Act 1973 and the provisions of that Act, subject only to such variations and modifications as are necessary in relation to the differing authorities of and courts having jurisdiction in the Falkland Islands, shall apply in respect of any such order.

(5) If a court on trial of a person for theft of a conveyance acquits the accused but is nevertheless satisfied on the evidence before it that the accused committed an offence under subsection (2) or subsection (6) that court shall convict the accused of the appropriate offence under subsection (2) or subsection (6) even if he has not been charged with it.

(6) Subsection (2) does not apply in relation to pedal cycles, but subject to subsection (7), a person who, without the consent of the owner or other lawful authority takes or attempts to take a pedal cycle for his own or another's use, or rides or attempts to ride a pedal cycle knowing it to have been so taken, commits an offence and is liable on conviction to a fine not exceeding two hundred pounds.

(7) A person does not commit an offence under this section by anything done in the belief that he has lawful authority to do it or that he would have the owner's consent if the owner knew of his doing it and of the circumstances of it.

Taking motor vehicles etc. without authority.

- (8) For the purposes of this section
 - (a) "conveyance" means any conveyance constructed or adapted for the carriage of a person or persons whether by land, water, or air, except that it does not include a conveyance constructed or adapted for use only under the control of a person not carried on it, and "drive" shall be construed accordingly;
 - (b) "owner" in relation to a conveyance which is the subject of a hiring agreement or hire-purchase agreement means the person in possession under that agreement;
 - (c) "theft" has the same meaning as it has under the Theft Act 1968.

(9) The court, upon convicting a person of an offence under subsection (2) shall order that his driving licence be endorsed with particulars of that conviction and may disqualify him from holding or obtaining a driving licence for such period as the court thinks fit.

(10) A police officer may arrest without warrant any person reasonably suspected by him of having committed, being in the course of committing, having attempted or being in the course of attempting an offence under this section.

9Q. (1) A person commits an offence who contravenes any of the regulations made under this Ordinance and relating to the use of motor vehicles.

(2) Subject to subsection (3) a person commits an offence who drives a motor vehicle on the pavement or footway of a road or without lawful authority on a public jetty.

(3) A person shall not be convicted of an offence under subsection (2) if he satisfies the court that the motor vehicle was driven for the purpose of saving life or extinguishing fire or any like emergency.

(4) A person who is convicted of an offence under this section is liable to a fine of not exceeding two hundred pounds but if he has previously been convicted of an offence of the like kind under this section or, prior to the commencement of this section, under section 8 of this Ordinance in the form it then was, to a fine of not exceeding five hundred pounds."

- 4. The principal Ordinance is further amended
 - (a) generally, in the manner specified in Part I of the Schedule to this Ordinance; and
 - (b) in relation to the provisions specified in the lefthand column of Part II of that Schedule in the manner specified in the righthand column thereof.

5. The principal Ordinance is further amended by the insertion therein of the following new sections 17A and 17B -

"Restrictions on prosecution. (24 & 25 Vic. c. 100)

(24 & 25 Vic. c.

100)

17A. (1) After the commencement of this section, no prosecution may be brought in respect of an alleged offence under section 35 of the Offences Against the Person Act 1861 in its application to the Falkland Islands where -

- (a) the alleged offence was committed after the commencement of this section;
- (b) the alleged offence arises out of the furious driving or racing of a carriage within the meaning of that provision; and
- (c) that carriage or vehicle is a motor vehicle within the meaning of that expression under section 2 of this Ordinance,

but section 35 of the Offences Against the Person Act 1861 shall otherwise remain in full force and effect in the Falkland Islands.

(2) No prosecution in respect of an alleged offence under section 8 (1) (causing death by reckless driving) or section 9A (1) (causing serious injury by reckless driving) may be brought except by or with the written consent of the Attorney General.

(3) No prosecution may be commenced in respect of an alleged offence under section 3, section 4, section 4A, section 5, section 6, section 7, Miscellaneous amendments to the principal Ordinance.

Summary offences. section 9C, section 9D, section 9F, section 9H, section 9I, section 9N, or section 9Q of this Ordinance after the expiration of six months from the date of the alleged offence and for the purposes of this subsection, a prosecution is commenced when a person is charged by the police with that offence or a summons is issued in respect of it, whichever is the earlier.

Jurisdiction of the courts.

17B. (1) The Senior Magistrate has jurisdiction to try and determine any alleged offence under this Ordinance and, on conviction of any person of such an offence, to sentence any such person to any imprisonment for any period for thereby and provided to order him to pay any fine provided for, and to make any other order provided for by this Ordinance.

(2) The Court of Summary Jurisdiction has the like jurisdiction as the Senior Magistrate has under subsection (1) except that it has no jurisdiction in respect of alleged offences under section 8 (1) or section 9A(1)?

SCHEDULE

AMENDMENTS TO PRINCIPAL ORDINANCE

PART I

GENERAL AMENDMENTS TO PRINCIPAL ORDINANCE

- (a) The words "Officer in Charge of Police" are deleted wherever they appear and are replaced by the words "Chief Police Officer";
- (b) The words "Civil Commissioner" shall be deleted wherever they appear and are replaced by the word "Governor";
- (c) The words "police constable" are deleted wherever they appear and are replaced by the words "police officer".

PART II

MISCELLANEOUS AMENDMENTS OF PARTICULAR PROVISIONS AND REPEALS OF PARTICULAR PROVISIONS OF THE PRINCIPAL ORDINANCE

Provision

(i) section 1.

(ii) section 2.

Amendment

The whole section is restored to the form it had before the commencement of the Road Traffic (Amendment) Ordinance 1977.

- (a) The full stop at the end of the definition of "Hire car" or "taxi" is removed and the following words are added after the word "vehicle" appearing in that definition "constructed or adapted for the carriage of not more than nine persons in addition to the driver thereof. ".
- (b) The following additional definitions are added at the end of the section —

" "Coach" means a Public Service Vehicle which is not a Hire car or taxi.

"Police officer" means any person who is a member of the Falkland Islands Police Force and includes a reserve member of that Force.

"Drug" means any substance, other than alcohol, the consumption of which may have the effect of impairing a person's ability of drive.

"Serious injury" means any injury to a person -

- (a) whereby any of the bodily senses of touch, sight, hearing or taste is significantly and permanently impaired;
- (b) whereby any permanent scar of cosmetic importance is occasioned;
- (c) involving any damage to any of his vital organs;
- (d) involving the loss of any digit;
- (e) involving any fracture of any bone; or
- (f) whereby that person's enjoyment of life is significantly and permanently impaired or his expectation of life is significantly diminished.

"Breath test" means a preliminary test for the purpose of obtaining, by means of a device approved by the Governor in Council, an indication whether the proportion of alcohol in a person's breath is likely to exceed the prescribed limit.

"Fail" includes refuse.

"Hospital" means an institution which provides medical or surgical treatment for in-patients or out-patients.

"public place" means any place within the boundaries of Stanley to which the public are for the time being admitted and whether or not on payment of any admission or other charge or subject to conditions.

There is inserted after the word "Governor" the words "and those in respect of which no duty is payable by virtue of paragraph (d) of section 4 (3)".

- (a) at the end of paragraph (a) thereof, and immediately before the semi-colon appearing therein are added the words "but where any provision of this Ordinance provides that a court shall so disqualify him, the court shall so disqualify him and where a minimum period of disqualification is specified in any such provision, the court shall so disqualify him for at least that period, but may disqualify him for any greater period the court thinks fit?";
- (b) Paragraph (b) is repealed.
- (a) The word "may" is deleted and there is substituted for it the words "shall, unless it is empowered to do otherwise by any provision of this Ordinance and in any such case may";
- (b) Immediately after the word "conviction" the words "of a driving offence" are inserted.

Immediately after paragraph (b) is inserted a new paragraph —

"(bb) ten years if the disqualification is for the person's lifetime; ".

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: POL/10/5.

P. T. KING, Clerk of Councils.

Printed by the Government Printer.

FALKLAND ISLANDS.

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(v) section 5 (9).

(iii) section 3 (1).

(iv) section 5 (8).

(vi) section 5 (14).

The Swimming Pool (Trust Fund) Ordinance 1987 (No. 35 of 1987)

ARRANGEMENT OF CLAUSES

Clause

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- 1. Short title and commencement.
- 2. Interpretation.
- 3. The Trust Fund.
- 4. Payment of money into the Trust Fund.
- 5. Expenditure out of the Trust Fund.
- 6. Land.
- 7. Application of balance of the Trust Fund.

ELIZABETH II



Colony of the Falkland Islands

Gordon Wesley Jewkes, c.m.g. Governor.

The Swimming Pool (Trust Fund) Ordinance 1987.

No. 35 of 1987

An Ordinance

To establish a Swimming Pool Trust Fund, and for connected purposes.

(Assented to : 10th December 1987) (Commencement : to be fixed) (Published : 23rd March 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Swimming Pool (Trust Fund) Ordinance 1987, and shall come into force on such date as the Governor, by Order published in the Gazette, may appoint.

2. In this Ordinance -

"the Constitution" means Schedule 1 to the Falkland Islands Constitution Order 1985;

"Government" means the Government of the Falkland Islands;

"Government money" has the meaning ascribed to that phrase by section 4 (1) (a) of this Ordinance;

"person" includes a body of persons, corporate or unincorporate;

"private money" has the meaning ascribed to that phrase by section 4 (1) (b) of this Ordinance;

"a repayment condition" means a condition within the meaning ascribed to that phrase by section 6 (2) of this Ordinance;

"swimming pool" means a swimming pool for public use intended to be constructed, opened and operated in Stanley;

"the Trust Fund" means the Trust Fund established by section 3 (1) of this Ordinance.

3. (1) There is hereby established a fund to be known as the Stanley Swimming Pool Trust Fund.

(2) The Trust Fund shall form part of the Consolidated Fund established by section 68 of the Constitution.

(3) The Trust Fund shall form a separate fund within the Consolidated Fund and accounts relating thereto shall be maintained by the Financial Secretary separately from all other monies forming part of the Consolidated Fund and shall form part of, and be published in, the public accounts.

Interpretation.

SI, 1985 No. 444

The Trust Fund.

(4) The Trust Fund shall be audited by the Principal Auditor in accordance with section 74 of the Constitution and he shall have and may exercise in relation thereto all the powers conferred upon him by that section or any other provision of law relating to the audit of the public accounts of the Falkland Islands.

(5) The Trust Fund is a public fund for the purpose of section 69 (2) of the Constitution.

4. (1) There may be paid into or transferred to the Trust Fund -

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- (a) such moneys belonging to the Government as are authorised by appropriation legislation to be paid into or transferred to the Trust Fund (hereinafter in this Ordinance called "Government money"); and
- (b) such moneys not belonging to the Government as any person pays to or transfers to the Government for the purpose of the same being paid into the Trust Fund (hereinafter in this Ordinance called "private money").

(2) Private money may be paid or transferred to the Trust Fund subject to a condition that if the money so paid or transferred is not within a specified period of years expended in accordance with section 5 of this Ordinance, that money or so much of the same as may remain unexpended shall be repaid with any interest earned thereby to the person so paying or transferring the same or to such other person as he may direct (such a condition being hereinafter in this Ordinance called "a repayment condition").

(3) A repayment condition shall be of no effect unless prior to the private money being paid or transferred to the Trust Fund an agreement in writing, setting out sufficiently the provisions of the repayment condition, has been entered into between the Financial Secretary of the Government and the person so paying or transferring the private money.

(4) The accounts maintained pursuant to section 3 (3) shall contain such particulars as the Principal Auditor may require of all agreements to which subsection (2) of this section relates.

(5) For the purposes of this Ordinance all moneys paid or transferred to the Trust Fund subject to a repayment condition, whenever paid or transferred, shall be deemed to be expended *pari passu* with all other money so paid or transferred whenever paid or transferred to the Trust Fund, and shall be deemed to have been so paid or transferred on the date of commencement of this Ordinance.

(6) All Government money paid or transferred to the Trust Fund shall be deemed to have been so paid or transferred subject to a repayment condition to the effect that it shall be repaid or transferred out of the Trust Fund on the day following the day on which the latest date on which any private money paid into or transferred to the Trust Fund subject to a repayment condition is (subject to subsection (7)) repayable in whole or in part by virtue thereof.

(7) The earliest date which may be specified in a repayment condition under subsection (2) of this section is three years from the date of the payment or transfer and the latest date which may be so specified is six years from the date of commencement of this Ordinance, and in the event that any repayment date earlier or later than that permitted by this subsection is so specified, the earliest date (or, as the case may be, the latest date) for repayment permitted by this subsection to be specified shall be deemed to have been specified in the repayment condition instead of that actually specified.

5. (1) The Trust Fund may be expended subject to subsection (3), for the following purposes -

Expenditure out of the Trust Fund.

- (a) upon the cost of obtaining a feasibility study or studies as to the siting, construction, design and operation of a swimming pool for public use in Stanley;
- (b) the cost of acquiring, levelling or otherwise preparing land in Stanley for the construction or building of a swimming pool for use by the public, including the cost of obtaining any necessary easements, wayleaves or other rights necessary to enable that swimming pool to be constructed or built and when constructed or built to be operated as a public swimming pool;

Payment of money into the Trust Fund.

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- (c) the cost of obtaining or providing electricity, water or other services to the land to be used for construction of the swimming pool, the provision of boundary walls or fences for or in respect of that land, the construction of any necessary or convenient roads, footpaths and parking areas within the land and the cost of landscaping the land (including if appropriate the planting of trees and shrubs or other plants); and
- (d) the cost of operating the swimming pool when constructed.

(2) For the purposes of subsection (1) and subject to subsection (3) any reference to the construction of the swimming pool includes (without prejudice to anything else it may include) the provision of means of heating the swimming pool and any facilities used in connection therewith, the provision of showers, changing-rooms, footbaths, diving boards, water-filtration plants, means of lighting and equipment necessary or convenient for the safe and efficient operation of the swimming pool or calculated to enhance the public enjoyment thereof, and any reference to the cost of operating the swimming pool includes the cost of operating anything included in the cost of construction and the cost of repairing, renewing replacing and maintaining any such thing and the cost of subsection (1).

(3) It shall not be lawful for any part of the Trust Fund to be expended in payment or reimbursement of the salary, allowances or other remuneration of any pubic officer.

(4) The foregoing provisions of this section constitute for the purposes of section 69 (2) of the Constitution a law authorising the withdrawal of moneys from a public fund.

Land.

6. (1) It shall be lawful for the Governor in Council to dedicate any land in Stanley belonging to the Crown as land for the construction and operation of a public swimming pool and any land so dedicated shall be held by the Governor or other officer for the time being administering the Government under the Crown upon trust for the public but shall not constitute an asset or part of the Trust Fund.

(2) Any land acquired out of moneys provided by the Trust Fund shall be acquired in the name of the Governor, or the officer for the time being administering the Government under the Crown, who shall hold the same upon perpetual trust for the public for purposes the same, so far as may be applicable, as moneys in the Trust Fund may be expended under section 5 of this Ordinance but such land shall not constitute an asset or part of the Trust Fund.

7. (1) In the event that the Trust Fund is not wholly expended by the sixth anniversary of the coming into force of this Ordinance -

Application of balance of the Trust Fund.

- (a) any money still forming part thereof and subject to a repayment condition shall subject to subsection (3) be repaid in accordance with that condition; and
- (b) any other money still forming part thereof shall be applied in accordance with subsection (2).

(2) Moneys to which paragraph (b) of subsection (1) of this section relates shall be applied as if -

(a) it had been given for charitable purposes;

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(b) the expenditure of the money on any charitable purpose for the benefit of the people of the Falkland Islands generally were authorised by an instrument under which the money was given or set aside.

(3) A person entitled to the benefit of a repayment condition may at any time by writing under his hand authorise the application of any money which would otherwise fall to be repaid to him under paragraph (a) of subsection (1) (or otherwise at an earlier date in accordance with that condition) to be applied as it were not subject to that condition and, if not wholly expended on the date mentioned in subsection (1) of this section, to be applied in accordance with subsection (2) of this section.

Passed by the Legislature of the Falkland Islands this 25th day of November 1987.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Ref: INT/36/18.

P. T. KING, Clerk of Councils.

The Income Tax Ordinance 1987 (Cap 32)

The Deductions (Employees) Regulations 1987 (S.R. & O. No 23 of 1987)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation and Commencement.
- 2. Interpretation
- 3. Application of these Regulations.
- 4. Employees paid more frequently than once a week.
- 5. Employees paid less frequently than once a week but more frequently than monthly.
- 6. Employees paid less frequently than monthly.
- 7. Tables A and B to be used to calculate deductions.
- 9. Rules.
- 10. Deductions for non-residents.

Schedule - General Rules, Table A and Table B.

The Income Tax Ordinance.

The Deductions (Employees) Regulations 1987.

(S.R. & O. No. 23 of 1987)

IN EXERCISE my powers under section 32E of the Income Tax Ordinance I make the following regulations —

PART I

INTRODUCTORY

1. These Regulations may be cited as the Deductions (Employees) Regulations 1987 and shall come into force on the 1st January 1988.

2. (1) In these Regulations —

"benefit in kind" means any benefit or privilege received by an employee from his employer other than in money;

"employee" has the same meaning as it has under section 32A (3) of the Ordinance and "employer" has a correlative meaning;

"monthly paid employee" means an employee who is paid at intervals of a month or more;

"non-resident employee" means an employee who under the Ordinance is to be treated as not being ordinarily resident in the Falkland Islands and "resident employee" has a correlative meaning;

"remuneration" means the gross amount before any deductions, of earnings or other money paid by an employer to an employee or former employee on account of services rendered under a contract of service or former contract of service and includes any sum paid by way of pension or annuity but does not include any benefit in kind;

"weekly paid employee" means an employee who is paid at intervals more frequent than once a calendar month.

3. (1) These Regulations shall apply so as to prescribe the deductions to be made by an employer from remuneration paid by that employer to an employee of his.

Application of these Regulations.

(2) Nothing in these Regulations shall require or authorise any deduction to be made from the remuneration of any employee who -

(a) in the case of a weekly paid employee, has not worked at least fifteen hours in the employment of the employer during the period in which the remuneration is paid ("the pay period") if, and only if, that employee has not worked eighty-four hours in aggregate in the employment of that employer during that pay period and the three periods preceding that pay period; Citation and commencement. Interpretation. (b) in the case of a monthly paid employee, has not worked at least sixty hours during the pay period in respect of which the remuneration is paid; or

(c) in respect of foreign remuneration.

(3) In paragraph (2) of this regulation, "worked" in relation to hours for which an employee is paid means hours in respect of which he is for any reason paid, and whether or not he has actually rendered any services to the employer during those hours.

4. (1) Where an employee who is ordinarily resident is paid more frequently than once a week Table A in the Schedule to these Regulations shall be applied by the employer in the following manner —

- (a) the amount of the payment made is to be multiplied by thirty-six and then divided by the number of hours (to the nearest whole number of hours) in respect of which payment is made;
- (b) the figure produced by the calculation in (a) above is to be taken as the applicable weekly remuneration and column 1 of Table A is to be consulted accordingly;
- (c) the sum to be deducted is the amount appearing in column 2 of Table A against the figure in column 1 found by (a) and (b) above, but reduced by division by thirtysix and subsequent multiplication by the number of hours (to the nearest whole number of hours) in respect of which payment is made and the employer shall deduct from the gross remuneration the resulting figure expressed as decimal pounds sterling (to the nearest penny).

5. Where an employee who is ordinarily resident is paid less frequently than weekly but more frequently than monthly Table A in the Schedule to these Regulations shall apply without modification in every week in which he is paid remuneration.

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Employees paid less frequently than once a week but more frequently than monthly. Employees paid less frequently than monthly.

Employees paid more frequently

than once a

week.

Tables A and B to be used to be used to calculate deductions.

6. Where an employee who is ordinarily resident is paid less frequently than monthly Table B in the Schedule to these Regulations shall apply without modification in every month in which he is paid remuneration.

7. (1) Table A in the Schedule to these Regulations shall apply for the purpose of prescribing the deductions on account of income tax which shall be made by an employer from remuneration paid to an employee who is paid weekly or at intervals of less than a month, as provided by regulations 4 and 5.

(2) Table B in the Schedule to these Regulations shall apply for the purpose of prescribing the deductions on account of income tax which shall be made by an employer from remuneration at monthly intervals or at intervals of greater than a month as provided by regulation 6.

8. The Rules in the Schedule hereto which precede Table A and B shall apply in relation Rules. thereto.

9. (1) Table A and B shall not apply in respect of remuneration paid to non-resident employees.

(2) There shall be deducted from remuneration paid to employees who are not ordinarily resident in the Falkland Islands an amount equivalent to fifteen per cent of the gross amount of every payment made to them on account of such remuneration.

10. Every employer deducting any sum in accordance with these Regulations shall on or before the fourteenth day of the calendar month following the month within which the deduction was made -

- (a) cause to be delivered to the Commissioner a return in the prescribed form containing all particulars required to be completed therein; and
- (b) a remittance for the aggregate of all deductions made by him under these Regulations during that calendar month.

Returns and payment to Commissioner.

Deductions for

non-residents.

SCHEDULE

General Rules as to Table A and B in this Schedule.

1. The employee's gross remuneration in money is to be taken into account for deduction purposes (ie money deducted eg (a) for old age pension contributions, medical services levy, (b) deductions by employer such as rent, electricity payment or debts is not to be subtracted for this purpose.)

2. Where the employee's remuneration falls between two figures in column 1 of the Table, deduction is to be made as if the employee's gross remuneration were the lower of the those two figures (eg if an employee's gross remuneration is £112 (falling between £110 and £115), the deduction to be made is that applicable to £110).

3. Where an employee is paid at intervals of less than a week (eg he is paid every three days) refer to regulation 4 and use Table A accordingly.

4. Where an employee is paid at intervals greater than weekly but less than monthly (eg he is paid fortnightly) refer to regulation 5 and use Table A accordingly.

5. Where an employee is paid at intervals greater than monthly, refer to regulation 6 and use Table B accordingly.

6. Tables A and B apply to pensions and annuities paid by a resident employer to a resident. But no deduction need to be made unless the pension or annuity together with other remuneration paid by the same employer exceed or is likely to exceed \pounds 4400 a year in the calendar year in question.

7. The Tables only apply to remuneration paid to employees who are ordinarily resident in the Falkland Islands: for non-residents deductions are to be made at 15% of all remuneration paid. If in doubt as to whether an employee is to be treated as ordinarily resident or not, inquire of the Income Tax Office, Stanley.

TABLE A

Deductions in respect of employees, pensioners and annuitants paid more frequently than once a month.

Column 1 (Note: see para. 2 abo	ve)	Column 2 (Note: see para. 2 above)
Gross Remuneration		Deduction
Deduction in money		200000
85		Nil
90		1
95		2
100		3
105		4
110		. 6
115		7
120		8
125		9
130		10
135		11
140		12
145		13
150		15
155		16
160		17
165		18
170		18
175		20
180		20
185		21
190		22
195		25
200		26
205		27
210		28
215		29
220		30
225		31
230		33
235		34
240		35
245		36
250		37
255		38
260		39
265		40
270		42
275		43
280		44
285		45
290		46
295		47

in money.	
300	 • 48
305	 49
310	 51
315	 52
320	 54
325	 55
330	 56
335	 58
340	 59
345	 60
350	 62
355	 63
360	 65
365	 66
370	 67
375	 69
380	 70
385	 71
390	 73
395	 74
400	 75
405	 77
410	 78
415	 80
420	 82
425	 84
430	 86
435	 87
440	 89
445	 91
450	 93
455	 95
460	 96
465	 98
470	 100
475	 102
480	 104
485	 105
490	 107
495	 109
500	 111
505	 113
510	 114
515	 116
520	 118
525	 120
530	 122
535	 123
540	 125
545	 127
550	 129
555	 131
560	 132
565	 134
570	 136
575	 138
580	 140
585	 141
590	 143
595	 145
600	 147

TABLE B

Deductions in respect of employees, pensioners and annuitants paid monthly or less frequently than monthly.

n

Column 1 (Note: see para. 2 al		Column 2 (Note: see para. 2 above.)
Income per mont	th	Deduction
350		Nil
375		1
400		7
425		12
450		18
475		24
500		29
525		35
550		40
575		46
600		52
625		
650		63
675		69
700		74
725		80
750		86
775		91
800		97
825		102
850		102
875		114
900		120
925		125
950		130
975		136
1000		142
1025		142
1023		140
1075		153
1100		
1125		170
		170
1150		
1175 1200		181
		187
1225		192
1250		198
1275		204
1300		209
1325		216
1350		223
1375		230
1400		236

Column 1 (Note: see para. 2 above) Income per month

a

Column 2 (Note: see para. 2 above.) Deduction

•		
1425	 •	243
1450		250
1475		257
1500		263
1525		270
1550		277
1575		284
1600		290
1625		297
1650		304
1675		311
1700		317
1725		324
1750		331
1775		339
1800		348
1825		357
1850		366
1875		375
1900		384
1925		393
1950		402
1975		411
2000		420
2025		429
2050		438
2075		447
2100		456
2125		465
2120		474
2175		483
2200		492
2225		501
2250		510
2275		519
2300		528
2325		537
2323		546
2375		
24 00		555
		564
2425		573
2450		582
2475		591
2500		600
2525		609
2550		618

a

Column 2 (Note: see para. 2 above.) Deduction

2575		627
2600		636
2625		645
2650		654
2675		663
2700		673
2725		685
2723		696
2775		707
2800		718
2800		729
2823		741
2830		741
2 873 29 00		763
		775
2925		-
2950		786
2975		797
3000		808
3025		820
3050		831
3075		842
3100		853
3125		865
3150		876
3175		887
3200		898
3225		910
3250		921
3275		932
3300		943
3325		955
3350		966
3375		977
3400		988
3425		1000
3450		1011
3475		1022
3500		1033
3525		1045
3550		1056
3575		1067
3600		1078
3625		1090
3650		1101
3675		1112
3700		1123
3725		1135
3750		1146
3775		1157
3800		1168

Column 1 (Note: see para. 2 above)		Column 2 (Note: see para. 2 above.)	
Income per mon		Deduction	
2825		1190	
3825 3850		1180 1191	
3875		1202	
3900		1213	
3925		1225	
3950		1236	
3975		1247	

Made this 17th day of December 1987.

B.R. CUMMINGS, Acting Governor.

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Ref: INC/10/5.

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The Fisheries (Conservation and Management) Ordinance 1986

The Fishing Regulations Order 1987 (S.R. & O. No. 24 of 1987)

ARRANGEMENT OF PROVISIONS

Part I

INTRODUCTORY

Regulation

- 1. Citation and Commencement.
- 2. Interpretation.

Part II

LICENCES TO CATCH FISH AND OBLIGATIONS IN RESPECT OF FISHING BOATS

- 3. Application of this Part
- 4. Application for a licence
- 5. Bond
- 6. Fishing licence
- 7. Issue of licence and payment of fee
- 8. Period of validity of licence
- 9. Compulsory radio equipment
- 10. Code of signals and flags to be carried
- 11. Use of English language and international code of signals
- 12. Navigational charts and aids
- 13. Notification of entry into fishing waters
- 14. Stowage of gear by fishing boats
- 15. Reports to be made by Masters of fishing boats
- 16. Report to be made on completion of fishing
- 17. Post fishing inspection and hand over of fishing log
- 18. Keeping of radio log books
- 19. Arrangements to be made on radio becoming inoperative
- 20. Display of radio call signs
- 21. Compliance with instructions from patrol vessels.
- 22. Compliance with instructions from surveillance aircraft
- 23. Requirement to have an English speaking crew member
- 24. Radio listening watches
- 25. Accommodation of observers and Fisheries Protection Officers and provisions of other facilities
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PROVISIONS APPLYING TO ALL FISHING BOATS

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- 28. Action to be taken by a fishing vessel on receiving a signal to stop
- 29. Powers of Fisheries Officers in respect of stopped vessel
- 30. Power to direct stopped fishing boat to port
- 31. Supplementary to regulation 30
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LICENCES TO TRANSHIP AND TRANSHIPMENT OF FISH

- 33. Application of Part IV
- 34. Operational transfers of fish
- 35. Licences not required for certain activities
- 36. Mode of application for licence
- 37. Information to be contained in an application for a licence
- 38. Application for licence
- 39. Place licence to be kept, production of licence etc
- 40. Authority to proceed to port for collection of licence
- 41. Conditions of licences under Part IV
- 42. Licences under Part IV as an export licence
- 43. When licences required etc. and provisions as to secondary transhipments of fish
- 44. Provisions as to fees
- 45. Cancellation or revocation of licence under Part IV
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PART V

EXPORT OF FISH ETC

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- 48. Applications for licences
- 49. Export by aircraft
- 50. Export by ship
- 51. Payment of fees
- 52. No licence required by land store
- 53. Records to be kept at land store
- 54. Inspection of land store
- 55. Removal of fish from land store for disposal in the Falkland Islands
- 56. Copies of air waybills

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- 58. Identity documents
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- 61. Offences under these Regulations
- 62. Administrative Penalty Forms
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Schedule 2 - General Conditions - Transhipment Licences

Schedule 3 - Penalty Forms

Schedule 4 - Regulations Revoked

The Fisheries (Conservation and Management) Ordinance 1986.

The Fishing Regulations Order 1987 (S.R. & O. No. 24 of 1987)

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986 I make the following Order -

PART I

INTRODUCTORY

1. This Order may be cited as the Fishing Regulations Order 1987 and shall come into force Citation and on 1st January 1988.

commencement.

Interpretation.

2.(1) In these Regulations unless the context otherwise requires

"aircraft" includes a hovercraft;

"Director" means the Director of Fisheries as defined in section 2 of the Ordinance.

"fee" and "prescribed fee" means such fee as is prescribed by Regulations under the Ordinance in respect of the application or licence in question;

"Khz" means Kilohertz

"kilohertz" means a thousand cycles per second

"megahertz" means a million cycles per second;

"mhz" means megahertz; "International Tonnage Rules" means the Regulations annexed to the International Maritime Organisation Convention on Tonnage Measurement of Ships 1969;

"licensee" means the person granted a fishing licence under the Ordinance and these Regulations;

"licensed fishing boat" means a fishing boat specified in a fishing licence;

"the Ordinance" means the Fisheries (Conservation and Management) Ordinance 1986;

"Stanley Agent" means the agent required by regulation 26 to be engaged;

"very high frequency" means a single radio frequency or band lying between three hundred mhz and thirty mhz;

"vessel" does not include a hovercraft; and

"VHF" means very high frequency.

(2) In relation to a land store, in these Regulations, "owner" means such of the owner, lessee and occupier as is appropriate in the circumstances of the case.

(3) Unless the contrary intention appears in these Regulations every expression appearing in these Regulations which is defined in the Ordinance has the same meaning as it has under the Ordinance.

PART II

LICENCES TO CATCH FISH AND OBLIGATIONS IN RESPECT OF FISHING BOATS

3. This Part applies to applications for licences to catch or take fish, operations undertaken under such a licence by a fishing boat and obligations of a fishing boat so licensed.

4. (1) Unless otherwise provided by other Regulations made under the Ordinance in respect of any fishing season and subject to paragraphs (2) and (3) of this regulation, an application for a fishing licence in respect of a fishing boat shall be lodged not less than twentyone days before the date requested in the application for commencement of the licence.

Application of this part.

Application for a licence.

(2) Applications to which paragraph (1) of this regulation relates shall

(a) be delivered addressed to the Director -

(i) at the Fisheries Department, Stanley, Falkland Islands, or

(ii) at Government Office, London; and

(b) be in a form approved by the Director.

(3) Nothing in regulation 6 shall preclude an application being made for a licence for more than one fishing boat in the same application.

(4) The Director may in his discretion accept an application made less than twenty-one days before the requested commencement date of the licence.

(5) Every application under this regulation shall be in writing and shall contain all the information required under these regulations and, in addition, any information required in any form approved by the Director for the purpose and may be made by the applicant or his duly authorised agent by delivery of the application, or by sending it by telegram, telex or facsimile transmission.

(6) Every application under this regulation shall specify whether or not it is requested that the licence shall also operate as a transhipment or export licence or both.

(7) An application under this regulation shall be accompanied by —

(a) an International Tonnage Certificate as to the gross tonnage, issued under the International Tonnage Rules, of each fishing boat in respect of which the application is made;

(b) a remittance for the prescribed application fee; and

(c) any deposit required under paragraph (9) of this regulation.

(8) In the event that any fishing boat to which an application for a licence under this regulation relates is not registered under the flag of a country which is a party to the International Maritime Organisation Convention on Tonnage Measurement of Ships 1969 the Director, in his discretion, may accept such evidence as he thinks fit of the gross tonnage of that fishing boat and using such method of calculation as he thinks fit, convert that tonnage into the gross tonnage of that fishing boat for the purposes of the International Tonnage Rules and the gross tonnage so calculated shall be the gross tonnage for the purposes of calculation of licence fees.

(9) The Director may require that the application

(a) be lodged by a date specified by him in such requirement; and

(b) be accompanied (in addition to the application fee mentioned in paragraph (7) of this regulation) by a deposit of not more than one tenth of the licence fee that would be payable if a licence were granted to the applicant. (10) Sums required to be paid under paragraphs (7) and (9) of this regulation shall be paid in such manner as the Director shall direct.

(11) An application fee (whether or not a licence is granted) shall not be refunded unless the Director otherwise directs but, if a licence is granted, shall be applied towards payment of the fee for that licence.

(12) A deposit shall be refunded to the applicant if a licence is not granted but shall otherwise be applied towards payment of fee for the licence granted.

(13) The Director may, before issuing a licence, if the whole of the fee for that licence has not been paid, require that the payment of the balance of that fee be assured by irrevocable letter of credit or other means satisfactory to him.

(14) The Director may, on considering an application, offer that a licence will be granted

(a) in respect of a different part or parts of the fishing waters than that or those specified in the application;

(b) in respect of a species of fish other than those specified in the application or in respect of some only of those species of fish;

(c) in respect of a period or periods other than those specified in the application, or one or more of those things.

5. A licensee or the Stanley Agent of the licensee shall, if required by the Director before Bond. or after issue of the fishing licence, either execute and maintain a bond in an amount and form satisfactory to the Director to guarantee compliance with the Ordinance, these Regulations and the conditions of the licence or provide such other financial or other security as the Director may approve.

6. (1) Every fishing licence shall bear a separate serial number allocated by the Director, apply to one fishing boat, which shall be specified therein, and shall not be transferable.

(2) Unless the Director otherwise permits, the licence or a copy of it authenticated by him and a copy of these Regulations shall be kept on board the fishing boat and be produced for inspection on demand to any Fisheries Protection Officer or other person authorised by the Director to demand production thereof.

(3) A fishing licence shall be subject to the general conditions contained in Schedule 1 to these Regulations and such special conditions as may, in the discretion of the Director, be attached to that licence.

(4) If the fishing licence also operates as a transhipment licence or export licence or both, it shall be endorsed with a statement to that effect and also with any conditions required by these Regulations to be attached to such a Licence or which the Director, in his discretion, imposes in relation thereto.

(5) The Director or a person authorised by him may, with the consent of the master of a fishing boat, amend or vary any provision set out in a licence issued in respect of that boat, and not being a provision which by virtue of paragraph (3) of this regulation or any other provision of the Ordinance is required to be contained in that licence.

7. (1) A fishing licence shall be issued for a fishing season or a part or parts of a fishing season.

(2) A fishing licence may be cancelled by the Director with immediate effect at any time if the proportion of the licence fee referable to the then unexpired period of the licence has not been paid.

(3) The licence shall be issued to the master of the fishing boat at Stanley or at such other place as the Director may agree.

(4) The Director and any Fisheries Protection Officer may, before issuing a licence, require that the ships papers of the fishing boat in question be produced to him and that such drawings and diagrams as to its construction as he shall specify shall be produced to him. Period of validity of a fishing licence.

Fishing Licence.

(5) The master of the fishing boat shall, if required by the Director, for the purpose of inspection and measurement by a Fisheries Protection Officer prior to commencement of fishing by the boat, bring the boat to Port Stanley or such other port or hurbour in the Falkland Islands as the Director may direct.

(6) The master of a fishing boat shall permit a Fisherics Protection Officer to inspect that boat and to take measurements and photographs of the boat and any equipment or apparatus carried thereon.

(7) The Director may provisionally allocate a licence to an applicant who has applied for a licence under regulation 4 and complied with the requirements of that regulation and may stipulate in the notice of allocation -

(a) the last day on which notification of acceptance of the provisional allocation shall be given by the applicant to the Director; and

(b) the last day on which the master of the fishing boat specified in the licence may be issued with and collect the licence.

(8) If ---

(a) an applicant fails to notify acceptance of allocation to the Director on or before the day stipulated under subparagraph (a) of paragraph (7) of this regulation;

(b) a master fails to collect the licence on or before the day stipulated under subparagraph (b) of paragraph (7) of this regulation; or

(c) the applicant fails to pay such proportion of the licence fee as the Director may require on or before the date stipulated under subparagraph (a) of paragraph (7) of this regulation,

the provisional allocation shall be of no further effect.

8. (1) A licensee may, if the Director so permits, surrender a fishing licence in exchange for another fishing licence.

Surrender of licence and . substitution of another licence.

(2) A fishing licence issued in exchange for a licence surrendered under paragraph (1) of this regulation -

(a) may not be issued in respect of a fishing boat of greater gross tonnage (measured in accordance with paragraph (7) or (8) of regulation 4) than that of the fishing boat licensed under the fishing licence so surrendered; and

(b) shall be valid for the period then unexpired of the licence so surrendered.

(3) The Director shall not permit a fishing licence to be exchanged under paragraph (1) of this regulation unless the prescribed administrative fee has been paid.

(4) An application for permission to surrender and exchange a licence under this regulation shall be made to the Director in Stanley in such form as he may approve.

9. Every licensed fishing boat engaged in fishing and operations ancillary to fishing shall be equipped with radio equipment capable of providing radio telephony (voice) communications using maritime frequencies in the High Frequency and Very High Frequency (VHF FM) bands.

10. Each licensed fishing boat when in the fishing waters, shall carry on board a copy of the International Code of Signals and an appropriate set of flags and shall at all times carry on board persons competent to exchange messages by this means with a Fisheries Protection Officer embarked in any vessel.

11. (1) All records, reports or notifications required to be maintained or made under these regulations shall be maintained or made in English.

(2) In every communication by radio, flag or light between any licensed fishing boat in the fishing waters and a fisheries protection officer, the signals specified in the International Code of Signals published by the Inter-Governmental Maritime Organisation shall be used.

12. Each licensed fishing boat shall at all times it is within the fishing waters, carry appropriate navigational charts and publications and be fitted with such electronic navigational aids as will enable the master to ascertain its position within the fishing waters with sufficient accuracy.

Compulsory radio equipment.

Code of Signals and Flags to be carried.

Use of English and International Code of Signals.

Navigational charts and aids.

13. (1) The master of a licensed fishing boat intending to fish in the fishing waters shall notify the Director of his intention to enter the fishing waters not more than 48 hours and not less than 12 hours before the entry of that boat into the fishing waters.

(2) Such notification shall include:-

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

(b) full details of any catch on board; and

(c) the intended date and time of commencement of fishing operations by the boat; and

(d) the position of her intended initial fishing position; and

(e) the boat's present position.

(3) All signals to which paragraph (1) of this regulation relate shall be given the prefix "FISHCOM REPORT".

14. Every licensed fishing boat shall properly stow fishing gear in accordance with section 6 of the Ordinance.

15. (1) The master of a licensed fishing boat fishing within the fishing waters or undertaking any operation in relation to fishing or intended fishing within the fishing waters shall each day at a time and in such manner as may be notified by the Director, make reports to the Director detailing the position and fishing activities, if any, of the boat. Each such report shall include:—

(a) the boat's call sign and present position; and

(b) the approximate weight of each species of fish retained on board the boat since the last report; and

(c) the number and duration of trawl hauls made since the last report; and

(d) (if appropriate) the number and duration of operations of jigging machines in use; and

(e) any operational transfer of fish made or received in that period, and the fishing boat to which it was made or from which it was received.

(2) Such reports shall be given the prefix "CATCH REPORT" and shall be numbered consecutively.

(3) Where a number of fishing boats are operated as part of a fleet, the reports required under this regulation or under any other of these regulations, may with the prior approval of the Director, be made on behalf of a number of designated boats by the master of one of those boats designated for such purpose.

16. (1) Prior to a transhipment (whether it be a primary transhipment or a secondary transhipment) and to departure from the fishing waters the master of a fishing boat shall make a report to the Director giving the boat's call sign and present position; and also

(a) the total quantity of each species of catch taken within the fishing waters since the signal under paragraph (3) of regulation 15 (the FISHCOM REPORT);

(b) stating his intentions and if leaving the expected date and time of departure from the fishing waters.

(2) All reports to whom paragraph (1) of this regulation relate shall be given the prefix "FISHEND REPORT".

17. (1) The master of a licensed fishing boat who intends to leave the fishing waters shall if required by the Director, bring the boat to Port Stanley or such other port or harbour within the Falkland Islands as the Director shall direct for the purpose of inspection of the boat by a Fisheries Protection Officer or other person authorised by the Director.

(2) The master shall, if so required by the Director, prior to departure from the fishing waters, deliver to the Director the fishing log referred to in paragraph (2) of regulation 18.

Post fishing inspection and hand over of fishing log.

Report to be

fishing.

made on completion of

Notification of entry into fishing waters.

Stowage of gear by fishing boats.

Reports to be made by Masters of fishing boats. 18. (1) The master of each fishing boat engaged in fishing shall keep a radio log book in English showing dates and times when fishing reports were transmitted and to which station they were transmitted.

(2) The master of each fishing boat engaged in fishing shall keep a fishing log in a form prescribed by or approved by the Director.

(3) The radio log book and fishing log shall be produced to a Fisheries Protection Officer for inspection on demand and copies or copy extracts therefrom shall also be given without payment to a Fisheries Protection Officer on demand.

19. In the event of the main radio equipment of a fishing boat being unserviceable the master shall make appropriate arrangements for all information required by these Regulations to be relayed to the Director through another vessel.

20. (1) The Radio Call Sign of each licensed fishing boat shall be displayed on each side of its superstructure clear of obstruction and where it can best be seen from an aircraft or patrol vessel.

(2) The letters and numbers shall be prominently painted in black on a white background or in white on a black background.

(3) The paintwork where the letters are painted shall be maintained in good condition so that the letters are clearly visible at all times.

21. (1) Masters shall comply with any lawful instruction or order given from any patrol vessel by or at the direction of a Fisheries Protection Officer.

(2) Fishing boats which a Fisheries Protection Officer wishes to stop for boarding and inspection shall be informed by VHF radio Marine Band on the ship to ship calling channel (Channel 16) or by the international code signal "SIERRA QUEBEC 3" or by flashing by a signal lamp the Morse code symbol "LIMA" (that is to say "you should stop your vessel instantly") from a patrol vessel; but if contact cannot be made through any of the foregoing means the patrol vessel will direct a series of flashing white lights towards the boat which shall be interpreted as an instruction to the master of the fishing boat that it must forthwith desist from any previous manoeuvre, course or action and follow that patrol vessel.

22. (1) Masters shall comply with any instructions or orders given from any surveillance aircraft.

(2) A Fisheries Protection Officer on board a surveillance aircraft wishing to communicate with a fishing boat on VHF Marine Band Channel 16 shall cause the aircraft to signal the morse code symbol "KILOG" with a yellow light or to switch its navigation and landing lights on and off; and if the fishing boat shall not respond to such a signal, the Fisheries Protection Officer shall cause the aircraft to waggle its wings from side to side and then to settle on a steady course.

(3) If, contact not having been made by radio with the aircraft, the aircraft is seen to waggle its wings and then settle on a steady course, the master of the fishing boat shall cause that boat to stop fishing and immediately proceed in the direction indicated by the aircraft (that is to say, the course adopted by the aircraft after waggling its wings) and at the same time attempt to make radio contact with a Falkland Islands Fishery Patrol Vessel or the office of the Director in Stanley.

23. (1) Subject to paragraph (2) of this regulation, at least one member of the crew of each licensed fishing boat shall be reasonably fluent in the English language.

(2) The Director may waive the provisions of paragraph (1) of this regulation in respect of a fishing boat which is one of a number of fishing boats operated as a fleet, provided that a competent interpreter is available at all times on a designated fishing boat within that fleet.

24. The master of each fishing boat shall require a continuous listening watch on VHF Marine Band Channel 16 and 2182 Khz to be maintained whilst the fishing boat is in the fishing waters, but such frequencies shall be used as calling and distress call frequencies only and shall not be used for intership communications.

Compliance with

instructions from

surveillance

aircraft.

Compliance with instructions from surveillance aircraft.

Requirement to have an English speaking crew member.

Radio Listening Watches.

Keeping of log books.

Arrangements to

Display of radio

be made on radio becoming

in operative.

call signs.

25. (1) The master of a fishing boat shall, when in the fishing waters, and when requested to do so by the Director, permit one or more official observers designated in writing by the Director to board and remain on board that boat for the purpose of recording scientific data and observations, of inspecting the boat's radio and fishing logs and of taking samples, and shall permit such official observers to retain and remove from that boat any samples and records taken or compiled by them.

(2) Where an official observer is on board a fishing boat for a period of more than four hours the master of that boat shall provide the observer with suitable food and accommodation.

(3) The master shall also provide to any Fisheries Protection Officer facilities similar to those required by (2)of this regulation in the event that such officer is compelled by sea conditions or any other circumstance to remain on board the relevant fishing boat for a period exceeding four hours.

(4) The master of a fishing boat shall -

(a) at the request of a Fisheries Protection Officer or official observer, arrange for that officer or observer to be able to send or receive messages by means of radiotelegraph or radiotelephone facilities on board the boat, and

(b) provide all reasonable assistance in his power to enable a Fisherics Protection Officer or official observer to carry out his duties and functions.

26. (1) The owner or charterer of a licensed fishing boat shall during the period of the licence engage a local agent in Stanley who shall be authorised to accept as agent for the owner or charterer legal and financial responsibility on his behalf in respect of the operations undertaken by the boat and further on his behalf to accept service of any notice, summons or other document on his behalf in any legal proceedings arising out of the conduct of the fishing operations or related activities by the boat.

(2) The agent referred to in paragraph (1) of this regulation shall be resident in Stanley and have an office or establishment in Stanley.

(3) The owner or charterer of a licensed fishing boat shall notify the Director of the name of any agent substituted for the agent notified to the Director in the application by the owner or charterer for a licence in respect of the licensed fishing boat.

PART III PROVISIONS APPLYING TO ALL FISHING BOATS

27. (1) This Part applies to all fishing boats within the fishing waters.

(2) Regulations 14, 21, and 22 (in Part II) apply to all fishing boats, whether or not they are licensed under the Ordinance or any part of these Regulations.

28. (1) The master of a fishing boat which receives an instruction to which regulation 21(2) applies shall cause the fishing boat so soon as is consistent with the safety of navigation of the fishing boat to heave to and take all way off the vessel and shall, if instructed to permit a Fisheries Protection Officer to board, take such steps as, in accordance with good seamanship, are requisite or most convenient to facilitate the boarding of the fishing boat by him.

(2) A fishing boat shall not without the permission of a Fisheries Protection Officer, once it has hove to and taken way off in accordance with paragraph (1), again put on way.

29. (1) On instructing a fishing boat to stop in accordance with paragraph (2) of regulation 21, a Fisheries Protection Officer may also, and without prejudice to the generality of paragraph (1) of that regulation may require that fishing boat —

(a) to haul in its nets or discontinue the use of fishing gear;

(b) to take such steps as he may specify to desist from catching or taking fish;

(c) to stow its fishing gear.

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(2) On boarding a fishing boat which has stopped, a Fisheries Protection Officer may -

(a) require the master of that fishing boat

Accommodation of observers and Fisheries Protection Officers and Provision of other facilities.

Stanley Agent.

Application of Part III and extension of application of certain regulations in Part II. Action to be taken by a fishing vessel on receiving a signal to stop.

Powers of Fisheries Protection Officers in relation to stopped fishing vessel. (i) to cause radio communication to be maintained with a patrol vessel on such frequency or channel as he shall direct;

(ii) to permit him to speak with the patrol vessel by radio;

(iii) to permit him to speak via the fishing boat's radio equipment with the Director or any other person at the Fisheries Department, Stanley;

(iv) produce any document or thing required to be carried on board a fishing boat licensed under Part I;

(v) to produce the fishing boats log and fishing log, any charts carried on that fishing boat and any document relating to the registration and tonnage of the ship;

(b) inspect and take copies or require the master to furnish copies of any document produced to him to which subparagraph (a) of this regulation applies;

(c) search and inspect and take photographs of the fishing boat, any fish on board the fishing boat, and any fishing gear any apparatus or equipment whatsoever aboard that fishing boat;

(d) do or require anything he may do under section 10 of the Ordinance.

(3) The master of a fishing boat --

(a) shall furnish every assistance requisite to permit the Fisheries Protection Officer to do anything he is permitted to do under paragraph (2) of this regulation;

(b) shall ensure that the Fisheries Protection Officer is not obstructed or hindered in the performance of his duties aboard the fishing boat.

(4) A Fisheries Protection Officer on board a fishing boat which has been stopped may require that there be done in relation to that fishing boat anything which could be required under paragraph (1) of this regulation by him from aboard a patrol vessel.

30. (1) If a Fisheries Protection Officer while aboard a fishing boat or a patrol vessel, has reasonable cause to believe that there has been committed in relation to that fishing boat any offence under the Ordinance or these Regulations, he may direct the master of the fishing boat to bring or take that fishing boat to such port or harbour in the Falkland Islands as the Fisheries Protection Officer shall direct.

(2) A direction under paragraph (1) of this regulation may be altered or modified or withdrawn by the Fisheries Protection Officer.

(3) The master of a fishing boat in respect of which a direction under paragraph (1) has been given shall require the crew of the fishing boat to take all steps necessary for the direction to be complied with.

31. The powers of the Fisheries Protection Officer to direct the master of a fishing boat to bring or take a fishing boat to such port or harbour in the Falkland Islands as he directs are equally exercisable if he desires that the fishing boat should go there for the purpose of any search examination or enquiry being carried out at such port or harbour.

32. (1) On arrival at a port or harbour in the Falkland Islands in accordance with a direction given under regulation 30 or 31, that fishing boat shall moor, anchor or make fast in such manner and in such anchorage berth a position as a Fisheries Protection Officer shall direct.

(2) After mooring, anchoring, or making fast pursuant to paragraph (1) the fishing boat shall be deemed to be detained under paragraph (j) of subsection (1) of section 10 of the Ordinance and may not be unmoored, nor may it upanchor, slip its moorings or anchor or move from its berth, mooring or position, (subject to paragraph (3)) without the prior consent of a Fisheries Protection Officer.

(3) Paragraph (2) of this regulation shall not apply so as to prevent a fishing boat being moved within the confines of the port or harbour concerned without the consent of a Fisheries Protection Officer insofar as may be necessary in any emergency of tide, wind or water or other emergency which, in accordance with the dictates of good seamanship,

Power to direct stopped fishing boat to Port.

Supplementary to regulation 30.

Obligation to anchor etc.

require the fishing boat to be moved and, in the circumstances of the case, the fishing boat or the safety of its crew would be hazarded by any delay attendant upon the obtaining of such consent.

PART IV

LICENCES TO TRANSHIP AND TRANSHIPMENTS OF FISH

33. This Part applies in respect of transhipment of fish.

34. A licence issued under Part II of these Regulations may (in addition to any conditions authorised or required by that Part or by the Ordinance to be included therein) include such conditions as to operational transhipments of fish as the Director considers requisite.

35. (1) The provisions of this Part relating to application for and issue of licences to tranship fish do not apply to --

(a) operational transhipments of fish (as defined by section 2 of the Ordinance; or

(b) secondary transhipments of fish (as defined by section 2 of the Ordinance), and accordingly apply only to application for and issue of licences for the primary transhipment of fish.

(2) Nothing in paragraph (1) of this regulation shall operate so as to prevent a licence for the primary transhipment of fish containing such conditions as the Director thinks fit as to the secondary transhipment of fish (including but not limited to conditions as to the place or places where the secondary transhipment of fish within the fishing waters and as to the provision of information and notifications to the Director of and in relation to any such transhipment).

36. (1) An application for a licence to tranship fish shall be made in writing and

(a) may be made by the owner master or charterer of the fishing boat or, in the case of a land store, the owner, lessee or occupier of the store in respect of which the licence is requested to issue;

(b) shall be delivered or sent addressed to the Director at the Fisheries Department, Stanley;

(c) may be made by mail, telex, telegram or by facsimile transmision.

(2) An application to which paragraph (1) relates shall contain all the information required by these Regulations and, in addition, any information required in any form approved by or issued by the Director for the purpose.

37. (1) An application to which regulation 36 applies shall contain the following information so far as applicable —

(a) the name, port of registry and country of registry and gross tonnage in accordance with the International Tonnage Rules of the vessel in relation to which the licence is desired;

(b) the fishing registration number of the vessel, its international radio call sign and its crew component;

(c) if the application is in respect of a transport vessel, the names or descriptions and country of registry of the fishing boats from which it is intended to receive fish;

(d) if the application is in respect of a fishing boat which is not a transport vessel, the name of, port and country of registry of the vessel (whether or not it is a transport vessel) to which it is intended to tranship fish; and

(e) the number of transhipments of fish requested to be authorised by the licence, if issued.

(2) The only ports or harbours which may be specified in an application under this regulation are Stanley Harbour, Port William and Berkeley Sound.

(3) Every application for a licence under this regulation shall be made at least 72 hours before the licence is required, unless the Director in his discretion otherwise permits.

Information to be contained in application for a

licence.

Licences not reauired for cer-

tain activities.

transfers of fish.

Application of Part IV,

Operational

Mode of application for a licence.

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38. (1) Every licence to which this Part applies shall -

(a) be valid only in respect of the fishing vessel or land store described in the licence and, where appliable, the crew of the vessel specified in the application;

(b) be valid only for the period mentioned in and the number of transhipments of fish specified in the licence;

(c) be valid only for the place or places of transhipment specified therein.

(2) Every such licence shall contain or refer to the conditions subject to which it is issued.

39. (1) Subject to paragraph (2) of this regulation, every licence shall be kept on board the vessel to which it relates while that vessel is within the fishing waters.

(2) The licence may, instead of being kept as provided in paragraph (1), be kept by the agent in Stanley of the vessel to which it relates.

(3) The licence shall be produced on demand to any Fisheries Protection Officer.

40. (1) A vessel in respect of which notification of issue of a licence under this Part has been given may without that licence having been delivered proceed by the most direct safe route to such port or harbour as has been notified for delivery and collection of that licence.

(2) The master and the crew of the fishing vessel shall not, while in passage in accordance with paragraph (1) of this regulation, engage in any fishing operations unless it is also licensed to undertake those operations.

41. (1) Every licence granted in respect of a junder Part IV. vessel under this Part shall be expressed to be subject to the conditions contained or referred to in schedule 2 to these Regulations.

(2) Any licence granted under this Part may contain, in addition to the conditions referred to in paragraph (1) of this regulation such other conditions as the Director shall see fit to impose and any such conditions shall be set out in, endorsed upon or annexed to the licence.

(3) The Director, in his discretion, may with the consent of the master of a vessel amend or vary any provision of or condition of a licence issued under this Part and not being a condition required by the provisions of the Ordinance.

42. (1) Subject to paragraph (2) of this regulation, if specifically stated in such licence, a licence granted under this Part may also operate as an export licence.

(2) A licence granted under this Part in respect of a land store shall not also operate as an export licence.

43. (1) For the sake of avoidance of doubt and subject to this regulation, it is declared that a licence to tranship fish is required both in respect of the vessel from which the fish is transhipped and the vessel to which it is transhipped.

(2) Paragraph (1) of this regulation does not apply to operational transhipments of fish or secondary transhipments of fish, but in relation to secondary transhipments of fish the conditions contained or referred to in Schedule 2 to these Regulations apply as if they had been set out in a licence granted under this Part to both vessels involved in such transhipment.

44. Where a grant of a licence under this Part is subject to the payment of a prescribed fee, the Director shall not issue that licence unless -

(a) the fee has been paid in full; or

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(b) payment thereof has been secured by irrevocable letter of credit or by other means satisfactory to the Director.

45. The Director acting in his discretion may at any time revoke or cancel any licence granted under this Part.

Cancellation or revocation of licences under Part IV. Application of certain provisions of Part II.

46. The provisions of regulations 8,9, 10, 11, 12, 19, 20, 21, 22, 24 and 25 apply to vessels licensed under this Part as they apply to fishing vessels licensed under that Part.

Place licence to be kept, productions of licence

Application of licence.

Authority to proceed to port for collection of licence.

Conditions of licences under Part IV.

Licences under Part IV as an export licence.

When licences required etc and provisions as to secondary transhipments.

Provisions as to fees.

PART V

EXPORT OF FISH ETC

47. (1) This Part applies in relation to the removal of fish, caught or taken in the fishing waters, from a land store in the Falkland Islands and in relation to -

(a) removal of fish from the Falkland Islands or the fishing waters thereof by air;

(b) removal of fish aboard a vessel which is not licensed as to the export of fish by endorsement on a licence granted under Part II or Part IV of these Regulations,

and additionally to the removal of fish from a land store for the purpose of sale or disposal and consumption within the Falkland Islands and other obligations in relation to a land store.

(2) Fish (except fish caught or taken outside the fishing waters) may not be removed from the Falkland Islands or the fishing waters except under authority of a licence granted under Part II or Part IV of these Regulations or under the authority of a licence granted under this Part.

48. (1) Application for a licence under this Part may be made in any manner in which an application for a licence under Part IV may be made and shall be made to the Director licences. at the Fisheries Department Stanley, or addressed to him at the Falkland Islands Government Office, London.

(2) If the Director so requires an application for a licence under this Part shall be made in a form approved by him.

(3) Unless otherwise agreed by the Director in the circumstances of any particular case, an application for a licence under this Part shall be made at least 72 hours before the licence is required.

(4) An application for a licence under this Part shall contain all the information required by this Part to be furnished and any further information the Director may require.

49. (1) In any case where a licence to export fish by aircraft is requested the application shall contain the following information:—

(a) the country of registration and international registration letters of the aircraft;

(b) the name of the manufacturer of the aircraft and its description or type;

(c) the name and address of the registered owner of the aircraft;

(d) if the application is made by or on behalf of a charterer of the aircraft —

(i) the name and address of the charterer; and

(ii) a statement as to which of the charterer; the owner or some other person will be providing the crew of the aircraft and if some other person than the owner or charterer, his name and address;

(c) the quantity in relation to each species of fish it is intended to export from the Falkland Islands or the fishing waters;

(f) the date or dates on which it is intended that the fish will be exported;

(g) the source or derivation of the fish it is intended to export;

(h) if the application is not made by an agent resident in the Falkland Islands on behalf of the owner or a charterer of the aircraft, the name and address of some person resident in the Falkland Islands to whom the licence, if issued, may be delivered;

(i) the location of the airport from which it is intended to export the fish.

(2) An application to which paragraph (1) of this regulation applies shall be accompanied by a list of the names, citizenship and passport numbers of all persons who may form part of the crew of the aircraft.

(3) If the airport specified under paragraph (1) of this regulation is Mount Pleasant Airport, the Director shall consult the Governor before granting the licence.

Application of Part V.

Export by aircraft.

Export by ship.

50. (1) An application for a licence to export fish by ship shall contain the information required by subparagraphs (a), (b), (c) and (d) of paragraph (1) regulation 37 and, in addition, the following information —

(a) the date of intended arrival of the vessel in the fishing waters;

(b) the date of intended departure of the vessel from the Falkland Islands; and

(c) the port or harbour in the Falkland Islands at which it is intended that the fish should be loaded.

(2) Where it is intended that the fish should be exported from a land store, the application shall (instead of the information required by subparagraph (c) of paragraph (l) of regulation 37) specify the name address and description of the land store from which it is intended to export fish.

51. Unless the payment thereof is secured by irrevocable letter of credit or in some other way satisfactory to him, the Director shall not issue any licence under this Part unless all fees prescribed in respect thereof have been paid.

52. (1) It is not necessary for the owner of a land store to possess a licence under this Part but before delivering or loading any fish for the purpose of export, he shall satisfy himself that the aircraft or vessel to which, or for the purpose of transport to which, he delivers or loads fish is in possession of a valid licence issued under this Part authorising the export of the fish so delivered or loaded and he shall additionally comply with the provisions of subsequent paragraphs of this regulation.

(2) On each occasion on which he delivers or loads fish for the purpose of export, the owner of a land store (as the case may be) shall within 24 hours thereafter send or deliver to the Director at the Fisheries Department, Stanley -

(a) a copy of any consignment note issued by him in relation to the fish; and

(b) insofar as the same is not contained in any such consignment note -

(i) the name and port and country of the vessel exporting the fish or, in the case of export by aircraft, the international registration number and country of registration of that aircraft;

(ii) the place at which the fish was delivered or loaded by him;

(iii) the date and time of such delivery or loading; and

(iv) the quantity, by relation to species of the fish delivered or loaded.

(3) The owner, shall permit a Fisheries Protection Officer to be present at all times that delivery or loading is taking place and shall give to the Director at least 24 hours prior notice of such delivery or loading.

53. (1) The owner of a land store shall maintain written records of all fish received at and removed from that store.

Records to be kept at a land store.

(2) The records required by paragraph (1) of this regulation to be maintained shall be -

(a) in such form as the Director may approve;

(b) be kept at the land store or such other place as the Director may approve;

(c) shall be produced to the Director or a Fisheries Protection Officer on demand at any time.

(3) The owner of a land store shall deliver copies of any written records maintained under this Regulation whenever required by the Director or a Fisheries Protection Officer to do so.

54. (1) The owner of a land store shall permit the Director and any Fisheries Protection Officer to enter and inspect a land store and the fish stored therein.

Inspection of land store.

(2) For the purposes of paragraph (1) "land store" includes all plant, machinery apparatus and vehicles belonging to or used in connection with a land store.

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Payment of fees.

No licence required by land store. 55. (1) On every occasion that fish is removed from a land store for the purpose of its disposal by way of sale or otherwise in the Falkland Islands (including every occasion on which it is removed for disposal as being unfit for consumption) the owner of the land store shall give notice in writing to the Director within 24 hours of its removal and in such form as the Director may approve of the quantity and species of fish removed and the purpose for which it was removed.

(2) The provisions as to records contained in regulation 53 extend to fish removed in circumstances to which this regulation applies.

56. (1) The pilot in command of every aircraft on which fish is loaded for export shall deliver to the Director before departure a copy of all air waybills relating to the carriage of that fish and the master or agent of a ship on which fish is so loaded shall so deliver a copy of the relevant manifest.

(2) The requirements of paragraph (1) of this regulation are satisfied if there is delivered to a customs officer at the airport of departure an envelope addressed to the Director containing a copy of all such air waybills.

PART VI

ADMINISTRATIVE AND GENERAL

57. (1) The Director shall keep at the Fisheries Department in Stanley good and sufficient records of -

(a) all licences issued under these Regulations or the Ordinance;

(b) the date of issue of such licences;

(c) the name and address of the person to whom the licence was issued;

(d) the conditions subject to which any licence was granted;

(e) where the licence was granted in respect of a fishing boat (including a transport vessel) the name, country of registry, port of registry, registration number, fishing vessel number and international radio call sign thereof;

(f) the type of licence granted;

(g) where the licence permits the catching or taking of fish —

(i) the species of fish permitted to be caught or taken;

(ii) any limitation in terms of quantity or size upon the amount of fish or fish of any species which may be caught or taken under the licence;

(iii) if the licence is limited to a part or parts of the fishing waters, a sufficient description (by reference to longitudinal and latitudinal co-ordinates) of the part or parts of the fishing waters concerned (provided that where the licence relates to the internal waters it shall be sufficient if the description thereof is by reference to a chart or map);

(iv) whether, pursuant to these Regulations the licence also operates as a transhipment or export licence;

(v) the types (and number of any type, if appropriate) of fishing gear permitted to be used and whether or not surimi apparatus is permitted to be used;

(vi) the period or periods of validity of the licence;

(h) if the licence is a licence other than to which (g) above relates -

(i) if the licence relates to a transport vessel, the number location and quantity of transhipments of fish the licence permits, and if so

(ii) whether the licence relates to transhipments only of fish caught or taken within the fishing waters or relates to fish not so caught and taken; and

(iii) whether licence, pursuant to these Regulations also operates as an export licence;

from land store for disposal in the Falkland Islands.

Removal of fish

Copies of air waybills and ship's manifests.

Maintenance of

records by Director. (iv) if the licence relates to export by aircraft, the name and address of the owner and of any charterer of the aircraft to which the licence relates, the aircrafts international registration letters, country of registry manufacturer and type and

(aa) the airport from which export is permitted; and

(bb) the number of occasions on which export is permitted;

(cc) any limitation on the quantity of fish (and, if appropriate, by relation to species) that the licence imposes;

(i) all notifications communications and notices of any kind made by or on behalf of any person pursuant to the provisions of the Ordinance, these Regulations or the conditions of any licence;

(j) any variation or modification made subsequent to its issue to any licence and the date and effective date of the same;

(k) if any licence has been revoked, cancelled exchanged or surrendered, the date and effective date of the same;

(1) all fines and penalties imposed on any person by any court or by way of administrative penalty and whether under the Ordinance of these Regulations;

(m) all deposits and fees paid or payable by any applicant or licensee by virtue of the provisions of the Ordinance or regulations made thereunder and, where such fees have not been paid in full, such security as has been given or such arrangements have been made for the payment of those fees.

(2) The records required to be kept under paragraph (1) of this regulation shall be kept in such manner as the Director may determine and, if the Director so determines, may be kept wholly or partly with the assistance of a computer or computers.

58. (1) The Director shall issue to every Fisheries Protection Officer an identification document which shall —

Identity Documents.

(a) bear the name and a photograph of the person to whom it is issued;

(b) state that the bearer is a Fisheries Protection Officer;

(c) state its date of issue and its period of validity.

(2) Every Fisheries Protection Officer shall produce the identification document issued to him under paragraph (1) of this regulation whenever reasonably required by any person to do so in relation to the performance of any of the Fisheries Protection Officer's functions.

(3) The provisions of paragraphs (1) and (2) this regulation do not apply to any police officer or member of Her Majesty's armed services who is or who is acting as a Fisheries Protection Officer in the course of his duties as a police officer or as a member of Her Majesty's armed services.

59. (1) The Director may from time to time issue such written guidance or advice to masters of fishing boats and others related to the Ordinance and these and other regulations as he thinks fit.

(2) Noncompliance with such written guidance shall not itself constitute an offence, but may be taken into account by any court or other person in their determination of the amount of any penalty or fine to be imposed in respect of any offence under any provision of the Ordinance or these regulations.

60. (1) Every patrol vessel, other than one of Her Majesty's ships for the time being engaged in fisheries patrol duties outside the territorial waters and internal waters shall be clearly marked on the sides thereof with the words "Fisheries Patrol" in capital letters at least one metre height painted or otherwise applied thereto in a colour contrasting with the colour of the background on which it appears.

(2) Every patrol vessel, other than one of Her Majesty's ships for the time being engaged in fisheries patrol duties within the territorial waters or internal waters shall, unless it is marked as required by paragraph (1) of this regulation, be marked on the sides thereof with the words "Harbour Patrol" in capital letters at least fifty centimetres high painted or otherwise applied thereto in a colour contrasting with the colour of the background on which it appears.

Notes of guidance.

Patrol vessels.

PART VII

OFFENCES

61. (1) Any person who, being the owner, master or charterer of any vessel or the owner, charterer of any vessel or the owner, charterer or pilot in command of any alreraft or the owner of any land store or a person engaged as a member of the crew of any vessel who contravenes any provision of Parts I to V of these Regulations or of any licence applicable to such vessel or aircraft commits an offence.

PENALTY £50,000

(2) Any person who wilfully obstructs the Director or any Fisheries Protection Officer in the performance of any of his functions under these Regulations commits an offence.

PENALTY £50,000

(3) Any person who provides any information he is required under these Regulations to provide to the Director or to any Fisheries Protection Officer and does so -

(a) knowing that information to be false; or

(b) not believing it to be true; or

(c) by suppression or concealment of other information, in such a manner as is calculated to mislead or deceive in a material respect,

commits an offence.

PENALTY £20,000

(4) Any person who wilfully refuses to answer a question which the Director or a Fisheries Protection Officer puts to him in the exercise of his functions under the Ordinance or these Regulations is deemed for the purposes of paragraph (2) of this Regulation to have wilfully obstructed the Director or Fisheries Protection Officer in the performance of his duties: Provided that it shall be a defence for any person prosecuted in respect of an offence by virtue of this paragraph to satisfy the court that he reasonably believed that the answer to that question might tend to incriminate him of an offence.

(5) Where any act or omission constitutes an offence under the Ordinance as well as an offence under these Regulations a person may be convicted only in respect of one of those offences and may not be convicted of the other, and where in respect of any such act or omission he would be liable on conviction of that offence under the Ordinance to a lesser penalty than that provided by this regulation he shall, on conviction, be liable only to such lesser penalty.

62. The prescribed forms for the purpose of section 18 of the Ordinance are those set out in Schedule 3 to these Regulations.

Administrative Penalty Forms.

PART VIII

REVOCATIONS

63. The Orders and Regulations specified in Schedule 4 to these Regulations are revoked.

Revocation of existing regulations.

SCHEDULE 1

Fishing Licence - General Conditions

- (a) (i) The licence shall be valid only for such activities, for such period and for such areas as are specified in the licence.
 - (ii) The licence shall not extend to the territorial sea or internal waters of the Falkland Islands unless the licence otherwise states.
- (b) (i) Only such species of fish shall be fished for in such quantities, using such methods of fishing and such fishing gear, as are authorised by the licence.

Offences under these Regulations.

- (ii) All relevant laws and regulations regarding the conservation and management of fisheries resources in the Falkland Islands and the conduct of fishing operations shall be complied with.
- (iii) The master shall cause written records to be maintained on a daily basis of the fishing effort and catch of the boat in the form set out in the Schedule attached to this licence or in such form as the Director may approve.
- (c) Any transhipment of fish (other than an operational transfer of fish) shall be undertaken in Berkeley Sound or such other place as the Director of Fisheries may approve.

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- (d) The master shall bring the fishing boat into Port Stanley or another port or harbour notified to him by the Director of Fisheries for inspection at any time when required to do so by the Director of Fisheries.
- (e) The master shall, at all times while in the fishing waters, comply with any directions or instructions given to him by any Fisheries Protection Officer and co-operate with such officer in any inspection carried out by him and, in particular, shall bring the fishing boat to when requested so to do, shall permit and facilitate any fisheries protection officer or official observer to board and disembark from the boat in safety and in accordance with ordinary practices of seamen shall manoeuvre his boat to make a lee and shall provide an adequate and safely secured pilot ladder.
- (f) When making position reports the master shall use the grid shown on the illustrative chart attached to this licence.

SCHEDULE 2

General Conditions: Transhipment Licences

1. If the vessel has not already entered the fishing waters for the purpose of delivery of this licence, and in any case on each subsequent such entry, the master or some person acting on his behalf shall notify the Director -

(a) of the date, estimated time and co-ordinates of the vessel into the fishing waters;

(b) the intended activities under the licence during such time as the vessel is within the fishing waters on that occasion including -

(i) the name of each vessel from or to which fish is intended to be transhipped; and

(ii) the quantity of fish intended to be transhipped from or to each such vessel.

2. Transhipment shall only take place at such location or locations as is or are specified in this licence.

3. During or immediately after each transhipment the master or some person acting on his behalf shall notify the Director, in such form as the Director may require of the vessel from or to which fish is being or has been transhipped and of the quantity (if so required, broken down into quantity by species) of fish transhipped.

4. Transhipment shall only take place during such hours (if any) as are specified in this licence.

5. If transhipment is to take place in a port or harbour of the Falkland Islands permitted by this licence, before commencing transhipping operations and as soon as the ship comes to a stop, the master or some person acting on his behalf shall notify the customs and immigration authorities of the vessel's arrival and -

(a) shall permit the vessel to be boarded and inspected for customs and immigration purposes;

(b) shall furnish to the local authorities crew lists and cause to be produced passports, seaman's books or other travel documents in relation to each member of the crew;

(c) shall not otherwise than for the purpose of saving life at sea or other emergency lower any boat;

(d) shall not permit, without the consent of the immigration authorities, any member of the crew to land.

6. The master or some person on his behalf shall cause records in writing to be maintained of all transhipmetns of fish made in the fishing waters and shall produce the same to a Fisheries Protection Officer on demand.

7. The written records referred to in paragraph 6 shall be -

(a) in a form satisfactory to the Director;

(b) transmitted at any time during the currency of the licence, or within 60 days thereafter, to the Director when requested by him or by a Fisheries Protection Officer.

8. The vessel shall at all times when within the fishing waters fly the flag of its country of registry.

9. The vessel shall not enter or leave the fishing waters so loaded or burdened as to be in contravention of international conventions relating to load lines.

10. The vessel shall not leave the fishing waters -

(a) if it has been within a port or harbour in the Falkland Islands without outwards customs and immigration clearance (and shall not proceed to any other port or harbour without transire, if required by law); or

(b) without giving twenty-four hours prior notice to the Director.

Form A

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SCHEDULE 3

(Regulation 62)

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

Notice of Alleged Offence

No.....

IN THE MATTER of section 18 of the Fisheries (Conservation and Management) Ordinance 1986.

То:

1. TAKE NOTICE that I have reasonable cause to believe that on day

the day of 19.... at you committed an offence

against (specify section or regulation applicable) in that

you (specify brief details of alleged offence), being an offence relating to fishing within the fishing waters which I consider appropriate to be dealt with under Section 18 of the Fisheries (Conservation and Management) Ordinance 1986.

2. The following is a summary of the facts on which this allegation is based:

.....

(Specify a sufficient summary to fully and fairly inform recipient of allegation against him.)

3. I consider the following matters to be relevant to the imposition of a penalty in this case:

.....

4. This notice is served on you pursuant to Section 18 of the Fisheries (Conservation and Management) Ordinance 1986. The provisions of that section are attached to this notice.

Dated this day of 19

\$

Governor

(provisions of Section 18 to be attached or endorsed on notice)

Form B

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

Notice requiring proceedings to be Dealt with in Court

To: The Governor Stanley

TAKE NOTICE that I require that any proceedings in respect of the alleged offence referred to in your Notice Number served on me under Section 18 (1) of the Fisheries (Conservation and Management) Ordinance, shall be dealt with before a Court.

Dated this day of 19

(Signature)

Form C

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

Section 18 (4)

Notice to the Governor admitting offence.

I admit the offence set out in the said notice.

2. I consider that you should take the following into account in imposing a penalty:--

Signed Date

Form D

THE FISHERIES (CONSERVATION AND MANAGEMENT) ORDINANCE 1986

Section 18(7)

Notice of Imposition of Administrative Penalty

No

IN THE MATTER of Section 18(7) of the Fisheries (Conservation and Management) Ordinance 1986.

То:

.....

1. TAKE NOTICE that I have on the day of 19 imposed on you a monetary penalty of in respect of the offence committed by you on the day of 19 against (specify section or regulation applicable.).

2. This penalty must be paid to the Crown within 28 days after this notice is served on you.

3. Payment should be made to the Treasury, Stanley.

Dated this day of 19.....

Governor.

SCHEDULE 4

(Regulation 63)

Regulations revoked

1. The Fisheries (Transhipment and Export) Regulations Order 1986.

2. The Fisheries (Transhipment and Export) Regulations (Amendment) ()rder 1986.

3. The Fisheries (Fishing) Regulations Order 1986.

4. The Fisheries (Fishing) Regulations (Amendment) Order 1986.

5. The Fisheries (Fishing) Regulations (Amendment) Order 1987.

6. The Fisheries (Administrative Penalty Forms) Order 1987.

7. The Fisheries (Fishing) Regulations (Amendment) (No. 2) Order 1987.

Made this 17th day of December 1987.

B. R. CUMMINGS, Acting Governor.

THE IMMIGRATION ORDINANCE 1987

(No. 15 of 1987) (Section 25)

The Immigration (General) Regulations Order 1987 (S.R. & O. No. 25 of 1987)

ARRANGEMENT OF REGULATIONS

Regulation

PART 1 INTRODUCTORY

- 1. Citation and commencement.
- 2. Interpretation.
- 3. Office of Principal Immigration Officer.

PART II

VISAS

- 4. Register of visas.
- 5. Form of visas.
- 6. Places of issue of visas.
- 7. Cancellation of visas.
- 8. Revocation of visas.
- 9. Issue of visas.
- 10. Applications for visas general provisions.
- 11. Crews of ships.
- 12. Exemption from visa requirements for certain seamen.
- 13. Crews of aircraft.
- 14. Passengers on ships.
- 15. Persons in distress.
- 16. Persons on board aircraft.
- 17. Refugees.
- 18. Diplomats and consular officials, etc.
- 19. Information to be supplied.

PART III

ENTRY OF PERSONS TO THE FALKLAND ISLANDS

- 20. Entry declaration.
- 21. Seamen.
- 22. Emergencies.

PART IV

RESIDENCE PERMITS

- 23. Application of this Part.
- 24. Application for a residence permit.
- 25. Employees: special provisions.
- 26. Prescribed forms.
- 27. Medical examinations, etc.
- 28. Vaccinations and innoculations.
- 29. Visa exemptions for permit holders, etc.
- 30. Grant or refusal of permit.
- 31. Extension of residence permits.
- 32. Register as to residence permits.
- 33. Revocation of permits

PART V APPEALS

34. Manner of appeal.

35. Time for appealing.

36. Processing of appeals.

- 37. Response by appellant.
- 38. Time for appeals to be considered.
- 39. No oral representations to be entertained, etc.
- 40. How appeal to be decided.
- 41. Notification.

PART VI

GENERAL

- 42. Landing prohibition.
- 43. Fraud.
- 44. Punishment of offences under these Regulations.
- 45. Administrative penalties.
- 46. Service.

SCHEDULE

PRESCRIBED FORMS

- Form 1 Falkland Islands Visa.
- Form 2 Cancellation stamp.
- Form 3 Application for visa to enter the Falkland Islands.
- Form 4 Refusal of application for visa.
- Form 5 Entry form.
- Form 6 Application for residence permit.
- Form 7 Sponsorship of application by prospective employer of residence permit.
- Form 8 Bond.
- Form 9 Visa exemption for residence permit holder.
- Form 10 Notice of refusal of residence permit.
- Form 11 Notes as to appeals.
- Form 12 Notice of appeal against principal immigration officer's decision.
- Form 13 Residence permit.
- Form 14 Principal immigration officer's response to appeal.
- Form 15 Advice on right of reply.
- Form 16 Reply by appellant.
- Form 17 Administrative penalty notice.

THE IMMIGRATION ORDINANCE 1987 (No. 15 of 1987) (Section 25)

The Immigration (General) Regulations Order 1987

(S.R. & O. No. 25 of 1987)

IN EXERCISE of my powers under section 25 of the Immigration Ordinance 1987, I make the following Order -

PART 1

INTRODUCTORY

1. (1) This Order may be cited as the Immigration (General) Regulations Order 1987 and, unless it is stated to the contrary in respect of any paragraph of this Order, shall come into force on 1st January 1988.

(2) Each paragraph of this Order may be cited as a regulation of that number of the Immigration (General) Regulations 1987 and each subparagraph of any paragraph of this Order may be cited as a paragraph of that number of that regulation, cited in accordance with this paragraph of this regulation.

(3) This Order is divided into Parts and each Part of this Order may be cited as the Part of the same number it bears as a Part of this Order of the Immigration (General) Regulations 1987.

2. (1) In these Regulations "the Ordinance" means the Immigration Ordinance 1987 and "the repealed Ordinance" means the Immigration Ordinance 1965 and includes any Ordinance amending the repealed Ordinance.

(2) Unless otherwise stated to the contrary, any expression used in these Regulations which is defined in the Ordinance bears the same meaning as it does in the Ordinance.

(3) In these Regulations -

"family passport" means a passport which is intended by the issuing authority to be a valid travel document for the spouse or the spouse and children under sixteen years of age or the children under the age of sixteen years of age of the person to whom that passport was issued, but only if that passport is endorsed by the issuing authority to the effect that it so relates and particulars of any such spouse or children.

3. (1) The office of the Principal Immigration Officer shall be at the Police Station, Ross Road, Stanley and all notices or other documents required to be sent to or delivered to the Principal Immigration Officer shall be deemed to be properly so sent or delivered to him if sent or delivered addressed to him at that address.

(2) All registers and records required by these Regulations to be kept by the Principal Immigration Officer shall be kept at this office.

(3) There shall be kept available at the office of the Principal Immigration Officer for inspection at any reasonable time by any person wishing to see the same a copy of the Ordinance, a copy of these Regulations and a copy of all Orders and exemptions made under the Ordinance.

PART II

VISAS

4. (1) The Principal Immigration Officer shall keep at this office a register of all visas issued by him under Part 4 of the Ordinance, and is authorised subject to these Regulations and to the Ordinance, to issue visas.

(2) The register kept under paragraph (1) shall be in such form as the Principal Immigration Officer may determine provided that it shall contain the following particulars —

(a) the full name of the person to whom the visa was issued;

Citation and commencement.

Interpretation.

Office of Principal Immigration Officer.

Register of visas.

- (b) the number of the passport of the person to whom it was issued;
- (c) the country or other authority by whom that passport was issued and the place whereat it was issued;
- (d) the place at which the visa was issued;
- (e) the date on which the visa was issued;
- (f) the period of validity of the visa;
- (g) particulars of the date and place of any revocation of cancellation or revocation of the visa, and if it has been replaced by another visa issued to the same person, a reference to the date on which that other visa was issued;
- (h) if the person to whom the visa was issued has been removed from the Falkland Islands under section 19 of the Ordinance, particulars of the date of the order for removal and the date of the departure of the person from the Falkland Islands;

and that the register shall be kept alphabetically in relation to the surnames and forenames of the persons to whom visas have been issued.

(3) The register kept under this regulation is not open for public inspection.

5. (1) Visas shall be in Form 1.

(2) Visas shall be stamped or impressed in the passport of the person to whom the visa relates by means of a die or stamp so made as to render forgery of a visa difficult to accomplish.

- (3) In every visa ----
 - (a) the place of its issue;
 - (b) the date of its issue;
 - (c) the signature of the person issuing it;
 - (d) the period of the validity of the visa;
 - (e) the person to whom it is issued, completed in accordance with paragraph (4); and
 - (f) the period of permitted stay in the Falkland Islands,

shall be completed in indelible ink.

(4) In relation to paragraph 3 (e), the person to whom a visa is issued shall be signified by -

- (a) the word "Bearer", if the visa relates only to one person; or
- (b) the words "Bearers" if the visa relates to all the persons to whom the passport relates and it is a family passport.

6. (1) Visas may be issued -

- (a) at the office of the Principal Immigration Officer;
- (b) at the place of arrival in the islands of the person to whom the visa relates;
- (c) at the Falkland Islands Government Office in London;
- (d) at any other office of the Falkland Islands Government overseas which may have been approved by the Governor for the purposes of this paragraph; and
- (e) at any office outside the United Kingdom of Her Majesty's Government in the United Kingdom which may have been approved by the Governor for the purposes of this paragraph.

(2) Visas issued at a place to which paragraph (1) (a) and (b) relates shall state that they were issued at Stanley.

(3) Visas issued at a place to which paragraph (1) (c) (d) and (e) relate shall state that they were issued at the town or city in which they were in fact issued.

7. (1) In this regulation "cancel" and its derivatives means the termination of validity of a visa when another visa is issued to the person in whose passport the visa is entered and does not include the termination of a visa when it is revoked within the meaning ascribed by paragraph (1) of regulation 9.

(2) When a visa is cancelled the visa shall be stamped obliquely across its face with a stamp or die in Form 2.

Places of issue of visas.

Cancellation of

visas.

Form of visas.

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(3) The person cancelling a visa shall enter in the appropriate place in Form 2 -

- (a) the date of cancellation;
- (b) his signature;
- (c) the date of the new visa issued.

8. (1) In this regulation "revoke" and its derivatives means the termination of validity of a visa when no further visa is issued to the person to whom the revoked visa was issued visas. at the time of such termination.

(2) The Principal Immigration Officer shall revoke a visa -

- (a) whenever he is directed by the Chief Executive so to do pursuant to section 3 (1) of the Ordinance; and or
- (b) if an order ("a removal order") is made pursuant to section 19 of the Ordinance in respect of the person to whom the visa relates;

(3) The Principal Immigration Officer may, subject to paragraph (4) of this regulation, subject to any direction by the Chief Executive to the contrary revoke a visa whenever he considers it desirable to do so.

(4) The Principal Immigration Officer may revoke a visa at any time, except that he shall not do so if the person concerned is present in the Falkland Islands unless a removal order has been made in respect of that person.

(5) Whenever the Principal Immigration Officer revokes a visa he shall give notice -

(a) orally to the person concerned; or

(b) in writing by letter addressed to that person at his last known address.

(6) It shall not be necessary for the Principal Immigration Officer or any other person to afford to a person whose visa is revoked any opportunity to be heard prior to that revocation or to give any reason for the revocation.

(7) No appeal shall lie against the revocation of a visa, nor shall such revocation be called into question in any court in any manner whatsoever.

9. (1) In this regulation, "overseas office" means any office of a kind described in subparagraphs (c), (d) and (e) of paragraph (1) of regulation 7.

(2) A visa may only be issued at an overseas office by a person authorised by the Principal Immigration Officer to issue visas, provided that the person for the time being in charge of the Falkland Islands Government Office in London shall be deemed to have been so authorised.

(3) Notwithstanding that a person at an overseas office has been authorised to issue visas, he shall not issue any visa to any person unless he has been specifically authorised in writing by the Principal Immigration Officer to issue the visa in question.

(4) An authority under paragraph (3) may be -

- (a) by letter;
- (b) by telex or telegram; or

(c) by facsimile telegraphic transmission of a document in writing.

(5) A person authorised under paragraph (3) of this regulation shall maintain at that office a register of all visas issued by him at that office in which he shall record the particulars referred to in subparagraphs (a) to (g) inclusive of paragraph (2) of regulation 5 and paragraph (3) of that regulation shall also apply to that register.

(6) Whenever a person authorised under paragraph (3) of this regulation to issue a particular visa issues that visa he shall transmit in writing to the Principal Immigration Officer the particulars referred to in subparagraphs (a) to (f) of paragraph (2) of regulation 5 and, on receipt thereof, the Principal Immigration Officer shall enter them in the register he is required thereby to keep.

(7) A transmission in writing under paragraph (6) may be in any manner referred to in paragraph (4).

10. (1) Except as provided by regulations 12 and 13 application for a visa shall be made in Form 3 and shall be accompanied by the prescribed fee, the passport of the applicant and two copies of a passport sized photograph of the applicant and every other person included in the applicant's passport and to whom the applicant wishes the visa, if granted, to relate.

Applications for visas - general provisions.

Issue of visas.

(2) In paragraph (1) "prescribed fee" means a fee of the amount prescribed in respect of the application by Schedule 1 to these Regulations.

(3) Except as provided by regulations 12, 13, 14 and 15 application for a visa must be made from outside the Islands and shall be made -

- (a) by sending the application to the office of the Principal Immigration Officer or to an overseas office (within the meaning of the expression"overseas office" ascribed by paragraph (1) of regulation 9);
- (b) by attending in person at such an overseas office.

(4) Any person authorised under these Regulations or under the Ordinance to issue a visa may require an applicant to answer such questions as he may put to him, orally or in writing, and which are reasonably connected with the application.

(5) A visa shall not without the prior consent of the Governor acting in his discretion be granted to any person who appears to be a person, class or group of person to whom paragraph (d), (f) or (g) of subsection (2) of section 16 of the Ordinance applies.

(6) If a visa is returned on any ground to which paragraph (5) relates, the Principal Immigration Officer shall notify the applicant that the visa is not granted on that ground by sending to him a notification in Form 4. If the visa is refused on any other ground, the Principal Immigration Officer shall send him a notification in Form 5.

(7) In this regulation "grant" in relation to a visa includes the renewal, extension or variation of a visa.

(8) In any case where the grant of a visa has been refused by a person other than the Principal Immigration Oficer it shall be deemed, for the purposes of the exercise of any right of appeal to the Governor in Council and the determination of that appeal to have been done by the Principal Immigration Officer.

11. (1) Where a person appears to the Principal Immigration Officer to be -

Crews of ships.

- (a) the member of the crew of any vessel; or
- (b) a person about to join or rejoin any vessel as a member of its crew; or
- (c) a person who was formerly the member of the crew of any vessel and to be desirous of travelling to some country outside the Falkland Islands; or
- (d) to wish to visit the Falkland Islands as a visitor for a period not exceeding seventytwo hours;

and the Principal Immigration Officer is satisfied -

- (i) that that person does not already possess a valid visa enabling him to enter the Falkland Islands and is not exempted from or not subject to any requirement to possess a valid visa; and either
- (ii) that that person needs to enter the Falkland Islands for one of the following purposes —
 - (aa) being able conveniently to travel to any other country;
 - (bb) to join a vessel as a member of its crew;
 - (cc) to rejoin a vessel as a member of its crew; or
- (iii) that he wishes to visit the Falkland Islands and at the end of his visit he will be able and will be permitted to rejoin that vessel;

the Principal Immigration Officer without prejudice to regulation 12 may grant to that person a visa allowing him to enter and remain in the Falkland Islands for such period of time as the Principal Immigration Officer thinks fit.

(2) A person who remains in the Falkland Islands after the expiration of the period referred to in paragraph (1) of this regulation commits an offence.

12. (1) This regulation has effect pursuant to section 8 (2) of the Ordinance so as to exempt, subject to this regulation certain seamen, in certain circumstances, and subject to the provisions of this regulation, from any requirement of the Ordinance that he should possess a valid visa.

Exemption from visa requirements for certain seamen.

(2) A seaman who is not otherwise exempted from or not subject to the requirements of section 6 of the Ordinance to possess a valid visa may enter the Falkland Islands without possessing a valid visa if the conditions set out in paragraph (3) are satisfied by or in relation to him.

- (3) The conditions referred to in paragraph (2) of this regulation are -
 - (a) that he enters the Falkland Islands at an approved place;
 - (b) that his name and all particulars as to him have been included in a crew list furnished in duplicate by the master of the vessel to which he belongs to the Principal Immigration Officer;
 - (c) that he does not remain absent from his ship for more than twelve hours at any one time;
 - (d) that he disembarks from his ship and returns thereto within the hours of daylight;
 - (e) that he does not proceed beyond the prescribed limits; and
 - (f) the he carries upon his person at all times he is ashore his passport (which expression, under the Ordinance is so defined as to include a seaman's book issued to him by the maritime administration of any country).
- (4) For the purposes of paragraph (3) of this regulation -

"approved place" means East Cove at Mare Harbour and the south side of Stanley harbour at any point between the facility known as "FIPASS" in the east and the Public Jetty in the west;

- (a) in relation to a seaman entering at East Cove at Mare Harbour, the port facility at Mare Harbour and the public road therefrom to Stanley and the town of Stanley; and
- (b) in relation to a seaman entering at Stanley, the town of Stanley.

(5) A seaman who is exempted under paragraph (2) of this regulation and who acts in contravention of paragraph (3) of this regulation shall be deemed to be in the Falkland Islands unlawfully.

(6) A seaman who is exempted under paragraph (2) of this regulation from the requirement to possess a valid visa is not by virtue of such exemption precluded from applying for a visa and a seaman possessing such a visa is not subject to the conditions set out in paragraph (3) of this regulation.

13. (1) Where a person appears to the Principal Immigration Officer to be a member of the crew of any aircraft which has arrived in the Falkland Islands in the course of public transport he may grant to that person a visa.

(2) A visa granted under this regulation may be granted subject to a condition that the person concerned does not remain in the Falkland Islands on the occasion of any one visit to the Islands for a period exceeding that specified on the face of the visa.

(3) In this regulation, "public transport operations" has the same meaning as it has under paragraph (7) of Article 91 of the Air Navigation Order 1980.

(4) Whenever the Principal Immigration Officer issues a visa to a person under this regulation he shall at the same time issue to him a visitor's permit.

(5) A person commits an offence who remains in the Falkland Islands in contravention of a condition to which paragraph (2) of this regulation relates.

(6) For the purposes of this regulation "crew" in relation to an aircraft means every person carried on board an aircraft who is not a passenger on that aircraft within the meaning ascribed by paragraph (1) of regulation 15.

14. (1) In this regulation, "passenger" in relation to a vessel of any kind means any person carried aboard that vessel who is not, under a contract of service or for services, engaged for payment or reward receivable by that person employed or engaged to assist in the navigation or operation of that vessel or of any service or facility provided aboard that vessel.

(2) Where a person appears to the Principal Immigration Officer to be a passenger on any vessel and -

- (a) to wish to visit the Falkland Islands; or
- (b) to wish to land in the Falkland Islands for the purpose of -
 - (i) travelling to any other country by aircraft; or
 - (ii) boarding another vessel for the purpose of travelling on that vessel to a place outside the Falkland Islands;

the Principal Immigration Officer may issue to that person a visa valid for such period as the Principal Immigration Officer may determine.

Crews of aircraft.

SI 1980 No. 1965.

Passengers on ships.

(3) Whenever the Principal Immigration Officer issues a visa to a person under this regulation, he shall at the same time issue to him a visitor's permit coterminous with that visa.

(4) The Principal Immigration Officer may, before issuing any visa or visitor's permit under this regulation require the master of the vessel upon which any passenger has arrived to enter into such bond or other security, as the Principal Immigration Officer thinks fit, in such sum as the Principal Immigration Officer thinks fit that any vessel will not depart from the Falkland Islands until such time as all passengers to whom visas have been issued pursuant to subparagraph (a) of paragraph (1) of this regulation are on board that vessel.

(5) The Principal Immigration Officer shall not issue a visa to any person under subparagraph (b) of paragraph (1) of this regulation unless the Principal Immigration Officer is satisfied that that person has in his possession —

(a) sufficient funds to maintain himself while in the Falkland Islands; and

(b) a ticket or other proof that he will be carried for his onward travel or sufficient funds to purchase the same (in addition to any funds he is required to possess under subparagraph (a) of this paragraph).

15. (1) If the Principal Immigration Officer is satisfied that a person has arrived in the Falkland Islands -

Persons in distress.

- (a) by reason of stress of weather damaging or hazarding the vessel or aircraft in which is travelling; or
- (b) for the purpose of obtaining medical treatment which is urgently required for himself or any person who is a spouse, dependant or other person with whom he is closely connected; or
- (c) by reason any other urgent and unforeseeable circumstance;

(such events being hereinafter called "an emergency") the Principal Immigration Officer shall, on application by that person, issue to that person a visa enabling that person to enter and remain in the Falkland Islands so long as may be reasonably necessary by reason of that emergency.

(2) Whenever the Principal Immigration Officer issues a visa to a person under paragraph (1) of this regulation, he shall also issue to that person a visitor's permit coterminous with that visa.

16. (1) This regulation applies in respect of arriving passengers aboard aircraft engaged in "public transport operations" and for the purposes of this regulation -

"arriving passenger" — means a person carried aboard an aircraft who is not, in relation to that aircraft, a member of its crew, and —

- (i) is not intended to be carried on board that aircraft for the purpose of disembarking therefrom at some place outside the Falkland Islands;
- (ii) who enters or attempts to enter the Falkland Islands other than in a situation to which regulation 15 applies;

"crew", in relation to an aircraft, means persons who are carried aboard an aircraft for the purpose of operating that aircraft in flight or attending to the safety of persons carried aboard that aircraft;

"public transport operations" has the same meaning as it has under paragraph (3) of regulation 13.

(2) If any arriving passenger (being a person who, under the Ordinance is a person who is not a citizen of a country exempted from the requirement under the Ordinance to possess a visa in order to be permitted to enter the Falkland Islands) does not possess a visa issued under these regulations then, in respect of every such passenger, the owner and any charterer or lessee of that aircraft commits an offence.

(3) It shall be a defence in any prosecution under this regulation for the owner of an aircraft to prove that at the relevant time none of the crew of the aircraft was a person who, at that time, was in his employment.

(4) The administrative penalty procedure contained in Part VI of these Regulations applies in respect of offences under this regulation.

Persons on board aircraft.

Refugees.

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17. (1) If any person who is not a citizen of a country the citizens of which are, under the Ordinance, exempted from the requirement under the Ordinance to possess a visa in order to be permitted to enter the Falkland Islands claims to be a refugee and seeks on the basis of such a claim to be allowed to enter and remain, for however short a period, in the Falkland Islands, the principal immigration officer shall —

- (a) detain that person in some convenient place;
- (b) forthwith report the claim, with as much detail as he is able to give, to the Governor;
- (c) shall not grant any visa to that person unless so directed by the Chief Executive, and if so directed shall grant a visa of such period of validity, and subject to such conditions as the Chief Executive may direct.

(2) The Principal Immigration Officer shall release any person detained under paragraph (1) if so directed by the Chief Executive, and if so directed, subject to any conditions or limitations the Chief Executive may specify.

18. Persons who are by any Ordinance or by any treaty, convention or international agreement to which the United Kingdom is party and which extends to the Falkland Islands expressed to be exempted by reason of being a diplomat or consular official or a member of the family or dependent of a diplomat or consular official from any requirement to hold or possess a visa are by this regulation exempted from the requirement under section 6 of the Ordinance to possess a visa.

19. The Principal Immigration Officer shall supply or cause to be supplied to every person who is to his knowledge carrying on or about to carry on public transport operations of aircraft to which regulations 13 and 16 of these Regulations apply —

- (a) a copy of the Ordinance and all subsidiary legislation made under the Ordinance (including these Regulations);
- (b) a sufficient supply from time to time of printed forms in Form 3 (application for visa).

PART III

ENTRY OF PERSONS TO THE FALKLAND ISLANDS

20. (1) This regulation applies, subject to regulation 21 to all persons seeking to enter the Falkland Islands and who are not under the Ordinance or these Regulations or any other Order under the Ordinance exempted from the provisions of this regulation.

(2) Every person to whom this regulation applies shall (subject to regulation 19) complete to the satisfaction of the Principal Immigration Officer, an entry declaration in Form 5 before entering the Falkland Islands.

(3) Any person who knowingly states any particular he is required to complete in any entry declaration in a manner which he knows to be false or does not believe to be true commits an offence.

(4) For the purposes of this regulation a person completes an entry declaration -

- (a) if he or some person on his behalf completes that declaration; and
- (b) he signs it,

but, in respect of a child under the age of twelve years, it is sufficient if one of his parents or some other person travelling with him completes and signs that form on his behalf and references in this regulation to a person completing an entry declaration form in Form 5, shall be construed accordingly.

21. (1) Notwithstanding regulation 20, but subject to paragraph (3) of this regulation, it is sufficient compliance with the requirements of the Ordinance as to entry declarations in respect of seamen if, prior to the disembarkation of a seaman from his ship the master of the ship has furnished to the Principal Immigration Officer a crew list in duplicate of the members of the crew of that ship and furnished such particulars as to the members of the crew as the Principal Immigration Officer may have required.

(2) The Principal Immigration Officer shall by notifications to ships' agents and otherwise as he thinks fit draw the attention of masters of ships to his requirements for the time being as to particulars he requires as to members of the crew of any ship.

Diplomats and consular officials, etc.

Information to be supplied.

Entry declaration.

Seamen.

(3) Paragraph (1) of this regulation only exempts a seaman from regulation 20 if that seaman enters the Falkland Islands at an approved place and, for the purposes of this paragraph, "approved place" has the same meaning as it has under paragraph (4) of regulation 12.

(4) The Principal Immigration Officer may require a person who under this regulation is permitted to enter the Falkland Islands without having first completed an entry declaration to proceed immediately after such entry to a police station to complete an entry declaration.

22. (1) Regulation 20 does not apply to any person who enters the Falkland Islands in an emergency, but any such person shall subject to paragraph (4) of this regulation comply with paragraph (3) of this regulation.

(2) "An emergency" has, for the purposes of this regulation, the same meaning as it has under paragraph (1) of regulation 15.

(3) A person entering the Falkland Islands in an emergency shall, unless paragraph (4) of this regulation applies to him, attend at a police station to complete an entry declaration at the earliest opportunity (which expression means, in any case within twenty- four hours unless, in all the circumstances of the case that is not reasonably practicable, the onus of proving which lies upon the person concerned).

(4) Paragraph (3) of this regulation does not apply to a person detained in hospital until he is discharged from hospital.

PART IV

RESIDENCE PERMITS

23. This Part applies to any person who —

- (a) is not a Falkland Islander; and
- (b) is not for the time being excepted from the provisions of section 10 of the Ordinance under the provisions of subsection (3) of section 3 of the Ordinance (military personnel on duty); and
- (c) who is not a person falling within any category of persons mentioned in paragraphs
 (b), (d) or (h) of subsection (1) of section 13 of the Ordinance (which relate to persons employed by or seconded to the Government, members of a diplomatic mission based in the Falkland Islands and families of any of the foregoing persons); and
- (d) is not entitled to the benefit of the provisions of subsection (1) of section 26 of the Ordinance (persons resident, at the commencement of the Ordinance).

24. (1) A person to whom this Part applies and who wishes to enter into and reside in the Falkland Islands shall make application for a residence permit in the prescribed form.

(2) Where an application is made by a person for the purpose of being able to take up employment in the Falkland Islands, the application shall be accompanied by a sponsor-ship in the prescribed form signed by or on behalf of the prospective employer, and it shall not otherwise be granted.

25. (1) Where an application under paragraph (1) of regulation 24 applies is one to which paragraph (2) of that regulation also applies, the application shall not be granted unless the employer has entered into a Bond in the prescribed form.

(2) The Bond referred to in paragraph (1) of this regulation shall remain in force for the period of the employee's employment by that employer and, if the employee thereafter remains in the Falkland Islands (and subject to paragraph (3) of this regulation) until the employee leaves the Falkland Islands or six months after the end of the employee's employment by the employer (whichever is the less).

(3) A Bond to which paragraph (1) of this regulation applies shall cease to be in force upon the employee obtaining a further permit to which regulation 24 applies.

(4) An employee who, having held a permit to which regulation 24 applies may, notwithstanding subsection (1) of section 24 of the Ordinance, apply from within the Falkland Islands for a further such permit.

(5) Paragraph (4) of this regulation equally applies in respect of a person who, having been in the employment of or seconded to the service of the Government, ccases to be so employed or seconded, and seeks to continue to reside in the Falkland Islands.

Application for a residence

permit.

Employees: special provisions.

Application of

this Part.

Emergencies.

26. (1) Form 6 in the Schedule to these Regulations is prescribed for the purposes of paragraph (1) of regulation 24.

(2) Form 7 in the Schedule to these Regulations is prescribed for the purposes of paragraph(2) of regulation 24.

(3) Form 8 in the Schedule to these Regulations is prescribed for the purposes of paragraph (1) of regulation 25.

27. (1) The Principal Immigration Officer may, before granting an application for a residence permit, require that the applicant and any member of his family mentioned in his application shall undergo a medical examination by a person approved by the Principal Immigration Officer and that a written report thereof be submitted to him.

(2) A requirement under paragraph (1) of this regulation may include a requirement that any such person shall undergo --

- (a) radiographic examination of his chest;
- (b) tests to determine whether the person is suffering from any disease (communicable or not) or is a carrier of any virus or bacteria which may infect any other person with any disease,

and may also include a requirement that the person concerned shall furnish to the person carrying out the examination such examination or any part thereof such written information as to his medical history as the Principal Immigration Officer may specify.

(3) The Principal Immigration Officer shall make requirements under paragraph (2) or (3) of this regulation in such cases as the Governor acting in his discretion may require him to do so.

(4) In any case where a requirement is made under paragraph (1) or (2) of this regulation, the Principal Immigration Officer shall forward a copy of any report received by him as a result thereof to the Chief Medical Officer and shall be entitled to be guided by any recommendations or advice received from him in relation thereto in considering whether or not to grant a permit.

28. If so advised by the Chief Medical Officer, the Principal Immigration Officer shall require an applicant for a residence permit and any member of his family mentioned therein to produce to him evidence of vaccination or innoculation against or in respect of any disease specified by him, and where such a requirement has been made, shall not grant a permit until satisfactory evidence thereof has been produced to him.

29. (1) It is declared that any person who hold a residence permit which is for the time being valid is exempted pursuant to subsection (2) of section 8 of the Ordinance from any requirement to possess a valid visa.

(2) The exemption conferred by paragraph (1) of this regulation also extends to any member of the family of the holder of a residence permit in whose passport a stamp in the form prescribed by paragraph (4) of this regulation appears.

(3) The exemption conferred by paragraph (1) of this regulation shall be signified by a valid residence permit in the passport of the holder of the permit or by production of a valid residence permit in a separate document.

(4) The stamp referred to in paragraph (2) is a stamp in Form 9 in the Schedule to these Regulations.

30. (1) The Principal Immigration Officer shall as soon as conveniently may be notify in writing the applicant for a residence permit as to whether his application has been granted or refused.

(2) Where an application is refused the Principal Immigration Officer shall notify the applicant in Form 10 in the Schedule to these Regulations of the reason for the refusal. He shall at the same time send him Form 11 (notes as to appeals) and Form 12 (notice of appeal).

(3) If a residence permit is granted it shall be in Form 13 in the Schedule to these Regulations and may either be stamped in the holder's passport or issued as a separate document.

31. The Principal Immigration Officer may, any any time, on the application of the holder of a residence permit, extend the validity of that permit, if it was originally issued for a definite period of validity.

Vaccinations and innoculations.

Visa exemptions for permit holders, etc.

examinations, etc.

Medical

Prescribed forms.

Grant or refusal of permit.

Extension of residence permits.

32. (1) The Principal Immigration Officer shall keep at his office a register of all applications for residence permits and renewal of residence permits and decisions thereon.

(2) Paragraph (2) of regulation 3 of these Regulations shall apply to such register with the substitution of the word "permit" for the word "visa" wherever it occurs in that paragraph.

33. (1) The Principal Immigration Officer may at any time revoke any residence permit granted (except that if the permit is one granted in pursuance of a decision by the Governor on an appeal against the decision of the principal immigration officer, he shall only do so if so authorised by the Governor in Council) and shall revoke a residence permit if a removal order has been made in respect of the holder under section 19 of the Ordinance.

(2) Whenever the Principal Immigration Officer revokes a residence permit he shall notify the holder thereof in writing and that notification shall include the Principal Immigration Officer's reasons for such revocation and be accompanied by Forms 11 and 12 in the Schedule to these Regulations.

PART V

APPEALS

34. (1) A person who wishes to appeal against a decision of the Principal Immigration Officer shall do so by sending to the Governor's Office, Stanley, notice of appeal in Form 12 in the Schedule to these Regulations. Such a notice may be accompanied by any documents or copies of documents which the appellant wishes to be taken into consideration on the appeal.

(2) An appellant shall not be heard personally or by advocate in connection with his appeal.

35. (1) Notice of appeal in Form 12 in the Schedule to these Regulations shall be sent or delivered by the appellant so as to be received at the Governor's Office -

(a) within forty-two days of the decision appealed against, in the case of a refusal to grant a visa; and

(b) within twenty-eight days of the decision appealed against, in any other case.

(2) The Governor acting in his discretion may, notwithstanding paragraph (1) of this regulation, and whether before or after the expiration of the time limit thereby, extend or enlarge the time within which a notice of appeal in Form 12 shall be received at his office, and no action taken under this paragraph shall disqualify the Governor from participating in the consideration of the appeal.

36. (1) Immediately upon receipt of a notice of appeal in Form 12, the Governor shall cause a copy of it to be transmitted to the Principal Immigration Officer.

(2) Within ten days of receipt a copy of a notice of appeal in Form 12, the Principal Immigration Officer shall -

- (a) notify the Governor in writing that he does not wish to make any response to or comment upon the grounds of appeal set out in the Form 12; or
- (b) notify that he does wish to respond to or comment upon the grounds of appeal set out in the Form 12 and send or deliver to -

(i) the Governor's Office; and

(ii) the appellant,

a notice in Form 14 in the Schedule to these Regulations incorporating his response or comments.

(3) If the Principal Immigration Officer sends to the Governor's Office a notice in Form 14, he shall at the same time send to the appellant notices in Form 15 and 16 in the Schedule to these Regulations.

37. (1) If an appellant is served with notice in Form 14 (Principal Immigration Officer's comments and observations on the appeal) he may, if he chooses respond to it by sending Form 16 duly completed to the Governor's Office, Stanley, so as to be received thereat within forty-two days of the date on which Form 14 was delivered to him or sent by post to him.

(2) On receipt of a notice in Form 16, the Governor's Office shall send a copy thereof to the Principal Immigration Officer, who shall have no right of reply thereto.

Register as to residence permits.

Revocation of permits.

Manner of appeal.

Time for appealing.

Processing of appeals.

Response by appellant. **38.** (1) In a case where the Principal Immigration Officer has served upon the appellant a notice in Form 14, the appeal shall not be considered by the Governor in Council, unless the appellant consents to the contrary, until after the expiration of forty- two days after the said notice was posted or delivered.

(2) In any case to which paragraph (1) does not apply, the appeal shall not be considered, unless the Principal Immigration Officer consents to the contrary, until after the expiration of fourteen days after Form 12 was received at the Governor's Office, Stanley.

39. (1) The Governor in Council shall not, and no member of the Executive Council or person entitled to attend thereat shall, entertain any oral representation in relation to an appeal and if any member of the Executive Council, contrary to this paragraph, entertains any oral representation in relation to an appeal, he shall absent himself from such part of the proceedings of the Executive Council during which the appeal is considered.

(2) No document submitted by either of the parties shall be taken into consideration unless disclosed to the other in accordance with these Regulations.

40. Every appeal under these regulations shall be determined in accordance with what the Governor in Council considers to be in the best interests of the Falkland Islands which may decide to allow the appeal even if the Principal Immigration Officer appears to have been fully justified in the decision appealed against or to dismiss it for reasons not advanced by the Principal Immigration Officer.

41. The decision of the Governor in Council on an appeal under these regulations shall be notified in writing to the appellant and to the Principal Immigration Officer, but no reason for the decision need be disclosed to any person, court or authority whatsoever.

PART VI

GENERAL

42. (1) Notwithstanding any other provision of these Regulations, the Principal Immigration Officer, subject to the Ordinance, may direct the master of any ship or the pilot in command of any aircraft that he is not to permit a specified person or persons or a specified class or description of persons to leave, within the Falkland Islands or its territorial sea, except in an emergency, that ship or aircraft, and except for the purpose of boarding another ship or aircraft where a similar direction applies.

(2) The master of a ship of pilot in command of an aircraft shall communicate a direction given to him under paragraph (1) to every person aboard the ship or aircraft when he considers may be affected thereby.

(3) The master of a ship or pilot in command of an aircraft who —

- (a) wilfully assists any person to whom a direction under paragraph (1) relates to leave that ship or aircraft, and except as he may be excused thereby; or
- (b) fails to take such steps as may be reasonable to prevent such a person leaving that ship or aircraft,

commits an offence.

43. (1) A person who in connection with any application for entry or for a visa or permit Fraud. provided for by the Ordinance —

- (a) makes any statement which he believes to be false or does not believe to be true, or recklessly as to the truth or falsehood of the statement; or
- (b) produces or forwards any document or writing whatsoever which he knows to be a fraudulent document or writing,

commits an offence.

- (2) For the purposes of paragraph (1) a document or writing is fraudulent if --
 - (a) it is forged;
 - (b) it contains a statement or alleges a fact material to the application which is untrue in a material particular;
 - (c) it contains a material alteration made by a person other than the maker of the document or writing or by a person authorised by him.

(3) It is immaterial for the purposes of paragraphs (1) and (2) whether the application was made in respect of the person alleged to have committed the offence or by or on behalf of another person.

No oral representations to be entertained, etc.

How appeal to be decided.

Notification.

Landing prohibition.

44. Every offence under these Regulations is punishable on conviction by a fine not exceeding one thousand pounds or by imprisonment for a period not exceeding three months or by both such a fine and such imprisonment.

45. (1) In respect of any offence in respect of which, under these Regulations, it is provided that the administrative penalty procedure applies an immigration officer may, instead of instituting criminal proceedings for that offence, serve upon the believed offender an administrative penalty notice.

(2) An administrative penalty notice is a notice in Form 17, notifying the believed offender that if he within seven days pays to the Treasury, Stanley, the sum of five hundred pounds and produces at the time of such payment that notice, no prosecution may be commenced against him in respect of that offence but that otherwise such a prosecution may be commenced.

(3) When an administrative penalty notice has been served no prosecution may be brought in respect of the believed offence referred to therein until the expiration of seven days from its service but otherwise a prosecution may be brought as if it had not been served.

46. Any document or notice required or permitted by these Regulations to be served, sent Service. or delivered to any person may -

(a) be sent by post addressed to him to the last-known address of the addressee;

(b) be handed to the addressee personally;

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(c) be left addressed to him at his last-known address.

Punishment of offences under these Regulations. Administrative penalties.

THE SCHEDULE

PRESCRIBED FORMS

FORM 1

FALKLAND ISLANDS VISA Single Entry/Multiple Entry

Single Entry Multiple En

Issued at :

 $On \,:\,$

e.

By :

Period of Validity :

THIS VISA PERMITS -

to enter the Falkland Islands and there remain for a period of not exceeding during the period of its validity. Holder not to engage in employment.

FORM 2

CANCELLED

ON:

BY :

See Visa dated :

FORM 3

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

APPLICATION FOR VISA TO ENTER THE FALKLAND ISLANDS

NOTE: please complete this application in black ink or black ball-pen. Any material mis-statement may render you liable to prosecution in the Falkland Islands and may also lead to revocation of the visa, if granted.

Name of applicant :
Address of applicant :
Date of birth of applicant :
Country of citizenship of applicant :
Passport Number :
(Note: This must be a passport issued by your country of citizenship stated above, and must accompany this application)
Permanent address of applicant if different from above -
PLEASE ANSWER THE FOLLOWING QUESTIONS
1. What is the purpose of your intended visit to the Falkland Islands?
2. When do you intend to visit the Falkland Islands?
3. How long do you intend to stay?
(NOTE: If you intend to take up residence in the Falkland Islands, you will ALSO need a residence permit under section 10 of the Immigration Ordinance 1987. You cannot apply for a residence permit while you are in the Falkland Islands. A visitors permit (which cannot be valid for more than 4 months in any period

are in the Falkland Islands. A visitors permit (which cannot be valid for more than 4 months in any period of 12 months) may be issued on your arrival subject to your possessing a valid visa, sufficient funds for your stay, and a return ticket or sufficient funds to purchase a ticket to your departure point. But a visitors permit will ordinarily prohibit you from taking up employment in the Islands).

4. Are you suffering from any contagious disease of more than a short term nature or mental disorder? If so please give particulars.

5. Have you at any time been convicted of any crime, in any country, punishable by imprisonment? If so, please give particulars.

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(NOTE: you need not disclose traffic offences in respect of which you were not sentenced to imprisonment)

6. Have you at any time been refused a visa or permission to enter or been deported from any country? If so, please give particulars.

..... 7. Do you wish the visa, if issued, to apply also to any other person to whom your passport relates? If so please set out below their names, addresses and dates of birth and their relationship to you. Name : Name : Address : Address : Date of birth : Date of birth : Relationship : Relationship : Name : Name : Address : Address : Date of birth : Date of birth :

8. If you have answered question 7 that you do wish the visa to relate to other people, are the answers you have given to question 1 to 6 above also true in respect of them? If not, please give particulars of any variations below.

Relationship :

Date :

(NOTE: Any such person MUST enter the Falkland Islands and depart from the Islands at the same time as you do).

DECLARATION

I have read, and understood this Form and the notes included therein. I have answered all the questions in it truthfully.

I enclose —

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(a) my passport;

(b) two passport sized photographs of myself and every person to whom this application relates;

(c) a cheque/postal order for £ payable to the Falkland Islands Government.

Signed :

Relationship :

FEES

A fee of ± 5.00 is payable in respect of the applicant and a further fee of ± 1.00 in respect of every additional person to whom the application relates.

RETURN OF PASSPORT

Your passport will be returned to you at your present address given above as soon as possible, unless you make arrangements to collect it from the office to which you sent this form.

IMMIGRATION ORDINANCE 1987

IMMIGRATION (GENERAL) REGULATIONS 1987

To :	• •	• •	 •••	 	• •	• •	•	 										 		•		 		•	 	 	 	••		 	
• • • •																															

Application for a visa to enter the Falkland Islands

Your application for a visa has been REFUSED. I return your passport.

The reason that your application has been refused is that you appear to be -

* a person who has been convicted by a court of an offence in respect of which you have been sentenced to a term of imprisonment of six months or more AND the Governor has not given special permission for you to be granted a visa;

OR

* a member of a class or group of persons declared to be a prohibited class in that you appear to be (* here set out reasons for person appearing to be in the prohibited class)

OR

* a member of the family or the dependant of a prohibited immigrant, namely you appear to be ((* here set out relationship to prohibited immigrant)).

OR

* (state appropriate grounds)

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You have (subject to what is said below) a right of appeal to the Governor in Council. There are time limits during which the appeal may be lodged. If you wish to appeal you should appeal on the attached form and do so that your appeal reaches the Governor, Government House, Stanley not later than 42 days from the date of this notice.

No appeal lies as above against a refusal to grant, extend the validity or renew a visa UNLESS the ground for such refusal has been stated to be that the Principal Immigration Officer thinks the applicant —

(a) is a person who has been convicted by a court anywhere of an offence in respect of which he has been sentenced to at least six months' imprisonment

OR

(b) is a person who is a member of a class of prohibited persons

OR

(c) is a member of the family of a prohibited immigrant.

If the Principal Immigration Officer has stated any other ground of refusal, no appeal lies (i.e. you would have no right of appeal against his decision).

Please refer to Form 11 (notes on appeals) and Form 12 (appeal form) which are attached.

Signed (* For) Principal Immigration Officer

NOTES: Where asterisk (*) appears, delete words appearing to be inappropriate.

2. Where asterisk (*) appears within double brackets, set out appropriate particulars.

3. If the visa was refused on behalf of the Principal Immigration Officer, the person who *actually* refused the visa should sign this form. If he is not available, any person authorised by the Principal Immigration Officer may sign it.

FORM 5

ENTRY FORM

Please answer the following questions in BLOCK CAPITALS AND IN INK. Any knowingly untruthful statement is a criminal offence. Cross out YES or NO where inapplicable.

1. Please state : ---

	(a) your surname
(b)	your forenames
(c)	date and place of birth
(d)	your country of citizenship
(e)	your passport or other travel identity number
(f)	place of issue
(g)	date of issue
(h)	country issuing it

 (a) Is this your first visit to the Falkland Islands? YES/NO (If you have answered "Yes" go on to question 3).

(b) If you have answered "NO" to question (a), then answer the following questions -

(i) Are you —

A. a returning resident? YES/NO

B. a tourist or visitor? YES/NO

(ii) Are you —

A. a Falkland Islander? YES/NO

B. exempt from residence permit requirements? YES/NO

C. the holder of a residence permit? YES/NO

You are exempt from residence permit requirements if you are a Falkland Islander OR you or the breadwinner of you family is employed by Government OR you were lawfully resident in the Falkland Islands before 1 January 1988.

(c) Do you have a visa? YES/NO

If "Yes" — where was it issued

and when was it issued (day/month/year)

All citizens of EEC countries and citizens of the following countries are EXEMPT from visa requirements — Australia, Austria, Andorra, Canada, Cyprus, Finland, Iceland, Israel, Japan, Lichenstein, Malta, New Zealand, Norway, San Marino, Sweden, Switzerland, United Kingdom, United States of America, Uruguay and any dependent territory of the United Kigdom.

3. If you answered "Yes" to question 2 (a), answer these questions (otherwise do not answer these questions) -

- (i) Are you a tourist or visitor? YES/NO
- (ii) Are you employed or seeking employment or to set up in business in the Falkland Islands? YES/NO
- (iii) Do you have a visitors permit already? YES/NO

If so please state placeand date of issue (day/month/year)

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NOTE: A Visitor's Permit can normally be issued on arrival to a person who is exempted from visa requirements. Some people are, in any case, exempted from visitors permit requirements.

(iv) Do you have a residence permit? YES/NO

If so, state where (place)

and when (day/month/year)

it was issued.

NOTE: You need a residence permit if (1) you wish to reside in the Falkland Islands for more than 4 months and (2) you answered "Yes" to question 2 (a) and (3) you are not the spouse or child under 18 of a person lawfully resident in the Falkland Islands.

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ALL PERSONS MUST ANSWER QUESTION 4 AND 5

1.	(a)	Where did you first boa	rd the ship/aircraft?	(place)
	(b)	When did you board?	(Day/month/year) .	
	(c)	State voyage No./Flight	No	

5. How long to do you intend to stay in the Falkland Islands? (days*/weeks*/months*/indefinitely) ((* strike out all but one))

CHECK YOUR ANSWERS CAREFULLY THEN SIGN AND DATE THIS FORM

Signature

(day) (month) (year)

FORM 6

(Regulation 26. (1))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

APPLICATION FOR RESIDENCE PERMIT

NOTE: Ordinarily, a person who has not previously held a residence permit can only apply for such a permit from OUTSIDE the Falkland Islands.

Members of your family who will be living with you in the Falkland Islands should be included in this application. If members of your family may visit you in the Falkland Islands, and are not included in this form, they can only stay for 4 months in any 12 months (for which they will require a visitor's permit and unless they are exempt from visa requirements, a visa as well).

Please complete this for in black ink or black ballpoint pen.

WARNING: Any material mis-statement in this form may render you liable to prosecution in the Falkland Islands. It could also mean that the permit would be cancelled and that you would be deported.

Name of applicant :
Any former names of applicant :
Address of applicant :
Date of birth of applicant :
Place of birth of applicant :
Country of citizenship of applicant :
Passport Number :
Permanent address (if different from above) :

PART II

Are you intending to take employment in the Falkland Islands?	YES/NO
Have you already been offered a job in the Falkland Islands?	YES/NO
By whom have you been offered a job? (State full name and	address of prospective employer)

NOTE: If you are taking employment in the Falkland Islands, your application cannot be granted until your prospective employer has completed a Sponsorship Form (Form 7) and a Bond (Form 8).

NOTE: The following questions are *only* for persons who are *not* intending to be employed by somebody else.

If you are not intending to take up employment in the Falkland Islands, do you intend to set up in business on your own account? YES/NO

What kind of business?

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nce have you in respect of a business of that kind?
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(If the space given above is not sufficient you may attach a further sheet or sheets containing the information.) Where in the Falkland Islands do you intend to set up that business?

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What financial resources do you have to assist you to set up this business?

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(You should give above, continuing on attached sheets if necessary, as full information as possible. This should include not only your own funds but any loans anybody has agreed to make you. It will assist you if you send with this application any documentary proof of the information given. It will be treated in confidence.)

Do you intend only to live in the Falkland Islands (i.e. not working for anybody else and not setting up in business on your own account)? YES/NO

If so, please state where in the Falkland Islands you intend to live:

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and whether you have already made arrangements to buy, rent or build a house, and, if so, state them here:

and the financial resources (cash, savings, investments, etc) you have available:

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PART III

These questions must be answered by ALL applicants)

Do you now, or have you ever possessed the citizenship of any country other than that stated in Part I above? YES/NO
If "YES" please state which :
and whether you still hold it or not, and if you no longer hold it, how you lost it :
Have you ever been deported from any country? YES/NO
If "YES" please state which, and the circumstances leading to your deportation:
(It will not necessarily mean that your application will be refused)

Have you ever been convicted of any criminal offence (you may ignore motoring offences)? YES/NO
If "YES" please list (in date order) the offences, the court, and the sentence (punishment) imposed:
(a)
(b)
(c)
(d)
(continue on attached sheet if necessary)
Have you ever belonged to —
(a) A Communist Party YES/NO
(b) A Fascist Party YES/NO
(c) The Official or the Provisional Irish Republican Army? YES/NO
(d) Any tecrorist organisation? YES/NG
(e) Any secret society (Masonic and similar organisations excepted)? YES/NO
If you have answered "YES" to any of the above, have you ceased to be a member and if so when, and in what circumstances?
Have you ever served as a member of the armed forces of any country? YES/NO
If "YES" please give particulars:
Do you intend to bring members of your family with you or to have them join you later in the Falkland Islands? YES/NO
If "YES" give particulars below: (wife or husband first, other members of your family in order of their ages)
(a) Name : Date of Birth :
Country of citizenship :
Passport Number :
Relationship to you :
(b) Name : Date of Birth :
Country of citizenship :
Passport Number :
Relationship to you :
(c) Name : Date of Birth :
Country of citizenship :
Passport Number :
Relationship to you :
(d) Name : Date of Birth :
Country of citizenship :
Passport Number :
Relationship to you :

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(You may continue on an attached sheet if there are insufficient blanks above.)

Are the answers given in this Part in respect of yourself also true in respect of your family mentioned above? YES/NO

If "NO", please give details below (continue on attached sheet if necessary):

NOTES

You may be required to undergo a medical examination before the permit is granted. The same applies in respect of any member of your family mentioned by you in Part III of this form. The Principal Immigration Officer may also wish to obtain further information from you in connection with your application.

You should return this form duly completed to the Falkland Islands Government Office, London, or to the Principal Immigration Officer, Stanley, Falkland Islands.

If you are likely during the next few weeks to need any of the documents to be enclosed you may care to send photocopies instead. But you may still be asked to produce the originals later for inspection.

Every effort will be made to deal with your application quickly, but you should understand that if inquiries have to be made your application may take some weeks to be dealt with.

FORM 7

(Regulation 26. (2))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

SPONSORSHIP OF APPLICATION BY PROSPECTIVE EMPLOYER OF RESIDENCE PERMIT

 1. I/We (state name)

 of (address)

 confirm that we intend (subject to a residence permit being granted to him/her) to employ

 (name of applicant for permit)

 of (address of applicant for permit)

 in the capacity of (state description of job)

 at (location in Falkland Islands)

 for (state period or "indefinitely")

 I/We wish him/her to commence working for us (state on what date or "as soon as possible")

2. I/We certify that we have been unable to recruit a suitable person already resident in the Falkland Islands to take the job mentioned above. I/We have made the following efforts to recruit a person already resident in the Falkland Islands —

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(Here set out the efforts which have been made)

3. (a) I/We shall be responsible for housing the applicant ((* and his/her family)) during his employment with us

OR

(b) The applicant will be responsible for housing himself ((* and his/her family)).

(strike out (a) or (b) and the words in double brackets if not applicable)

4. If the application for a residence permit is granted I/we are prepared to enter into a Bond in Form 8 as to repatriation expenses.

Dated the fay of 19...... Signature :

FORM 8

(Regulation 26. (3))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

BOND

I/we

of

DO HEREBY ACKNOWLEDGE myself/ourselves BOUND to pay to the Government of the Falkland Islands such sum as the said Government shall notify to me/us as being due from me/us in order to pay or repay to the said Government the cost of transportation to another country of ("the employee")

((and his family then with him in the Falkland Islands)) (and whether a formal order for removal of any of those persons is made under the Immigration Ordinance 1987 or not, provided that the Government shall be liable to pay (if the said persons are not removed pursuant to a formal order under the said Ordinance) the cost of the transportation of the said persons or any of them) BUT my/our foregoing obligation is subject to and shall be interpreted in accordance with the provisions hereinafter set out.

PROVISIONS

1. My/our before-mentioned above obligation under this Bond shall be at an end upon the earlier of the following events -

(a) the employee being granted a residence permit other than for the purpose of being employed by me/us; and

(b) six months after the employee shall have ceased to be employed by me/us.

- 2. "Cost of transportation" includes -
 - (i) any costs of transporting the employee and/or any member of his family to a convenient port or airport in the Falkland Islands;
 - (ii) the cost of passage of the employee and/or any member of his family by ship or aircraft by such route or routes to another country as the Government shall think fit and in the case of a ship, the cost of food and accommodation on that ship; and
 - (iii) if it is necessary or convenient for the employee and/or any member of his family to transit in any place outside the Falkland Islands, all costs (including transit transportation, board and lodging in transit) related to such transit, as the Government shall see fit.

3. "Another Country" means a country to which the employee and/or his family are sent or transported on formal or informal removal by the Government from the Falkland Islands.

Dated this	day of	19:
SIGNED SEALED and DELIVERED by		

NOTES This Bond must be executed as a Deed.

FALKLAND ISLANDS
The holder of this Passport is
exempt from visa requirements
indefinitely*/until*/ date
((while (residence permit holder)
remains in employment of
))
Principal Immigration Officer

FORM 9

NOTE: Inappropriate alternatives should be deleted.

FORM 10

(Regulation 30. (2))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987

IMMIGRATION (GENERAL) REGULATIONS 1987

NOTICE OF REFUSAL OF RESIDENCE PERMIT

To :

Your application for a residence permit has been refused. The grounds of refusal are as below.

Ground of Refusal

(Note: here the Principal Immigration Officer should set out in as full detail as possible the grounds for the refusal.)

Right of Appeal

You may have a right of appeal against my above decision. Please refer to Form 11 (attached). If you do appeal, you must do so on Form 12 (also attached).

Dated this 19..... day of

Principal Immigration Officer

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(Regulation 30 (2))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

NOTES AS TO APPEALS

Right of Appeal

The Immigration Ordinance 1987 grants a right of appeal in certain circumstances against any decision of the Principal Immigration Officer. This includes decisions not to grant, renew or extend a visa, visitor's permit or residence permit. It also includes a decision to revoke (cancel) a visa, visitor's permit or residence permit. In certain, limited, circumstances, there will be *no* right of appeal. Those limited circumstances are set out below.

When there is no appeal

(1) Under section 23 (3) of the Ordinance, a right of appeal against a decision not to grant, renew or extend a visa if, and only, if the ground given for refusal is -

- (a) that the person affected has been convicted by a court of an offence and sentenced to imprisonment for six months or more;
- (b) that the person affected is a member of a class or group of persons declared to be a member of a prohibited class.

So an appeal does not lie if the visa is refused or not extended or renewed on any other ground.

You should note also that the appeal is only against the Principal Immigration Officer's belief that the person affected is a person of one of the descriptions mentioned above. If the appeal is allowed, the matter is sent back to the Principal Immigration Officer to reconsider the application. He can still refuse the visa or its renewal or extension on another ground.

(2) An appeal lies against a decision of the Principal Immigration Officer not to grant, renew or extend or to revoke a permit where -

- (a) the person affected is in the Falkland Islands; OR
- (b) the person affected has within the past 3 years held a permit (other than a visitor's permit) granted under the Ordinance; OR
- (c) the person affected is exempted from visa requirements (citizens of certain countries).

Except as above, an appeal does not lie (ie you have no right of appeal) against a refusal to grant, extend or renew a permit.

Time for appealing

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(1) In relation to a visa, you must appeal by sending Form 12 so that it reaches the Governor's Officer, Stanley, Falkland Islands not later than 42 days after the Principal Immigration Officer's decision.

(2) In relation to a permit, you must appeal by sending Form 12 so that in reaches the Governor's Officer (address above) not later than 28 days after the Principal Immigration Officer's decision.

In relation to appeals against removal orders (deportation orders) special rules apply under the Immigration (Removal of Undesirables) Order 1987. These notes do not apply to those appeals.

Can I stay in the Falkland Islands until my appeal is dealt with?

There is no *right* to do so. It is up to the Principal Immigration Officer. He can require you to leave pending your appeal. This is because your appeal may take several months to be dealt with.

How can I appeal?

Complete and sign Form 12 (attached). Then send or deliver it to :

The Governor's Office Stanley Falkland Islands

On what grounds can I appeal?

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You should set out in simple language on Form 12 why you think the decision of the Principal Immigration Officer was wrong.

Can I see the Governor about my appeal?

All appeals are dealt with in writing only. The appeal will go to the Executive Council to be decided.

Can the Principal Immigration Officer say anything behind my back?

A copy of your appeal will be sent to the Principal Immigration Officer by the Governor's Office. If he wishes to add anything to what he has said to you in writing, he must do so *in writing* within 10 days and send you a copy. If you disagree with anything he has said you can within 21 days of its receipt, write to the Governor to say so. If the Principal Immigration Officer adds anything in this way, your appeal will not be dealt with until at least 42 days after it is lodged. This is to make sure that you have had time to reply.

Can I be present when my appeal is heard?

No. Nor can the Principal Immigration Officer or anybody on his behalf.

How will I be told the result of my appeal?

You and the Principal Immigration Officer will be told in writing. This may, in certain circumstances, be up to 4 or 5 months after you make your appeal.

Note: If you wish to appeal, please complete Form 12 carefully. You may enclose with it any documents or copy documents you may think help you.

FORM 12

(Regulation 34 (1))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987

IMMIGRATION (GENERAL) REGULATIONS 1987

NOTICE OF APPEAL

AGAINST PRINCIPAL IMMIGRATION OFFICER'S DECISION

To:	The Governor's Office Stanley Falkland Islands
(NO	TE: Please use a typewriter, black ink or a black ball-point pen if possible.)
Nam	e of appellant :
Add	ress for communications :
	sh to APPEAL against the decision of the Principal Immigration Officer (here set out decision caled against) :
appe	
appe	caled against) :

(NOTE: It will assist if you enclose a copy of any decision made in writing and of any correspondence you may have had with the Principal Immigration Officer.)

The grounds on which I appeal are set out below.

(NOTE: In the grounds of appeal, you should set out the reasons why you think the Principal Immigration Officer's decision is wrong. You do not have to use formal "legal" language. If you think that any documents will help you, you may attach copies of them. If anybody is willing to support your appeal, you may attach WRITTEN support of your appeal by any person. It must be signed by the person concerned.)

GROUNDS OF APPEAL

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(Here set out the grounds of your appeal. You can attach further sheet(s) if the space given below is not enough. Please list any copy documents you are enclosing: and make sure that they *are*enclosed. Please staple or pin them to this form.)

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(continue of attached sheet(s) if necessary)Now please answer the following questions about yourself.
(a) Where were you born? (Town/Place/Province/State/County and Country)
(b) What was your date of birth? (Day/Month/Year)
(c) What is your nationality/citizenship?
and Passport No?
(d) In what country do you live now?
(e) How long have you lived there?
(f) Have you ever lived in another country? YES/NO. If so which country(ies), how long for and between what dates?
(g) what period(s) (if any) have you spent in the Falkland Islands?
(h) Are you now married? YES/NO. If so, please state the full name of your wife/husband (and in the case of a married man, your wife's maiden name) :
and date of birth (Day/Month/Year)
and place of birth (Town/Place Province/State/County and Country)
and nationality/citizenship
 (i) Have you (or your wife/husband) ever held the nationality or citizenship of any country other than that of your present nationality/citizenship? YES/NO. If so, please give details

(j) Have you or your wife/husband every been deported from any country?	YES/NO.
If so, please give details	
When is used burger of the	
What is your trade, business, vocation, job?	
and that of your wife/husband (if any)	
(1) Please state here any other information you wish to give about yourself	
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PLEASE SIGN AND DATE THIS FORM:	
(Signature)	
Date ·	

NOTES

You **MUST** deliver or send this form completed with forty-two days of the date of the Principal Immigration Officer's decision (refusal of a visa) and twenty-eight days in any other case to the Governor's Office, Stanley, Falkland Islands (**NOT** to the Principal Immigration Officer). The Governor **MAY** however give you further time to appeal if you need it. **YOU NEED NOT** complete this form if you do not wish to appeal.

FORM 13

(Regulation 30 (3))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

RESIDENCE PERMIT

FALKLAND ISLANDS

RESIDENCE/ENTRY PERMIT

MR/MRS/MISSis permitted to enter in and remain in the Falkland Islands indefinitely/for a period of from the date below.

Date: (Official Stamp)

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(Signature of Principal Immigration Officer)

(Regulation 37 (2))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

PRINCIPAL IMMIGRATION OFFICER'S RESPONSE TO APPEAL

To: The Governor's Office Stanley Falkland Islands

To:

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("the appellant")

I refer to the appellant's appeal dated in Form 12 a copy of which was received
by me on and in which the appellant appeals against my decision on (date)
to
My response and/or comments on that appeal are as below set out.
RESPONSE AND/OR COMMENTS
(The Principal Immigration Officer should continue on attached sheet(s) if necessary.)
I have today sent a copy of this form and of Forms 15 and 16 to the appellant.
Dated :
Signed :

(Principal Immigration Officer)

NOTES

This form if sent must be sent to the Governor's Office within 10 days of the Principal Immigration Officer receiving Notice in Form 12 (notice of appeal).

FALKLANDS ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

ADVICE ON RIGHT OF REPLY

To:

(the appellant)

In reply to your appeal, I have now sent to the Governor's Office, Stanley, a response in Form 14, a copy of which is attached. You now HAVE THE FINAL RIGHT OF REPLY. If you wish you may reply to what I have said by yourself sending a Reply in Form 16 to the Governor's Office, Stanley, so as to be received there within forty-two days of the date of this form. Unless you consent the appeal CANNOT be dealt with until those forty-two days have expired. This is so that you have sufficient time to reply and for the papers to be circulated to Executive Council members.

Form 16 is attached. Even if you do not wish to reply to what I have said, you may wish to return it with the consent to the appeal being dealt with straightaway. This may mean that you will receive a decision on the appeal more quickly.

Dated :

Signed :

(Principal Immigration Officer)

FORM 16

(Regulation 37 (1))

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

REPLY BY APPELLANT

To: The Governor's Office Stanley Falkland Islands

I have received Form 14 (Response of Principal Immigration Officer to my appeal) and I now wish to reply to it as below.

REPLY

(You should say anything you think may help you in your appeal in relation to what the Principal Immigration Officer said in Form 14. If you do not wish to say anything you may care to return this form with the words "I have nothing to add to what I said in Form 12" written in the space below, because above your signature is a consent to the appeal being dealt with without waiting for 42 days from the date of Form 14.)

(Set out your Reply below.)

(appellant)

FALKLAND ISLANDS IMMIGRATION ORDINANCE 1987 IMMIGRATION (GENERAL) REGULATIONS 1987

ADMINISTRATIVE PENALTY NOTICE

Notice No:

To:

(believed offender)

I believe that you have committed an offence under regulation (complete) of the Immigration (General) Regulations 1987.

Particulars of this offence are below set out.

PARTICULARS

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NOTICE OF POSSIBLE PROSECUTION

In respect of the above you could be prosecuted for the offence. If you were convicted of it, you could be fined up to $\pounds1,000$ or imprisoned for up to three months or both.

OPTION TO PAY FIXED PENALTY

If you wish, you may choose to pay to the Treasury, The Secretariat, Stanley, a *fixed* penalty of £500, *within* seven days of this Notice. In that event, no conviction will be recorded against you and you will not then be liable to prosecution for the offence.

It is a matter entirely for you. If you do not admit the offence you may wish to contest the allegation in court by pleading not guilty to it. Even if you do admit the offence, you may wish to try to persuade the court that a penalty less that £500 would be appropriate. You do not have these opportunities if you decide to pay the fixed penalty of £500. There would be no right of being heard by a court.

If you do *not* pay the fixed penalty of ± 500 within seven days a prosecution may be commenced against you without further notice.

IF YOU DECIDE TO PAY THE FIXED PENALTY OF £500, YOU SHOULD PRODUCE THIS NOTICE TO THE TREASURY, STANLEY, AT THE TIME OF PAYMENT. YOU WILL BE GIVEN AN OFFICIAL RECEIPT FOR THE PAYMENT.

Dated :

Signed :

(Principal Immigration Officer)

Ref: IMM/10/1.

Immigration Ordinance 1987

(Section 8)

The Immigration (Visa Exemptions) Order 1987 (S.R. & O. No. 26 of 1987)

ARRANGEMENT OF PARAGRAGHS

Paragragh

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- 1. Citation and commencement.
- 2. Exemption from visa requirements.

Schedule

Immigration Ordinance 1987. (Section 8)

The Immigration (Visa Exemptions) Order 1987.

(S.R. & O. No. 26 of 1987)

IN EXERCISE of my powers under section 8 of the Immigration Ordinance 1987, I make the following Order -

1. This Order may be cited as the Immigration (Visa Exemptions) Order 1987 and shall come into force on Ist January 1988.

Citation and commencement.

Exemption from

visa requírements.

2. (1) The citizens of the countries specified in the Schedule to this Order are exempted from the requirements of section 6 of the Immigration Ordinance to possess a visa prior to entry into the Falkland Islands, but subject to compliance with the conditions set out in subparagraph (2) of this paragraph.

(2) The conditions referred to in subparagraph (1) of this paragraph are -

(a) that the person concerned has in his possession at the time of his entry into the Falkland Islands -

(i) a valid passport in his name issued to him by the competent authorities of one or other of the countries specified in the Schedule to this Order; and

(ii) that passport describes him as being a citizen of the country by the authorities of which it was issued;

(b) subject to this subparagraph, that the person concerned is not the subject of an order under section 19 of the Ordinance;

(c) that the person concerned has in his possession at the time of his entry —

(i) a ticket for his passage from the Falkland Islands to a place in another country which, it appears that, he will be permitted to enter; or

(ii) if he does not so possess such a ticket, he has in possession at the time of his entry such funds in such currencies, as in the opinion of the Principal Immigration Officer, will enable him to purchase such a ticket, and he possesses such funds in addition to any funds he is required to possess under
 (d) below;

(d) that the person concerned has in his possession at the time of his entry such funds in such currencies as, in the opinion of the Principal Immigration Officer, will enable him to support himself during the period of his intended stay in the Falkland Islands;

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(e) that the person concerned completes such declaration as the Principal Immigration Officer may require as to the intended period of and purpose of his visit to the Falkland Islands;and

(f) that the person concerned produces to the Principal Immigration Officer at the time of his entry into the Falkland Islands such proof as may be required by the Principal Immigration Officer that the foregoing conditions are satisfied by or in relation to him.

(3) In subparagraph (2) -

(a) "funds" means cash in currency notes, travellers cheques and negotiable instruments of a currency and of a kind which, in the opinion of the Principal Immigration Officer, are readily exchangeable (if not cash in sterling) for cash at a bank in the Falkland Islands; and

(b) any reference to the person concerned having any thing in his possession shall be construed as including that thing being in the possession of any other person who, being a member of his family or otherwise accompanying him, produces that thing to the Principal Immigration Officer in addition to any thing that the other person is himself required to produce under that subparagraph.

SCHEDULE

All countries (including the United Kingdom) for the time being members of the European Economic Community and the following countries

Australia Austria Andorra Canada Cyprus Finland Iceland Israel Japan Liechtenstein Malta New Zealand Norway San Marino Sweden Switzerland United States of America Uruguay.

Any countries which, for the time being, are a dependent territory of the United Kingdom.

Made this 17th day of December 1987.

B. R. CUMMINGS, Acting Governor.

Ref: IMM/10/2.

The Fisheries (Conservation and Management) Ordinance 1986 (Section 20)

The Fisheries (Transhipment and Export) (Fees) Regulations Order 1987 (S.R. & O. No. 27 of 1987)

ARRANGEMENT OF PROVISIONS

Provision

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- 1. Citation and commencement.
- 2. Transhipment and Export Fees.

Schedule - Licence fees payable by foreign fishing vessels.

The Fisheries (Conservation and Management) Ordinance 1986. (Section 20)

The Fisheries (Transhipment and Export) (Fees) Regulations Order 1987 (S.R. & O. No. 27 of 1987)

IN EXERCISE of my powers under section 20 of the Fisheries (Conservation and Management) Ordinance 1986 I make the following Order —

1. This Order may be cited as the Fisheries commencement. (Transhipment and Export) (Fees) Regulations Order 1987 and shall come into operation on the 1st day of January 1988.

2. The Fees payable for a licence to

(a) tranship fish in; and

(b) transport or export fish from Falkland Islands fishery waters shall be those set out in the Schedule to this Order.

SCHEDULE

Licence fees payable by foreign fishing vessels

Column 1

Permitted Activity

Transhipment in fishery waters.

Transport or Export from fishery waters.

Column 2

Fees

Between 1st February and 30th June £1500 for each transhipment.

Between 1st July and 31st January £150 for each transhipment.

Between 1st Febraury and 30th June £1500 for each departure of a ship from Falkland Waters.

Between 1st July and 31st January £150 for each departure of a ship from Falkland Waters.

Made this 21st day of December 1987.

B. R. CUMMINGS, Acting Governor.

Ref: FIS/29/16.

Printed by the Government Printer, Stanley, Falkland Islands. Price : Sixteen Pounds & Sixty Pence. Citation and commencement

Transhipment and Export Fees.

Drivers to give way.

3. (1) Except as provided in paragraph (2) below and in regulation 4, the driver of any vehicle or animal proceeding along or leaving any east to west road in Stanley shall cause it to give way to any traffic proceeding along or leaving any north to south road.

(2) Paragraph (1) above does not apply to a driver of any vehicle or animal proceeding along or leaving any east to west road in Stanley which is an excepted road.

(3) Except as provided in regulation 4 below the driver of any vehicle or animal proceeding along or leaving any north to south road in Stanley shall cause it to give way to any traffic proceeding along or leaving any excepted road.

4. Every police vehicle, fire service vehicle and ambulance on the roof or other convenient place of which is displayed a flashing blue light reasonably sufficient to attract the attention of other road users and from which a loud bell, siren or klaxon is being sounded or another loud warning is being given shall have priority over all other traffic on any road in Stanley.

(2) Any person who causes any blue flashing light, bell, siren, klaxon or other loud warning to be displayed or given from a police vehicle, fire service vehicle or ambulance commits an offence unless the reasonable performance of his duty requires him to do so.

(3) Paragraph (1) does not relieve the driver of any police vehicle, fire service vehicle or ambulance from any duty of care to any other road user nor is it available as a defence to a prosecution for any offence other than a prosecution for an offence to which regulation 5(1) below relates.

5. (1) Any driver commits an offence if, being required by any provision of regulation Offences. 3 to give way to other traffic, he fails to do so.

(2) A driver commits an offence if he fails to give way to any vehicle which has priority over his vehicle by virtue of regulation 4(1).

(3) A person who commits an offence under any provision of these regulations is liable to a fine not exceeding £250.

(4) A failure by the driver of a motor vehicle to comply with any provision of these regulations shall be admissible as evidence tending to prove the commission of any offence in which the manner of driving of a motor vehicle is an element or to which it is relevant; provided that a person shall not in respect of the same act or omission be convicted both of an offence under these Regulations and of an offence under the Ordinance, except that he may be convicted both of an offence under these Regulations and of an offence an element of which is the presence of alcohol or drugs in his body.

6. Nothing in this Order applies in respect of sheep or cattle which are being driven. s

Sheep.

Made this 21st day of December 1988.

W. H. FULLERTON, Governor.

Ref: POL/10/5,

Police etc. vehicles.





THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Ξ

Vol. XCVII	31st January 1988	No. 1

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 31st January 1988, was in fact published on 23rd March 1988.

D. G. LANG, Attorney General.

Appointments	
David Slaven Hazell, Police Constable, Falkland Islands Police Force, 4.1.88.	Mrs. Phyllis Marjorie Stewart, from Senior Clerk, Philatelic Bureau, Posts & Tels. Department, to
John Gall Sutherland, Police Constable, Falkland Islands Police Force, 4.1.88.	Manageress, Philatelic Bureau, Posts & Tels. Depart- ment, 12.10.87.
Graham Oakes, Laboratory Technician, Medical Department, 5.1.88.	Completion of Contracts
Roger Howells, Plumber, Public Works Department, 15.1.88.	Phillip Michael John Beavan, Teacher, Education Department, 9.1.88.
Ms. Carol Skilling, Teacher, Education Department, 22.1.88.	Peter Durose Felton. Teacher, Education Department,
Acting Appointment	21.1.88.
Colin Frank Redston, Acting Chief Executive, Secretariat, 15.8.87 - 2.10.87 & 17.10.87 - 17.11.87.	Resignations
Transfer	Eddie Anderson, Pilot, Falkland Islands Government
Robin William Simpson Bell. from Police Constable,	Air Service, 20.1.88
Falkland Islands Police Force, to Permanent Staff Officer, Falkland Islands Defence Force, 1.1.88	Miss Carmen Adriana Lazo, Auxiliary Nurse, Medical Department, 30.1.88
Promotions	Roger Neil Rogers Engineman Power Station Public
Manfred Michael Ian Keenleyside, from Superinten- dent, Property & Municipal Services, Public Works	Works Department, 31.1.88.
Department, to Deputy Director of Public Works, Public Works Department, 6.10.87.	John Harvey Adams, Police Constable, Falkland Islands Police Force, 31.1.88.
Robin William Simpson Bell, from Police Constable, Falkland Islands Police Force, to Permanent Staff Officer, Falkland Islands Defence Force, 1.1.88 Promotions Manfred Michael Ian Keenleyside, from Superinten- dent, Property & Municipal Services, Public Works Department, to Deputy Director of Public Works,	Air Service, 20.1.88 Miss Carmen Adriana Lazo, Auxiliary Nurse, Medical Department, 30.1.88 Roger Neil Rogers, Engineman, Power Station, Public Works Department, 31.1.88. John Harvey Adams, Police Constable, Falkland

NOTICES

6th January 1988

Appointment of Acting Registrar General

In the absence of Mrs. Sharon Halford, Registrar General, Mr. Aian John Bowran has been appointed Acting Registrar General with effect from 9th January 1988.

Ref: LEG/19/5.

B. R. CUMMINGS, Acting Governor.

No. 2

No. 1

13th January 1988

Intimation has been received from the Right Honourable The Secretary of State for Foreign and Commonwealth Affairs to the effect that Her Majesty will not be advised to exercise her power of disallowance in respect of the following Ordinances of the Colony —

No. 12/86 The Old Age Pensions (Amendment) (No. 2) Ordinance 1986.

No. 13/86 The Family Allowances (Amendment) (No. 2) Ordinance 1986.

No. 14/86 The Litter Ordinance 1986.

No. 15/86 The Falkland Islands Development Corporation (Amendment) Ordinance 1986.

No. 16/86 The Consular Relations Ordinance 1986.

No. 17/86 The Income Tax (Amendment) Ordinance 1986.

No. 1/87 The Supplementary Appropriation (1985/86) Ordinance 1987.

No. 2/87 The Fisheries (Conservation and Management) (Amendment) Ordinance 1987.

No. 3/87 The Dangerous Goods Ordinance 1987. No. 4/87 The Firearms and Ammunition Ordinance 1987.

No. 5/87 The Registration of United Kingdom Trade Marks (Extension to Service Marks) Ordinance 1987.

No. 6/87 The Companies and Private Partnership (Amendment) Ordinance 1987.

No. 7/87 The Merchant Shipping (Registry) Ordinance 1987.

No. 8/87 The Appropriation (1987/88) Ordinance 1987.

No. 9/87 The Old Age Pensions (Amendment) Ordinance 1987.

No. 15/87 The Immigration Ordinance 1987. Ref: LEG/10/42.

11410-11

19th January 1988

Marriage Ordinance (Cap. 43) Section 5

The following are registered as Ministers for celebrating marriages --

The Reverend Canon John Gervase Maurice Walker Murphy, L.V.O., M.A.; Rector of Christ Church Cathedral.

The Right Reverend Monsignor Antony Agreiter; Prefect Apostolic of the Falkland Islands. The Reverend Father John Francis Doran; Priest, St. Mary's Church.

Ref- INT/39/1.

No. 3

Notice

Coinage Act 1870 (Section 11)

Decimal Currency Act 1967 (Section 2 (3))

The following Proclamation was made by Her Majesty on 8th July 1986. Its publication in the Gazette has previously been omitted and it is now published as it is required to be. The Proclamation comes into force on the date of publication of this Gazette under the provisions of paragragh 1 of the Proclamation.

D. G. LANG, Attorney General.



BY THE QUEEN

A PROCLAMATION

DETERMINING THE SPECIFICATIONS AND DESIGN FOR, AND GIVING CURRENCY TO, A TWENTY-FIVE POUNDS SILVER COIN IN OUR COLONY OF THE FALKLAND ISLANDS.

ELIZABETH R.

We, in exercise of the powers conferred by Section 11 of the Coinage Act 1870, section 2 (3) of the Decimal Currency Act 1967, and of all other powers enabling Us in that behalf, do hereby, by and with the advice of Our Privy Council, proclaim, direct and ordain as follows -

1. This Proclamation shall be published in the Official Gazette of the Falkland Islands and shall come into force there on the date of such publication.

2. (1) A new coin of silver of the denomination of twenty-five pound's, being of a millesimal fineness of 925, a standard weight of 150 grammes, a standard diameter of 65 millimetres and a circular shape, shall be made.

(2) In the making of the said coin a remedy (that is, a variation from the standard weight, diameter or millesimal fineness specified above) shall be allowed of an amount not exceeding the following, that is to say -

- (a) a variation from the said standard weight of an amount per coin (measured as the average of a sample of not more than one kilogramme of the coin) of 1.71 grammes;
- (b) a variation from the said standard diameter of minus 0.1 millimetres per coin or plus 0.5 millimetres per coin; and
- (c) a variation from the said millesimal fineness of 3.

3. The design for the said coin shall be as follows -

- (a) For the obverse impression Our effigy with the inscription "QUEEN ELIZABETH II" to the left of the portrait, with "FALKLAND ISLANDS" to the right and at the bottom "25 POUNDS".
- (b) The reverse impression to be profile portraits of His Royal Highness the Prince Andrew and Miss Sarah Ferguson, and the date "1986".
- (c) Every coin shall have a graining upon the edge. .
- 4. The said coin shall be current within Our Colony of the Falkland Islands.

Given at Our Court at Buckingham Palace, this eighth day of July in the year of our Lord One thousand nine hundred and eighty-six and in the thirty-fifth year of Our Reign.

GOD SAVE THE QUEEN



THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVII

29th February 1988

No. 2

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 29th February 1988, was in fact published on 29th March 1988.

D. G. LANG, Attorney General.

Appointments

Miss Leeann Eynon, Clerk, Public Service, 1.2.88. Miss Wanda Anita Margaret Pawan, Teacher, Education Department, 2.2.88.

Charles Grocock Snr., Engineman, Power Station, Public Works Department, 15.2.88.

Boyd Edward Harold Watson, Cadet Customs Officer, Customs & Harbour Department, 22.2.88.

Resignations

Andrew Miller, Police Constable, Falkland Islands Police Force, 4.2.88

Adam James Fowler, Teacher, Education Department, 18.2.88

NOTICES

5th February 1988

Dangerous Goods Ordinance (section 3)

Designation of Licencing Authority

TAKE NOTICE that in exercise of his powers under section 3 of the Dangerous Goods Ordinance 1987 the Governor has designated the Chief Police Officer as the Licencing Authority for the purposes of the Ordinance.

Ref: LEG/10/64.

No. 4

No. 5

9th February 1988

Intimation has been received from the Right Honourable The Secretary of State for Foreign and Commonwealth Affairs to the effect that Her Majesty will not be advised to exercise her power of disallowance in respect of the following Ordinances of the Colony —

No. 23/87 The Income Tax (Amendment) Ordinance 1987.

No. 24/87 The Income Tax (Amendment) (No. 2) Ordinance 1987.

No. 25/87 The Income Tax (Amendment) (No. 3) Ordinance 1987.

Ref: LEG/10/42.

No. 6

9th February 1988

Currency Ordinance 1987

It is notified for general information that His Excellency the Governor, on the advice of Executive Council, has designated the holders of the public offices of Government Secretary and Superintendent of Posts and Telecommunications to be Commissioners of Currency, in accordance with Section 5 (1) of the Currency Ordinance 1987, until further notice.

Ref: TRE/10/11.

No. 7

11th February 1988. | No. 10

22nd February 1988.

Appointment of Temporary Registrar

Intimation has been received from the Right Honourable The Secretary of State for Foreign and Commonwealth Affairs to the effect that Her Majesty will not be advised to exercise her power of disallowance in respect of the following Ordinances of the Colony — of State

No. 10/87 The Non-Contributory Old Age Pensions (Amendment) Ordinance 1987.

No. 11/87 The Family Allowances (Amendment) Ordinance 1987.

No. 12/87 The Estate Duty (Repeal) Ordinance 1987.

No. 13/87 The Banking Ordinance 1987.

No. 14/87 The Currency Ordinance 1987.

No. 16/87 The Misuse of Drugs Ordinance 1987.

No. 17/87 The Mental Health Ordinance 1987.

No. 18/87 The Naval Ports Ordinance 1987.

No. 19/87 The Buildings of Architechtural and Historic Interest Ordinance 1987.

No. 21/87 The Oil in Territorial Waters (Amendment) Ordinance 1987.

No. 22/87 The Petroleum Products (Amendment) Ordinance 1987.

Ref: LEG/10/42.

No. 8

17th February 1988.

The findings of the Cost of Living Committee for the quarters ended 30th September 1987 and 31st December 1987 are published for general information:

Quarter Ended	Percentage Increase over 1971 Prices
30th September 1987	455.43%
31st December 1987	458.34%

2. Hourly paid employees in Stanley qualified for an increase of 0.5p per hour with effect from 1st January 1988.

Ref: INT/2/3.

No. 9

22nd February 1988.

Intimation has been received from the Right Honourable The Secretary of State for Foreign and Commonwealth Affairs to the effect that Her Majesty will not be advised to exercise her power of disallowance in respect of the following Ordinances of the Colony —

No. 26/87 The Taxes and Duties (Special Exemptions) Ordinance 1987.

No. 27/87 The Agency (Adopted Laws) Ordinance 1987.

No. 28/87 The Estate Duty (Repeal) (Amendment) Ordinance 1987.

No. 29/87 The Fisheries (Conservation and Management) (Amendment) Ordinance 1987.

No. 30/87 The Fishing Vessels (Safety Provisions) Ordinance 1987.

No. 32/87 The Old Age Pensions (Amendment) (No. 2) Ordinance 1987.

Ref: LEG/10/42

In exercise of the powers conferred upon me by Section 4 of the Marriage Ordinance I, Gordon Wesley Jewkes, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Col-

ony of the Falkland Islands and its Dependencies

Hereby Appoint -

Robert John Ferguson a Registrar for the purpose of the marriage at Weddell Island of Roy Alan Smith and Jacqueline Jennings.

Given under my hand at Stanley this 22nd day of February 1988.

Ref: LEG/19/2.

G. W. JEWKES, Governor.

in the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE

IN THE MATTER OF PETER LARS SMITH, deceased of Stanley, Falkland Islands, who died at Stanley on the 24th August 1987, intestate.

WHEREAS Janice Smith has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley,	S. HALFORD,	
Falkland Islands,	Registrar.	
18th February 1988.		
Ref: PRO/19/88.		

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE

IN THE MATTER OF ALBERT FREDERICK BINNIE, deceased of Stanley, Falkland Islands, who died at Stanley on the 31st January 1988, intestate.

WHEREAS Marjorie Rose Adams has applied for Letters of Administration to administer the estate of the said deceased in the Colony.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 25th February 1988. Ref: PRO/2/88. S. HALFORD, Registrar.

5

NOTICE

Proposed Electoral Law

There is published in this issue of the Gazette immediately following this Notice, an explanation of some draft clauses of an Electoral Bill. That explanation in turn, is followed by draft clauses of the Electoral Bill referred to in the explanation. The complete Bill has not yet been prepared.

The purpose of the publication of the explanation and of the draft clauses in the Gazette at this stage is to enable the public to consider them and to comment upon them if they wish to do so.

The draft clauses set out the qualifications for being registered as an elector. It is necessary for this to be done in the proposed Ordinance because the Regulations made in 1985 upon this subject are of only temporary effect.

I should make it clear that the draft clauses at the stage constitute legislative proposals which have not yet been approved by the Executive Council for submission to the Legislative Council. I shall be pleased to receive any comments any person may wish to make on the draft clauses or, upon appointment being made to give any explanation which may be helpful. It is hoped, however, that the printed explanation which follows will enable the draft clauses to be understood.

D. G. LANG, Attorney General.

Explanation of Draft Clauses

appearing below

Clause 3 defines "resident" for the purpose of qualifying to be registered as an elector. It relates to the provisions of section 27 (4) (b) of the Constitution ("Qualification of Electors") which permits and requires the meaning of "resident", for the purposes of that section, to be defined by Ordinance. The Clause is a complex Clause, partly because it seeks to make slightly different provision in respect of persons who were born in the Falkland Islands and those who were not.

Clause 4 defines "qualifying period" for the purpose of qualification of Electors.

Clauses 3 and 4 together are perhaps of focal importance because they would largely govern the "right of vote". They would change the law.

(a) Law relating to 1985 Election

Under the Constitution and Constitutional (Registration of Electors) Regulations, the entitlement to be registered as an elector for the 1985 General Election was as follows —

(1) Persons born in the Falkland Islands

Entitled to be registered as an elector if -

- a Commonwealth citizen (for practical purposes, since the exceptions in the British Nationality Acts 1948 & 1981 do not appear to be of practical importance, everybody born in the islands before 1st January 1983 may be assumed to be a Commonwealth citizen (= citizen of a Commonwealth country, including United Kingdom)); and
- (ii) of the age of eighteen years or over on the "qualifying date" (15th May 1985); and
- (iii) "resident" in the Falkland Islands for twelve months immedately preceding the qualifying date (15th May 1985);
- (iv) not disqualified on the qualifying date (15th May 1985) under the provisions of the Constitution from being registered.

(Note: "resident" in (iii) above means "ordinarily resident" as defined in the Falkland Islands (Legislative Council) Order in Council 1948 - 1977.

The question is dealt with by the Schedule to the Order: that is not regarded as satisfactory to deal with the modern circumstances affecting persons living in the Falkland Islands for reasons which are explained below).

(2) Persons not born in the Falkland Islands

The same requirements as under (1) above apply with the <u>additional</u> requirement (additional to residence (i.e. "ordinary residence") for twelve months preceding the qualifying date (15th May 1985)) that he had also been resident in the Falkland Islands for an aggregate period of five years or more (i.e. at any time).

(b) Law applying prior to the 1985 Regulations and applying now

(because as the qualification for registration as an elector the 1985 Regulations only apply to the 1985 General Election, it is Cap. 37 to which one must turn to see what the law which presently applies is) -

- (a) Persons born in the Falkland Islands, residence for twelve months ending on the "qualifying day" (15th July annually).
- (b) Persons not born in the Falkiand Islands, residence for three years ending on the qualifying day (15th July annually).

(again, residence means "ordinary residence" as defined in the Falkland Islands (Legislative Council) Orders 1943 - 1977).

As will be seen, the 1985 Regulations increased the period of residence required of persons not born in the Falkland Islands from three years to five years.

Clauses 3 and 4 must be viewed against that background. First of all, they do not seek to change the period of required residence before the "qualifying date" (defined by Clause 4).

Clause 3, however, does seek to change the meaning of "resident". The Schedule to the 1948 Order is not satisfactory because, it is desired that persons absent from the Falkland Islands should be qualified to be registered, it is not practical for the registration officer to ascertain their intentions. A form asking them to state this cannot be sent to all such persons. Instead, Clause 3 defines "resident" on the basis of the aggregate of "Physical presence" and "permitted absences" and makes some permitted absences conditional upon a specified length of physical presence being achieved. This appears to be the most practicable solution if persons who are temporarily absent from the Falkland Islands are to be allowed to go on to the Register of Electors.

1. Absences in Government Service

- (a) If the person was born in the Islands and provided that he was physically present in the Falkland Islands at some time during the five years immediately preceding the "qualifying date" all periods of absence occasioned by F.I.G. service will count as residence in F.I. (Clause 3 (2) (a) (i) and (ii) and 3 (9)).
- (b) If the person was not born in the Islands and provided
 - (i) that he has been physically present in the Falkland Islands at some time during the five years immediately preceding the qualifying date; and
 - (ii) that he has been physically present in the Falkland Islands for an aggregate period at least 12 months since he attained the age of eighteen years; and
 - (iii) he has been physically present in the Falkland Islands for at least three years in aggregate (Clause 3 (6), (7) and (9)).

All periods of absence occasioned by F.I.G. Service will count as residence in F.I. (N.b. He will still have to have accumulated five years' "residence" immediately preceding the qualifying date- see (Clause 4) but this could for example, include two years absence as a student or F.I.G. Officer during those five years.)

Absence on course of education or training overseas

- (a) This is counted as residence for a person born in the Falkland Islands if -
 - (i) he has been physically present in the Falkland Islands for 12 months in aggregate since attaining 18 years of age; or

- (ii) he has been physically present in the Falkland Islands for an aggregaate of three years; and
- (iii) he has been physically present in the Falkland Islands at some time during the five years immediately preceding the qualifying date. (see Clause 3 (2) (b) and (9)).
- (b) An educational or training absence overseas is allowable for a person not born in the Falkland Islands on exactly the same basis as it would be allowable for a person born in the Falkland Islands. (see Clause 3 (6), (7) (c) and (9)).

Military Service absence

- (a) This is allowed for a person born in the Falkland Islands if -
 - (i) he was physically present in the Falkland Islands at some time during the five years immediately preceding the qualifying date.
 - (ii) for at least three years of the five immediately prececing his enlistment or his absence, he was physically present in the Falkland Islands.
- (b) A person not born in the Falkland Islands will be allowed military service absence only if he is regarded under Chapter 1 of the Constitution as belonging to the Falkland Islands. Subject to that his absence is allowed on the same basis as if he were born in the Islands (but he must have five years "residence" - including permitted absences).

Miscellaneous absences

Miscellaneous absences of up to six months are allowed (subject to the over-riding "residence" requirements under Clause 4 - 12 months for persons born in the Falkland Islands and 5 years for those not born in the Falkland Islands) provided that for at least six months of that twelve months the person was physically present in the Falkland Islands.

Constitutional background to Clauses 3 and 4

Section 27 (4) of the Constitution allows a distinction in the qualifying period of residence to be made between persons born in the Island and those not born in the Falkland Islands and both Cap. 37 and the 1985 Regulations do so. The provisions of Clauses 3 and 4 in fact follow the underlying framework of the 1985 Regulations as to qualifying periods of residence and depart from the 1985 position only in defining "residence" in terms different from those used in 1948.

Draft Clauses

3 (1) For the purpose of qualification to be registered as an elector, a person who is a Commonwealth citizen is resident in the Falkland Islands if -

Meaning of "resident".

- (a) subject to subsection (9) below, he is physically present within the Falkland Islands; or
- (b) although not physically present within the Falkland Islands his absence therefrom is an absence which, under subsections (2) to (7) inclusive below, is a permitted absence.

(2) In respect of a person who was born in the Falkland Islands his absence therefrom is a permitted absence for the purposes of this section -

(a) subject to subsection (9) below, to the extent that it is or was occasioned by —

- (i) the performance of his duties as a public officer in the employment of the Falkland Island Government; or
- (ii) the performance of his duties as a member of the Legislative Council, as a member of the Corporation or in any other office prescribed by regulations made under this Ordinance;
- (b) subject to subsection (3) below, it is or was occasioned by his undergoing a course of education or training overseas;
- (c) subject to subsection (3) below, it was occasioned by any other matter or thing not falling within paragraph (a) or (b) above, but to the extent only that such absence or the aggregate of such absences falling only within this paragraph (c) does not exceed six months in any period of twelve months, and only if he was physically present in the Falkland Islands for at least six months in that period of twelve months;

(d) subject of subsection (4) below, it was occasioned by his service as a member of the Falkland Islands Defence Force or as a member of the regular armed forces of Her Majesty.

(3) A period of absence falling within paragraph (a) of subsection (2) above shall be a permitted absence (subject to subsection (9) below) in every case but periods of absence falling within paragraphs (b) and (c) of that subsection shall be a permitted absence only if —

- (a) the person concerned has been physically present in the Falkland Islands for a period of, or a period aggregating at least twelve months subsequent to his attaining his eighteen years of age; or
- (b) the person concerned has been physically present in the Falkland Islands for a period of, or periods aggregating, three years.

(4) A period of absence falling within paragraph (d) of subsection (2) above shall only be a permitted absence if for a period of, or periods aggregating, at least three years in the five years preceding -

- (a) the absence in question, or
- (b) the person concerned becoming a member of the Falkland Islands Defence Force or of the regular armed forces of Her Majesty,

he was physically present in the Faikland Islands.

(5) In respect of any person who is a Commonwealth citizen, and whether or not he was born in the Falkland Islands, ("the first-named person"), his absence therefrom is a permitted absence for the purposes of this section if -

- (a) at the time in question he was the spouse of or the dependant of another person ("the relevant person");
- (b) his absence was occasioned by his accompanying the relevant person while the relevant person was absent from the Falkland Islands;
- (c) the absence in question of the relevant person is in relation to the relevant person a permitted absence under such of the other provisions of this section as are relevant to the circumstances of the relevant person; and
- (d) the first-named person has been physically present in the Falkland Islands -
 - (i) for a period of or periods aggregating at least twelve months since he attained eighteen years of age; and
 - (ii) for a period of, or periods aggregating, at least five years.

(6) In respect of a person who was not born in the Falkland Islands but who is a Commomwealth citizen, his absence therefrom subject to subsection (7) below a permitted absence for the purposes of this section if it falls within subsection (5) above or if -

- (a) he has been physically present in the Falkland Islands for a period of or for periods aggregating at least twelve months since he attained the age of eighteen years; and
- (b) he has been physically present in the Falkland Islands for a period of, or for periods aggregating, at least three years; and
- (c) the absence in question is a permitted absence under subsection (7) below.

(7) For the purposes of paragraph (c) subsection (6) above the following periods of absence are specified as permitted absences -

(a) absences to the extent that they are occasioned by —

- (i) the performance by the person of his duties as a public officer in the employment of the Falkland Islands Government;
- (ii) the performance of his duties as a member of the Legislative Council, as a member of the Corporation or in any office prescribed by regulations made under his Ordinance; or
- (b) if the person concerned belongs to the Falkland Islands, periods of absence occasioned by his service as a member of the Falkland Islands Defence Force or as a member of the regular armed forces of Her Majesty, and for a period of, or for periods aggregating, at least three years in the five years preceding the absence in question or his becoming a member of the force in question the person concerned was physically present in the Falkland Islands;

- (c) periods of absence occasioned by a course of education or training of the person overseas;
- (d) any other absence, but to the extent only that such absence or the aggregate of such absences do not exceed six months in any period of twelve months, and only if the person was physically present in the Falkland Islands for at least six months in that period of twelve months.

(8) Notwithstanding any previous provision of this section, a person who does not belong to the Falkland Islands shall not be regarded as being resident in the Falkland Islands, even if he is physically present therein, during any period in which he is a member of the regular armed forces of Her Majesty.

(9) Notwithstanding any previous provision of this section, no period of absence of a person shall be a permitted period of absence for the purposes of this section if that person has not been physically present in the Falkland Islands at any time during the five years immediately preceding the qualifying date.

4. (1) For the purpose of all provisions of this Ordinance as to the qualification of a person to be registered as an elector "qualifying period" means -

Meaning of "qualifying period".

- (a) in relation to a person who was born in the Falkland Islands, that he was resident (within the meaning assigned by section 3 above) in the Falkland Islands for a period of at least twelve months immediately preceding the qualifying date; and,
- (b) in relation to a person who was not born in the Falkland Islands, that he was resident in the Falkland Islands for a period of at least five years immediately preceding the gualifying date.

(2) This section shall have effect for the purpose of prescribing the qualifying period in accordance with section 27 (4) (a) of the Constitution.

5. (1) For the purpose of all provisions of this Ordinance as to the qualification of a person to be registered as an elector and any disqualification by law from being so registered "the qualifying date" means the 15th May preceding the preparation of the register.

(2) This section shall have effect for the purpose of prescribing the qualifying date in accordance with section 27 (4) (a) of the Constitution.

Meaning of " "qualifying date".



THE

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Vol. XCVII

29th March 1988

No. 3

Appointments	NOTICES
Norman Phillip Plumb, Police Constable, Falkland Islands Police Force, 3.3.88.	No. 11 9th March 1988.
Captain John Hobson Boyes, Chief Pilot, Aviation Department, 8.3.88. Trevor Brayshaw Barnes, B.D.S., Dental Surgeon, Medical Department, 8.3.88. Robert Collie, Teacher, Education Department, 8.3.88. Mrs. Rose Hudson, Teacher, Education Department, 8.3.88. Completion of Contract	Appointment of Temporary Registrar In exercise of the powers conferred upon me by Sec- tion 4 of the Marriage Ordinance I, Gordon Wesley Jewkes, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Falkland Islands and its Dependencies — Hereby Appoint —
Andrew John Watt, B.D.S., Dental Surgeon, Medical Department, 11.3.88. Resignation Anton Livermore, C.P.M., Station Sergeant, Falkland Islands Police Force, 24.3.88. Determination of Engagement	Barry Graham Makin a Registrar for the purpose of the marriage at St. Cuthberts Church, Mount Plea- sant Airport, Falkland Islands, of Melbourn Adrian Fox and Mary Elizabeth Hughes. Given under my hand at Stanley this 9th day of March 1988.
Mrs. Elizabeth Carol Simonite, Teacher, Education Department, 22.3.88.	Ref: LEG/19/2. G. W. JEWKES, Governor,

No. 34/87 The Road Traffic (Amendment) Ordinance 1987.

No. 35/87 The Swimming Pool (Trust Fund) Ordinance 1987.

No. 14

Ref: LEG/10/42.

21st March 1988.

Agricultural Loans Ordinance 1981 (section 2(7))

APPROVAL OF FALKLAND ISLANDS COMPANY LIMITED AS AUTHORISED LENDER FOR THE PURPOSES OF THE ORDINANCE

IN EXERCISE of my powers under section 2 (7) of the Agricultural Loans Ordinance 1981 I, Gordon Wesley Jewkes, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Falkland Islands Hereby Approve the Falkland Islands Company Limited whose Head Office is at 94A Whitechapel High Street, London, El 7RH, as an authorised lender for the purposes of the said Ordinance.

Ref: AGR/10/6.

G. W. JEWKES, Governor.

No. 15

IN THE SUPREME COURT

In the Matter of Clanwood Falklands Limited

AND IN THE MATTER OF THE COMPANIES ACT 1948 IN ITS APPLICATION TO THE FALKLAND ISLANDS UNDER THE COMPANIES AND PRIVATE PARTNERSHIPS ORDINANCE (CAP. 13)

A Petition to wind up the above named Company by the Court presented on 23rd March 1988 by the Falkland Islands Development Corporation of the Old Transmitting Station, Stanley, claiming to be creditor of the Company will be heard at the Supreme Court, Town Hall, Stanley, sitting at 9.00 a.m. on Wednesday 6th April 1988.

Any creditor or contributor wishing to oppose or support the making of the order of the said petition must ensure that written notice reaches the undersigned by 4.00 p.m. hours on 5th April 1988.

A copy of the Petition will be supplied by the undersigned on payment of the prescribed charge.

D. G. LANG, of Attorney General's Chambers, The Secretariat, Stanley.

Falkland Islands, Legal Practitioner for the Petitioner. Ref: LEG/31/3.

Appointment of Deputy Coroner

In accordance with Section 29 (2) of the Administration of Justice Ordinance Cap. 3 His Excellency Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Colony of the Falkland Islands -

Hereby Appoint —

Jessie Booth to be a Deputy Coroner with effect from the 9th day of March 1988.

Given under my hand at Stanley this 9th day of March 1988

disallowance in respect of the following Ordinances

No. 33/87 The Pensions (Amendment) Or-

G. W. JEWKES, Ref: LEG/19/3. Governor

No. 13

of the Colony -

dinance 1987.

No. 12

14th March 1988.

9th March 1988.

Intimation has been received from the Right Honourable The Secretary of State for Foreign and Commonwealth Affairs to the effect that Her Majesty will not be advised to exercise her power of

23rd March 1988.



THE

FALKLAND ISLANDS GAZETTE

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29th April 1988

No. 4

Appointments

Neil Pedley, Teacher, Education Department, 28.3.88. Ewen Alastair Lindsey Keith Cameron, Deputy Secretary, Secretariat, 11.4.88.

Mrs. Amy Rose Pole-Evans, Clerk, Public Service, 19.4.88.

Mrs. Veronica Summers, Clerk, Public Service, 20.4.88.

Re-appointment

Miss Penelope Jane Ballinger, Teacher, Education Department, 6.3.88.

Completion of Contracts

Miss Jacqueline Margaret Robertson, Teacher, Education Department, 12.3.88.

Stephen Mark Wright, Teacher, Education Department, 4.4.88.

Resignation

John Teggart, Meter Reader/Clerk, Public Works Department, 6.4.88.

Determination of Engagement

John Gall Sutherland, Police Constable, Falkland Islands Police Force, 28.3.88.

NOTICE

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (CAP. 1)

IN THE MATTER OF THE ESTATE OF JAMES MIDDLETON (No. 3), deceased of 50 Davis Street, Stanley, Falkland Islands.

WHEREAS Caroline Ann Middleton, attorney for Ellen Middleton of 50 Davis Street aforesaid, has applied for Letters of Administration to administer the estate of the deceased.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 31st March 1988. Ref: PRO/3/88. S. HALFORD, Registrar. Notice

No. 16

24th April 1988.

Clanwood Falklands Limited

(In Liquidation)

I, PETER JAMES CAMPBELL, Chartered Accountant, 38 Albyn Place, Aberdeen, Scotland hereby give notice that pursuant to Section 222 (e) & 222 (f) of the Companies Act 1948, that by a Court Order dated 7th April 1988, the Chief Justice at the Supreme Court of the Falkland Islands appointed me Liquidator of the above named Company.

Notice is hereby given that pursuant to Section 252 (2) of the Companies Act 1948, that the First Meeting of Creditors of the said Company will be held within the offices of Consultancy Services Falklands Limited, 44 John Street, Stanley, Falkland Islands. South Atlantic on 19th May 1988 at 12 noon for the purpose of determining whether or not an application should be made to the Court for the appointment of a Committee of inspection to act with the Liquidator and who are to be members of the Committee if appointed.

All creditors are entitled to attend in person, or by proxy, providing that their claims (and proxies) have been lodged at the meeting, or lodged beforehand at 44 John Street, Stanley, Falkland Islands. A resolution will be passed when a majority in value of those voting have voted in favour of it.

> Peter J. Campbell, Liquidator.

Pannell Kerr Forster, 38 Albyn Place, Aberdeen, AB9 1US, Scotland.

NOTICE

The following are published in this Gazette --

The Merchant Shipping (Registry) Ordinance 1987 Commencement Order 1988 (S.K. & O. No. 1 of 1988);

The Breath Alcohol Concentration Measurement (Device Approval) Order 1988 (S.R. & O. No. 2 of 1988);

The Breath Alcohol Concentration (Prescribed Limit) Order 1988 (S.R. & O. No. 3 of 1988);

The Fugitive Offenders (Designated Commonwealth Countries) Order 1988 (S.R. & O. No. 4 of 1988);

The Copyright (Taiwan) (Extension to Territories) Order 1987;

The Copyright (Computer Software) (Extension to Territories) Order 1987;

The Law of Contract Bill 1988;

The Non-Contributory Old Age Pensions (Amendment) Bill 1988.

The Family Allowances (Amendment) Bill 1988;

The Old Age Pensions (Amendment) Bill 1988;

Merchant Shipping (Registry) Ordinance 1987. (Section 1)

Merchant Shipping (Registry) Ordinance 1987 Commencement Order 1988.

(S.R. & O. No. 1 of 1988)

IN EXERCISE of my powers under section 1 of the Merchant Shipping (Registry) Ordinance 1987, I make the following Order -

1. This Order may be cited as the Merchant Shipping (Registry) Ordinance 1987 Commencement Order 1988 and it and the Merchant Shipping (Registry) Ordinance 1987 shall come into force on such day as this Order is first published in the Gazette.

Citation and commencement of Order and commencement of Ordinance.

Made this 24th day of March 1988.

G. W. JEWKES, Governor.

Road Traffic Ordinance 1987 (Cap. 60)

The Breath Alcohol Concentration Measurement (Device Approval) Order 1988 (S.R. & O. No. 2 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation and Commencement.
- 2. "The Ordinance"
- 3. Approval of preliminary breath test device.
- 4. Approval of breath analysis device.

Road Traffic Ordinance (Cap. 60)

The Breath Alcohol Concentration Measurement (Devices Approval) Order 1988 (S.R. & O. No. 2 of 1988)

IN EXERCISE of my powers under sections 2, 9 I and 18 of the Road Traffic Ordinance, I make the following Order -

1. This Order may be cited as The Breath Alcohol Concentration Measurement (Devices Approval) Order 1988 and shall come into operation on 2nd May 1988.

2. In this Order, "the Ordinance" means the Road Traffic Ordinance.

3. The device known as the Lion Alcolmeter SD2 manufactured by or under the licence of Lion Laboratories Limited of Ty Verlon Industrial Estate, Barry, Wales or its successors or assigns is approved for use for the purposes of section 9H of the Ordinance.

4. The device known as the Camic Breath Analyser manufactured by or under the licence of Camic Ltd. of Camden Street, North Shields, England or its successors or assigns is approved pursuant to section 91 of the Ordinance.

Made this 15th day of April 1988.

G. W. JEWKES, Governor. Citation and commencement.

"The Ordinance" Approval of preliminary breath test device.

Approval of breath analysis device.

Ref: POL/10/5.

Road Traffic Ordinance 1987 (Cap. 60)

The Breath Alcohol Concentration (Prescribed Limit) Order 1988 (S.R. & O. No. 3 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

L. Citation and Commencement.

2. Prescription of breath alcohol concentration limit.

Road Traffic Ordinance (Cap. 60)

The Breath Alcohol Concentration (Prescribed Limit) Order 1988 (S.R. & O. No. 3 of 1988)

IN EXERCISE of my powers under section 9G of the Road Traffic Ordinance, I make the following order -

1. This Order may be cited as the Breath Alcohol Concentration (Prescribed Limit) Order 1988 and shall come into operation on the 2nd May 1988.

2. The prescribed limit referred to in section 9G of the Road Traffic Ordinance is an amount exceeding 35 microgrammes of alcohol in 100 millilitres of breath.

Commencement. Prescription of breath alcohol

concentration limit.

Citation and

Made this 15th day of April 1988.

G. W. JEWKES, Governor.

Ref: POL/10/5.

Fugitive Offenders Act 1967 (1967 C 68)

Fugitive Offenders (Designated Commonwealth Countries) Order 1988 (S.R. & O. No. 4 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation and Commencement.
- 2. Designated Commonwealth Countries.
- 3. Revocation of previous Orders.

Schedule 1 - Designated Commonwealth Countries. Schedule 2 - Orders revoked by this Order.

Fugitive Offenders Act 1967 (1967 C 68)

Fugitive Offenders (Designated Commonwealth Countries) Order 1988 (S.R. & O. No. 4 of 1988)

IN EXERCISE of the powers conferred by section 2(1) of the Fugitive Offenders Act 1967 (as modified and adapted by the Fugitive Offenders (Falkland Islands and Dependencies) Order 1968) the Governor, with the approval of the Secretary of State, has made the following Order -

1. This Order may be cited as the Fugitive Offenders (Designated Commonwealth Coun- Citation. tries) Order 1988.

2. The countries specified in Schedule 1 to this Order are hereby designated for the purposes of section 1 of the Fugitive Offenders Act 1967.

3. The Orders specified in Schedule 2 to this Order are hereby revoked.

Designated Commonwealth Countries. Revocation of Previous Orders.

Schedule 1

(Designated Commonwealth Countries)

Antigua and Barbuda

Australia, and the following territories, namely the territory of -

Norfolk Islands, Australian Antarctic Territory, the territory of Cocos (Keeling) Islands, the territory of Christmas Island, the territory of Heard and McDonald Islands and the territory of Ashmore and Cartier Islands which are treated as part of Australia

The Bahamas Bangladesh
Barbados
Belize
Botswana
Brunei
Canada
The Cook Islands, which are treated as a separate country at the request of the New Zealand
Government
Cyprus
Dominica
The Gambia
Ghana
Grenada
Guyana
India
Jamaica
Kenya
Kiribati
Lesotho
Malawi
Malaysia
The Maldives
Malta
Mauritius
Nauru
New Zealand, and the territory of Niue and the Tokelau Islands which are treated as part of New Zealand

Nigeria Papua New Guinea Saint Christopher and Nevis Saint Lucia Saint Vincent and the Grenadines Seychelles Sierra Leone Singapore Solomon Islands Sri Lanka Swaziland Tanzania Tonga Trinidad and Tobago Tuvalu Uganda Vanuatu Western Samoa Zambia Zimbabwe.

Schedule 2

(Orders revoked by this Order)

The Fugitive Offenders (Designated Commonwealth Countries) (Amendment) Order 1975 The Fugitive Offenders (Designated Commonwealth Countries) (Amendment) Order 1976 The Fugitive Offenders (Designated Commonwealth Countries) (Amendment) Order 1977 The Fugitive Offenders (Designated Commonwealth Countries) (Amendment) Order 1979 The Fugitive Offenders (Designated Commonwealth Countries) (Amendment) Order 1980 The Fugitive Offenders (Designated Commonwealth Countries) (Amendment) Order 1980

Made this 15th day of April 1988.

G. W. JEWKES, Governor.

Ref: LEG/10/22C.

STATUTORY INSTRUMENTS

1987 No. 1826 COPYRIGHT

The Copyright (Taiwan) (Extension to Territories) Order 1987

Made	21st October 1987
Laid Before Parliament	29th October 1987
Coming into Force	20th November 1987

At the Court of Saint James, the 21st day of October 1987 Present, The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 17th day of September 1987, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefor, His Royal Highness The Prince Andrew Duke of York and Her Royal Highness The Princess Royal, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by section 31 and 47 of the Copyright Act 1956 (a) and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:

1. This Order may be cited as the Copyright (Taiwan) (Extension to Territories) Order 1987 and shall come into force on 20th November 1987.

2. The Copyright (Taiwan) Order 1985 (b) shall extend to the Countries mentioned in the Schedule to this Order, except that article 2 of that Order shall have effect as part of the law of any country to which it extends as if for the references to the United Kingdom there were substituted references to the Country in question.

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

(a) 1956 c. 74.

(b) S.I. 1985/1777.

SCHEDULE

COUNTRIES TO WHICH THE COPYRIGHT (TAIWAN) ORDER 1985 EXTENDS

Bermuda British Indian Ocean Territory British Virgin Islands Cayman Islands Falkland Islands Gibraltar Montserrat St. Helena St. Helena Dependencies (Ascension, Tristan da Cunha) South Georgia and the South Sandwich Islands.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the extension, of the Copyright (Taiwan) Order 1985 to the Countries listed in the Schedule to the Order.

STATUTORY INSTRUMENTS

1987 No. 2200

COPYRIGHT

The Copyright (Computer Software) (Extension to Territories) Order 1987

Made - - - -Laid Before Parliament Coming into Force 18th December 1987 8th January 1988 1st February 1988

At the Court at Buckingham Palace, the 18th day of December 1987

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority conferred upon Her by section 31 of the Copyright Act 1956(a) and of all other powers enabling Her in that behalf, is pleased to direct, and it is hereby directed, as follows:

1. This Order may be cited as the Copyright (Computer Software) (Extention to Territories) Order 1987 and shall come into force on 1st February 1988.

2. The Copyright (Computer Software) Amendment Act 1985(b), except section 4(3) and (5) thereof, shall extend to the countries mentioned in Schedule 1 to this Order, subject to the modifications specified in Schedule 2 to this Order.

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

(a) 1956 c. 74; Part V of the Copyright Act 1956 was applied by section 4 (2) of the Copyright (Computer Software) Amendment Act 1985 (c. 41).
(b) 1985 c. 41.

SCHEDULE 1

COUNTRIES TO WHICH THE COPYRIGHT (COMPUTER SOFTWARE) AMENDMENT ACT 1985 EXTENDS

Bermuda British Indian Ocean Territory Falkland Islands Gibraltar Hong Kong Montserrat South Georgia and the South Sandwich Islands.

SCHEDULE 2

MODIFICATIONS TO THE COPYRIGHT (COMPUTER SOFTWARE) AMENDMENT ACT 1985, AS EXTENDED TO THE COUNTRIES MENTIONED IN SCHEDULE 1

1. The references in the Copyright (Computer Software) Amendment Act 1985 (in this Schedule referred to as "the 1985 Act") to the Copyright Act of 1956 shall be construed as references to the said Act of 1956, as modified in its extension to the Country concerned(a).

- 2. In section 3 of the 1985 Act, for the words "sections 21 to 21B" there shall be substituted -
 - (a) in British Indian Ocean Territory, in Falkland Islands and in South Georgia and the South Sandwich Islands, the words "section 21";
 - (b) in the other Countries mentioned in Schedule 1 to this Order, the words "sections 21 and 21A".

EXPLANATORY NOTE (This note is not part of the Order)

This Order provides for the extension, with the modifications specified in Schedule 2 to the Order, of the Copyright (Computer Software) Amendment Act 1985 to the Countries listed in Schedule 1 to the Order.

(a) The Copyright Act 1956 was extended to Bermuda by S.I. 1962/1642, as amended by S.I. 1985/1985; to British Indian Ocean Territory by S.I. 1984/541; to Falkland Islands and to South Georgia and the South Sandwich Islands by S.I. 1963/1037; to Gibraltar by S.I. 1960/847, as amended by S.I. 1985/1986; and to Montserrat by S.I. 1965/1858, as amended by S.I. 1985/1987.

There is published immediately following this notice an explanatory memorandum in relation to the Law of Contract Bill 1988 and the Bill itself. The Bill has not yet been approved by Exco for remission to Legco and its publication, at this stage, is for public information. I would be grateful if any person having any comment on the provisions of the Bill or seeking any further explanation of it would contact me at the Attorney General's Chambers, Secretariat, Stanley.

D. G. Lang, Attorney General.

Law of Contract Bill 1988

EXPLANATORY MEMORANDUM

Introductory

The attached Bill seeks to incorporate, with such amendments, modifications and adaptations as appear to be necessary in local circumstances, the provisions of a number of English statutes which already apply in the Falkland Islands. One reason for doing so is that these statutes regulate important and everyday matters of wide general importance but copies of them are not generally available for consultation.

Additionally, the Bill seeks to adopt as law of the Falkland Islands certain other English statutes (for example the Supply of Goods Act 1982) which do not already apply as law of the Falkland Islands. The effect of those English statutes is explained later in this Memorandum.

Lastly the Bill seeks to set out in detail certain provisions of importance related to the law of contract which appear in English statutes which do not yet apply here. In respect of them, the provisions are set out in detail as part of the law of the Falkiand Islands because they appear to be of general importance and such that they should be available for ready consultation locally. It is important to emphasise that the Bill does not seek to consolidate the common law as to contract. Indeed, Clause 55 of the Bill specifically provides that, except as insofar as is inconsistent with statute, the common law will continue to apply.

The Bill is necessarily somewhat lengthy (55 Clauses and 5 Schedules). It is divided into Parts, which so far as is possible seek to divide the whole subject matter of the Bill into logical segments. This Memorandum seeks, briefly to explain the effect and purposes of the various provisions of the Bill.

Part I of the Bill

Part I of the Bill is merely introductory. It contains provisions for the Short Title and Commencement of the Bill, if enacted, and an interpretation clause relating to the interpretation of certain words used in the Bill as a whole.

Part II of the Bill

Part II of the Bill is entitled "Provisions as to formation and enforceability of certain contracts and connected provisions". It contains a number of provisions related to the formation and enforceability of certain kinds of contracts. Clause 3 reflects a provision originally contained in the Statute of Frauds and now contained in section 40 of the Law of Property Act 1925. Although that latter provision is not formally adopted as law of the Falkland Islands, it does in fact apply here because of the provisions of the Interpretation and General Clauses Ordinance 1977. Simply put, it provides that an oral contract for the disposal of land or an interest in land is not enforceable. A contract for the sale of land or of an interest in land must be evidenced in writing. It should be emphasised that it does not provide that there should be a formal contract in writing but, rather, any contract must be evidenced in writing. There is an important exception in subclause (2) of Clause 3. A contract which is partly performed is enforceable even though it has not been evidenced by writing. An example of "part performance" is that if somebody pays the purchase price of the freehold of land and enters into possession of that land, he has partly performed a contract for the purchase of that land, and can enforce it.

In Clause 4, it is provided that "time is not of the essence" in a contract for the sale of land. The date on which a certain thing is to be done in accordance with the terms of the contract is not to be vital unless the contract says so. For example, if a contract for the sale of land provides that the purchase money is to be paid on 1st December, and it is not paid on 1st December, the contract is not at an end simply because of that. It can be made to come to an end by the seller giving notice to the purchaser that if he does not pay within a certain period of time, the contract will be at an end. By doing that he will have made "time of the essence". Clause 5 says that if law requires a contract to be by deed, it must be made by deed. That may appear to be stating the obvious. But the converse is also then implicit, which is that unless a written law requires a contract to be by deed, it does not have to be by deed. In sub-clause (2) of the same clause is found a provision that a contract which is made "without valuable consideration" is not enforceable unless it is made by deed. "Valuable consideration" is defined in Clause 2 of the Bill and, in effect means a real as opposed to a nominal price and includes marriage. An example of the clause in operation is that if Mr Jones agrees to sell his house to Mr Smith, the house being worth £10,000, for £1.00, the contract will not be enforceable, even if it is in writing, unless it is made by deed. This does not change the law, because it has always been so in equity.

Guarantees are dealt with by Clause 6 of the Bill. The clause itself deals with "special promises", because that is the wording found in the old statutes which already apply in the Falkland Islands. Also, the words "special promises" are used because a distinction should be made between a manufacturer's guarantee of consumer goods and the guarantee by a person of somebody else's obligation. An example of this is if Mr Jones promises Standard Chartered Bank that if Mr Smith fails to meet his obligations to pay principal and interest to the bank, Mr Jones will do so. This sort of obligation has always been required to be in writing. Clause 6(2) makes a "guarantee" of this kind enforceable in the courts even though Mr. Jones (in the example above given) is not being paid by Standard Chartered Bank, or by Mr Smith, for entering into the guarantee. Clause 7 is related to Clause 6 and enables the guarantor to take over the rights of the person he has paid against the principal debtor. In the example above given, Mr Jones who has paid the bank can take over the banks rights against Mr Smith Again, this does not represent a change in the present law.

Clause 8 also reflects the present law and provides that no right of action in the courts lies against anybody who gives a "testimonial" or "reference" in respect of another person except in negligence. In other words, if the giver of the "testimonial" used all proper care and only gave an oral "testimonial" he will not be liable to be sued in the courts. The object of this provision was to prevent aggravating law suits in circumstances where persons were alleged to have said something which they had not in fact said.

Clause 9 contains, with modifications, provisions found in the Corporate Bodies Contracts Act 1960 of England. It states how contracts may be made by corporations. It does not apply to companies formed here, because express provision is made by the Companies Act 1948 as to how contracts by companies may be made. It is a new provision in the Falkland Islands, but it appears to be one sensibly required.

In Clause 10 is stated the way in which an individual person must execute a deed and Clause 11 would make similar provisions in relation to corporations.

In equity, choses in action are assignable, but they are not, at common law, legally assignable. The law in England was changed on this subject many years ago, largely because it created complications in mercantile financing. It seems sensible to adopt the same provision in the Falkland Islands, because it has relevance to the financing of farmers (for example, against the security of the farmer's right to payment for the wool clip).

In Clause 13 provision is made in relation to the creation by word of mouth, or by writing not in the form of a deed, of certain contracts relating to land. This is by way of exception to the provisions of Clause 3 of the Bill, which has been dealt with earlier.

At common law, a person cannot take the benefit of any contract to which he is not party. The common law was altered many years ago in England as far as that was concerned and Clause 14 reflects the current English statutory position. A similar provision in an English statute was, previously, in force in the Falkland Islands, but it appears now not to be in force as an unwanted side-effect of an amendment of law. An example of the operation of the clause is that if Jones sells land to Smith, subject to a right of way to Brown, Brown can take the benefit of that right of way as against Smith, and enforce it at law, even though he is not a party to the conveyance between Jones and Smith.

Clause 16 contains provision as to how certain expressions in deed and other instruments are to be interpreted.

Clause 17 would deal with the liability in contract of a person under the age of 18. It reflects provisions of the Infants Relief Act 1874 as amended by the Family Law Reform Act of 1969. These seem already to be in force in the Falkland Islands.

Clause 18 merely states that a married woman has the same capacity to enter into a contract as if she were not married.

Clause 19 would abolish any right to bring an action in the Falkland Islands for "breach of promise of marriage". Actions of this kind were abolished in England in 1969. The philosophy was simply that people should be free to break off their engagement, and not forced to marry somebody because of a fear of being sued in damages if they do not. That was a wrong basis for marrying. Clause 19 would give effect to the same provision in the Falkland Islands and Clauses 20 and 21 would make provision in relation to property of the former engaged couple, including the engagement ring.

Part III of the Bill

Part III of the Bill is entitled "Contracts with Consumers". It is based very closely indeed upon the Unfair Contract Terms Act 1977 of Great Britain. The 1977 Act gave effect, with modifications, to recommendations made by the Law Commissions of England and Scotland in their Second Report on Exemption Clauses. The main purpose of the 1977 Act, and therefore that of Part III of the Bill, is to control the exclusion or restriction of liability in contract or for negligence which arises in the course of business.

Clause 22 is an introductory provision dealing with the meaning of the expression "negligence" for the purposes of this Part of this Bill and otherwise relating to the scope of Part III. It states that Part III is subject to the provisions of Part V. In relation to contracts it also provides that sections 23 - 25 and 28 of the Ordinance (if enacted) will be subject to the exceptions made by Schedule 1. In sub-clause (3) there is a reference to things done or to be done by a person "in the course of a business". "Business" is defined later in the Bill, but "the course of a business" is not defined because the meaning of that expression is well known at common law. Something is done "in the course of a business" if it is done as part of the activities of that business. Sub-clause (5) of Clause 22 contains definitions of certain expressions for the purposes of Part III of the Bill.

Clause 23 (1) provides that a person cannot by reference to any contract term or to a notice given to persons generally or to a particular person exclude or restrict his liability for death or personal injury resulting from negligence. "Negligence" has, of course, been defined in Clause 22(1). It should be mentioned, however, that the section only applies to business liability (see Clause 22(3)). Additionally, it should be noted that the Clause will be subject to Clause 35 (International Supply Contracts), Clause 36 (Choice of Law Clauses) and Clause 37 (Saving for other relevant legislation). Moreover, the section is subject to the provisions of paragraphs 1, 2 and 3 of Schedule 1 to the Bill.

Clause 24 would impose controls on the exclusion or the restriction of liability for breach of contract or lack of contractual performance. The clause would apply as between contracting parties where one of them deals as consumer or on the other's written standard terms of business. As against that party, the other could not by reference to any contract term, except insofar as the terms satisfy the requirement of "Reasonableness" -

- (i) when himself in breach of contract exclude or restrict liability in respect thereof;
- (ii) claim to be entitled to render a contractual performance substantially different from that reasonably expected or, in respect of the whole or part of his obligation, to render no performance at all.

Again, this clause would only apply to business liability and would be subject to the provisions of Clause 35 (International Supply Contracts), Clause 36 (Choice of Law Clauses) and Clause 37 (Saving for other relevant legislation). Again, the operation of the clause would be subject to the exceptions set out in paragraphs 1, 2 and 3 of Schedule 1 to the Bill.

Under Clause 25 of the Bill, a person dealing as consumer would not be able by any contract term to be made to indemnify another person (whether a party to the contract or not) in respect of liability that may be incurred by the other for negligence or breach of contract except insofar as the contract term satisfies the requirement of reasonableness. The clause is subject to the same matters as where mentioned in relation to Clauses 23 and 24 of the Bill. Clause 32 of the Bill would state when a person "deals as consumer".

Clause 26 of the Bill would prevent the use of manufacturers guarantees to exclude or restrict liability for loss or damage caused by defective consumer goods where such goods are in consumer use and the defect results from the negligence of persons concerned in the manufacture or distribution of the goods. The clause would not apply as between the actual parties to a contract under which possession or ownership of the goods passed (for example, a contract of sale or a hire-purchase agreement). Again, the clause would be subject to the same matters as have been mentioned in respect of the last three preceding Clauses. The reason why the Clause does not deal with the obligations as between the actual parties to a contract (for example, if somebody buys a refrigerator from the West Store) is because it confers rights as against the manufacturer upon the consumer. The liability of the West Store in respect of defective goods is dealt with by other provisions of law.

Clause 27 of the Bill deals with the prevention of evasion of liability on a sale of goods or a hire-purchase parting with goods by contract terms. Statutory liabilities can only be varied by Clauses which satisfy the requirement of "reasonableness". That requirement has to be satisfied against the statutory test set out in Clause 31 of the Bill. Clause 28 would make similar provision in relation to other miscellaneous contracts under which the possession or ownership of goods passes. An example of such a contract would be a contract for the hire of a car.

Clause 30, while quite short, is somewhat complex to explain. There may be some situations where an exemption Clause cannot be relied upon because there has been a "fundamental breach" of contract or the breach of a "fundamental term". If this is because it is found as a matter of construction of the contract concerned that it was not intended to apply to such a breach, that is an end of the matter. Nothing in the Bill is concerned to make effective an exemption Clause which is not intended to apply to the breach in question. But the situation may result from the argument that the exemption Clause ceases to operate where the contract is terminated as a result of the breach, even though the court may otherwise take the view that in all the circumstances of the case it was reasonable to rely on the exemption Clause. Clause 29(1) of the Bill accordingly applies for where reliance upon it a contract term has to satisfy the requirement of reasonableness, it may be found to do so and may be given effect accordingly not withstanding that the contract has been terminated by breach or by a party electing to treat it as repudiated. Moreover, where on a breach the contract is nevertheless affirmed by a party entitled to treat it as repudiated, this is not of itself to exclude the requirement of reasonableness in relation to any term of the contract. It should be noted that the operation of the Clause is confined to contract terms which are subject to the requirement of "reasonableness". Terms which are made completely ineffective by the Bill would be outside the scope of this Clause. On the other hand, the common law principles that apply when there has been a fundamental breach will continue to apply to exemption Clauses which are not controlled by the Bill.

The foregoing provisions of this Part of this Bill assume that a Clause excluding or restricting the liability of the supplier of goods or services under a contract will be contained in a contract between the supplier and customer. This is not necessarily so. Such a Clause may be contained in a contract between the customer and a person who was not a party to the original contract. The purpose of Clause 30 is to prevent evasion of the controls contained in the foregoing provisions of the Bill by means of such a secondary contract.

Clause 31 of the Bill sets out the "reasonableness" test. It would prescribe certain guidelines where particular regard is to be had in determining whether or not a contract term satisfies the requirement of reasonableness. It would also prescribe guidelines for cases where a person seeks to restrict liability to a specified sum of money and the question arises whether or not the contract term or notice satisfies the requirement of reasonableness. The burden of proof of "reasonableness" would be on the party who relies on it. It is also necessary in this connection to refer to the provisions of Schedule 2 of the Bill which sets out "guidelines" for the application for the reasonableness test.

In Clause 32 is set out a definition of the phrase "deals as consumer" and would require any person claiming that a party does not deal as consumer prove that he does not.

Clause 33 of the Bill would explain and extend the meaning of phrase "exclude or restrict liability" where it occurs in this Part of the Bill. An example of terms and notices which exclude or restrict a relevant obligation or duty (see Clause 33(1)) is exemption Clauses purporting to exclude "all conditions warranties, express or implied".

Part IV of the Bill

Part IV of the Bill is also based on provisions of the Unfair Contract Terms Act 1977 it contains provisions applying to certain International Contracts. Clause 34 of the Bill is an Interpretation Clause for the purposes of Part IV of the Bill.

Clause 35 of the Bill provides that certain of the provisions of Part III of the Bill will not apply to International Supply Contracts. An International Supply Contract is, in effect, defined by sub-clauses (3) and (4) of the Clause.

Where the law of the Falkland Islands is only the law of the contract by choice of the parties Clauses 23-28 of the Bill would not apply. That is stated by Clause 36(1) of the Bill. On the other hand, where the law of the Falkland Islands would be the proper law of the contract, people cannot avoid the provisions of Section 23-28 of the Bill by applying to the contract the law of some other country. That is dealt with in detail by Clause 36(2) of the Bill which, in effect, would require a "genuineness" test to be applied to a choice of foreign law in relation to a contract made in the Falkland Islands.

Clause 37 of the Bill would make saving provision in relation to contract terms which are required by any other legislation or which are made in order to comply with an international agreement. In addition where a contract term is made because of a decision or ruling of a competent authority acting under any law that the contract should be made containing such a term then, unless the competent authority is itself party to the contract, it is deemed to be reasonable.

Part V of the Bill contains further provisions as to sale and supply of goods and as to hire-purchase. Clause 38 of the Bill contains interpretation provisions for the purposes of Part V.

The Sale of Goods Act 1979 is declared by Clause 39(1) to continue to apply as law of the Falkland Islands but, henceforth subject to the exceptions, modifications and adaptions set out in Schedule 3 to the Bill. Those exceptions, modifications and adaptions are to be deemed always to have had effect in the Falkland Islands. By way of explanation, Section 81 A(1) of the interpretation and General Clauses Ordinance 1977 provides that all general statutes in force in England on 22nd May 1900 are in force in the Falkland Islands. so far as the circumstances of the Falkland Islands permit, and provided that they are not inconsistent with or repugnant to any Ordinance or Order in Council. In this way, the Sale of Goods Act 1893 became law of the Falkland Islands. However, Section 78 of the Interpretation and General Clauses Ordinance 1977 provides that reference in any law to an Imperial Enactment is to be construed as reference to it as it is from time to time amended and as a reference to any Imperial Enactment substituted therefore. Section 78 applies in relation to English Acts of Parliament adopted under Section 81A of the same Ordinance.

The Sale of Goods Act 1979 now applies in the Falkland Islands because the 1979 Act repealed the 1893 Act and replaced it with certain amendments to provisions of the 1893 Act. It is, however, convenient to state in the present Bill the exceptions, modifications and adaptions subject to which the 1979 Act applies as law of the Falkland Islands. These are set out in Schedule 3 to the Bill.

Clause 39(3) would adopt as law of the Falkland Islands the Supply of Goods and Services Act 1982, but subject to the exceptions, modifications and adaptions set out in Schedule 4 to the Bill. The 1982 Act was a most important piece of legislation. In part it gave effect to the recommendations of the Law Commission of England in their Report on Implied Terms in Contracts for the Supply of Goods. In part, it implemented the recommendations made by the National Consumer Council of the United Kingdom in their report "service please - Services and the law: a consumer view" which was published in 1981. It is not proposed in the Explanatory Memorandum to explain the 1982 Act in great detail. Its prime purpose was to protect members of the public by providing for certain terms to be implied in contracts for the supply of goods and services. Part I of the Act deals with the supply of goods. It contains provisions as to implied terms about title, implied terms where transfer of property is to take place by description, implied terms about quality or fitness of goods and implied terms where goods are transferred by reference to a sample. The Act also contains provisions about implied terms in contract for the hire of goods. For example it contains provisions about implied terms about the right to transfer possession about the hire of goods by description, about the quality or fitness of hired goods and implied terms where hire of goods takes place by reference to a sample. It will be remembered that Part III of the Bill would, if enacted, make statutory provision restricting the right to exclude certain contract terms which are implied by the 1982 Act. Part II of the 1982 Act deals with the supply of services. It contains similar provision as to terms implied in contracts for the supply of services. Part III of the 1982 Act makes supplementary provision.

Clause 40 of the Bill would adopt as law of the Falkland Islands the Uniform Laws of International Sales Act 1967 of the United Kingdom, subject to the modification and adaptations set out in Schedule 5 to the Bill. The 1967 Act was enacted to give effect to the Convention relating to a Uniform Law on the International Sale of Goods done at The Hague on 1st July 1964. The Convention contains very detailed provision on the International Sale of Goods. Most International agreements for the sale of goods affecting the Falkland Islands at present adopt the law of England in relation to such sales. This will include where necessary the provisions of the Convention.

Clauses 41 to 46 would make provision similar to provision which has already been made in relation to implied terms in hire-purchase agreements and the exclusion of such implied terms.

Part VI of the Bill

Part VI of the Bill reflects the terms of the Misrepresentation Act 1967 of the United Kingdom. That Act does not presently form part of the law of the Falkland Islands. Part VI of the Bill, if enacted, would modify the law relating to innocent misrepresentation in relation to any misrepresentation or contract of sale made on or after the commencement date of the Ordinance. Part VI would enable a contract to be rescinded because of innocent misrepresentation notwithstanding that the misrepresentation has become a term of the contract or that the contract has been performed. It would also enable a person who suffers loss by being induced to enter into a contract by a misrepresentation by another party to the contract to recover damages unless the other party proves that he reasonably believes that the facts represented were true.

The court or arbitrator would be given a discretionary power, in the case of an innocent misrepresentation inducing a contract, to award damages instead of ordering rescission where it or he considers damages to be the more appropriate remedy. Any contractual provision excluding or restricting liability for misrepresentation would be of no effect except to the extent that, in any proceedings arising out of the contract, the court or arbitrator allows reliance on it being fair and reasonable in the particular circumstance.

Part VII of the Bill

Part VII of the Bill deals with frustrated contracts. It reflects provisions contained in the Law Reform (Frustrated Contracts) Act 1943 of England. That Act at present applies as law of the Falkland Islands under the terms of the Application of Enactments Ordinance 1954. It is believed it is better that this provision which is an important one should appear specifically as part of the law of the Falkland Islands. For that reason the provisions of the 1943 Act are reflected in Part VII.

Part VII does not alter the law regarding the circumstances in which frustration ensues, but deals only with the adjustment of the rights of the parties after the frustration has actually occured.

Part VIII of the Bill

Part VIII of the Bill consists of two Clauses: 54 and Clause 55. Clause 54(1) would amend the Application of Enactments Ordinance 1954 by deleting from it the reference to the Law Reform (Frustrated Contracts) Act 1943. This is because that Act is now incorporated, if the Bill is enacted in Part VII of the Bill. Clause 54(2) would preserve the application of the 1943 Act to contracts made before the enactment of the Bill.

Clause 55 states that except insofar as they are inconsistent with the Bill and any other law of or applying in the Falkland Islands, the common law and the doctrines of equity shall continue to apply in relation to contract.

There follows the five Schedules to the Bill which have been referred to in the previous paragraphs of this Explanatory Memorandum.

Law of Contract Bill

(No. of 1988)

ARRANGEMENT OF CLAUSES

Clause

PART I - INTRODUCTORY

- 1. Short title and Commencement.
- 2. Interpretation.

PART II - PROVISIONS AS TO FORMATION AND ENFORCEABILITY OF CERTAIN CONTRACTS

- 3. Contracts for sale etc. of land to be in writing.
- 4. Time not be deemed to be of essence in certain cases.
- 5. When contracts must be by deed.
- 6. Guarantees.
- 7. Rights of Surety.
- 8. Representations of character etc.
- 9. Contracts by bodies.
- 10. Execution of deeds by an individual.
- 11. Execution of instruments by or on behalf of corporations.
- 12. Assignment of choses in action.
- 13. Creation of interest in land by parol.
- 14. Persons taking who are not parties and as to indentures.
- 15. Provision as to supplemental instruments.
- 16. Construction of expressions used.
- 17. Contracts by minors.
- 18. Contracts by married woman.
- 19. Agreements to marry.
- 20. Property of engaged couples.
- 21. Gifts between engaged couples.

PART III - CONTRACTS WITH CONSUMERS

- 22. Scope of Part III.
- 23. Negligence.
- 24. Liability arising in contract.
- 25. Unreasonable indemnity clauses.
- 26. "Guarantee" of Consumer goods.
- 27. Sales.
- 28. Miscellaneous contracts under which goods pass.
- 29. Effect of breach.
- 30. Evasion by means of a secondary contract.
- 31. The "reasonableness" test.
- 32. Dealing as consumer.
- 33. Varieties of exemption clause.

- 34. Interpretation.
- 35. International supply contracts.
- 36. Choice of law clauses.
- 37. Saving for other relevant legislation.

PART IV - FURTHER PROVISIONS AS TO SALE AND SUPPLY OF GOODS AND AS TO HIRE PURCHASE

- 38. Interpretation of this Part.
- 39. Application of Sale of Goods Act 1979. (1979 c. 24) and Supply of Goods and Services Act (1982 c. 29)
- 40. Adoption of Uniform Laws on International Sales Act 1967.
- 41. Implied conditions in hire-purchase agreements.
- 42. Letting goods under hire-purchase agreement by description.
- 43. Implied conditions or warranties as to fitness for any particular purpose in hire-purchase agreements.
- 44. Goods let under hire-purchase agreement by reference to a sample.
- 45. Exclusion of conditions and warranties implied in hire-purchase agreement.

PART V - MISREPRESENTATION

- 46. Removal of certain bars to action for innocent misrepresentation.
- 47. Damages for misrepresentation.
- 48. Avoidance of certain provisions excluding liability for misrepresentation.
- 49. Saving for past transactions.

PART VI - FRUSTRATED CONTRACTS

- 50. Interpretation.
- 51. Adjustment of rights and liabilities of parties to frustrated contracts.
- 52. Application of Part VI.

PART VII - GENERAL

- 53. Amendment of application of Enactments Ordinance 1954. 6 & 7 Geo 6, c. 21.
- 54. Saving for Common Law and rules of equity.

SCHEDULES

Schedule 1.	Scope of Sections 23 to 25 and 28.
Schedule 2.	"Guidelines" for application of reasonableness test.
Schedule 3.	Exceptions, modifications and adaptations subject to which the Sale of Goods Act 1979 applies as law of the Falkland Islands.
Schedule 4.	Modifications and adaptations subject to which the Uniform Laws on International Sales Act 1967 applies as law of the Falkland Islands.
Schedule 5.	Exceptions, modifications and adaptations subject to which the Supply of Goods Act 1982 is applied as law of the Falkland Islands.

A Bill for An Ordinance

The Law of Contract Bill 1988

To consolidate with amendments certain imperial enactments applying as law of the Falkland Islands by incorporating them as so amended as provisions of this Ordinance, to make new provision as to certain matters related to contracts and formation of contracts where no statutory provision at present exists, to continue the application as law of the Falkland Islands of the Sale of Goods Act 1979, but subject henceforth to certain exceptions, modifications and adaptations set out in this Ordinance, to adopt subject to exceptions, modifications and adaptations the Supply of Goods and Services Act 1982; and for connected purposes.

PART I - PRELIMINARY

1. This Ordinance may be cited as the Law of Contract Ordinance 1988 and shall come into force on the expiration of one month after it is first published in the Gazette.

2. Subject in respect of any provision having effect for the purpose of any provision, Part or Parts of this Ordinance by virtue of any subsequent provision of this Ordinance, in this Ordinance —

"instrument" does not include a statute, unless the statute creates a settlement; "mort gage" includes any charge or lien on property for securing money or money's worth, and

"mortgage" has a corresponding meaning; "parol" means, in relation to any contract or alleged contract, a contract made or alleged to have been made by word of mouth or by writing not under seal, according to the context; "property" includes anything in action, and any interest in real or personal property; "purchaser" in Part II of this Ordinance, means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who acquires an interest in property; "valuable consideration" includes marriage but does not include a nominal consideration in money.

Part II

Provisions as to Formation and Enforceability of Certain Contracts And Connected Provisions

3. (1) Subject to section 13, no action may be brought upon any contract for the sale or other disposition of any interest in land, unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or by some person thereunto by him lawfully authorised.

(2) This section applies to contracts whether made before or after the commencement of this Ordinance and does not affect the law relating to part performance or sales by the court.

4. Stipulations in any contract for the sale or other disposition of any interest in land, which according to the rules of equity are not deemed to be or have become of the essence of the contract, are to be construed and have effect at law in accordance with same rules.

5. (1) A contract must be made by deed where any written law requires it to be so made.

(2) A contract made without valuable consideration is unenforceable unless it is made by deed.

6. (1) No action shall be brought upon any special promise to answer for the debt, default or miscarriage of another person unless the agreement upon which such action is brought or some memorandum or note thereof is in writing and signed by the party to be charged or by some person by him lawfully authorised

(2) No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorised, shall be deemed invalid to support an action, suit or other proceeding to charge the person by whom such promise was made, by reason only that the consideration for such promise does not appear in writing, or by necessary inference from a written document. Short title and commencement.

Interpretation.

Contracts for sale etc. of land to be in writing.

Time not be deemed to be of essence in certain cases. Certain contracts to be by deed.

Guarantees.

7. Every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, shall pay or perform such duty, shall be entitled to have assigned to him, or to a trustee for him, every judgment, specialty, or other security which shall be held by the creditor in respect of such debt or duty, whether such judgment, specialty, or other security shall or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty, and such person shall be entitled to stand in place of the creditor, and to use all the remedies, and, if need be, and upon a proper indemnity, to use the name of the creditor, in any action or other proceeding, at law or in equity, in order to obtain from the principal debtor, or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who shall have so paid such debt or performed such duty, and any such payment or performance so made by such surety shall not be pleadable in bar of any such action or other proceeding by him:

Provided always, that no co-surety, co-contractor, or co-debtor shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last-mentioned person shall be justly liable.

8. (1) No action shall be brought upon or by reason of any representation or assurance made or given by any person concerning or relating to the character, conduct, credit, ability, trade or dealings of another person, to the intent or purpose that such other person may obtain credit, money or goods, unless such representation or assurance is in writing and signed by the party to be charged.

(2) Subsection (1) shall have effect only in relation to a representation or assurance which is alleged to be fraudulent and so as to prevent any action being brought on the basis of a fraudulent representation or assurance having been given; it shall not have effect so as to prevent an action being brought in negligence.

9. (1) This section does not apply —

- (a) to the Falkland Islands Development Corporation;
- (b) to any company formed and registered under the Companies and Private Partnership Ordinance; or
- (c) to any body corporate incorporated under any Ordinance enacted for the purpose of its incorporation after the enactment of this Ordinance and containing provision contrary to the subsequent provisions of this section, but otherwise applies to all bodies corporate wherever, whenever and however incorporated.

(2) Subject to subsection (1), a contract may be made on behalf of a body corporate as follows -

- (a) a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith may be made on behalf of the body corporate in writing signed by any person acting under its authority express or implied; and
- (b) a contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the body corporate by any person acting under its authority, express or implied.

(2) A contract made according to this section shall be effectual in law, and shall bind the body corporate and its successors and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised to be made.

(4) Nothing in this section shall be taken as preventing a contract under seal being made by or on behalf of a body corporate.

(5) This section shall not apply to the making, variation or discharge of a contract before the commencement of this Ordinance but shall apply whether the body corporate gave its authority before or after the commencement of this Ordinance. 34

Representations of character etc.

Contracts by bodies.

10. (1) Where an individual executes a deed, he shall either sign or place his mark upon the same and sealing alone shall not be deemed to be sufficient.

(2) This section applies only to deeds executed after the commencement of this Ordinance.

11. (1) This section applies to deeds executed by a corporation aggregate and takes effect in addition to and without prejudice to the provisions of section 9 (which enables corporations to make contracts in certain circumstances other than by deed).

(2) In favour of a purchaser a deed shall be deemed to have been duly executed by a corporation aggregate if its seal be affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation, and where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as aforesaid, the deed shall be deemed to have been executed in accordance with the requirements of this section, and to have taken effect accordingly.

(3) Where a person is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of a corporation sole or aggregate, he may as attorney execute the conveyance by signing the name of the corporation in the presence of at least one witness, and in the case of a deed by affixing his own seal, and such execution shall take effect and be valid in like manner as if the corporation had executed the conveyance

(4) Where a corporation aggregate is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of any other person (including another corporation), an officer appointed for that purpose by the board of directors, council or other governing body of the corporation by resolution or otherwise, may execute the deed or other instrument in the name of such other person; and where an instrument appears to be executed by an officer so appointed, then in favour of a purchaser the instrument shall be deemed to have been executed by an officer duly authorised.

(5) The foregoing provisions of this section apply to transactions wherever effected but only to deeds and instruments executed after the commencement of this Ordinance, except that, in the case of powers of appointments of an agent or officer, they apply whether the power was conferred or the appointment was made before or after the commencement of this Ordinance.

(6) Notwithstanding anything contained in this section, any mode of execution or attestation authorised by law or by practice or by the statute, charter, memorandum or articles, deed of settlement or other instrument constituting the corporation or regulating the affairs thereof, shall (in addition to the modes authorised by this section) be as effectual as if this section had not been passed.

12. (1) Any absolute assignment by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal thing in action, of which express notice in writing has been given to debtor, trustee or other person from whom the assignor would have been entitled to claim such debt or thing in action, is effectual in law (subject to equities having priority over the right of the assignee) to pass and transfer from the date of such notice -

- (a) the legal right to such debt or thing in action;
- (b) all legal and other remedies for the same; and
- (c) the power to give a good discharge for the same without the concurrence of the assignor.

Assignment of choses in action.

Execution of deeds by an individual.

Execution of instruments by or on behalf of corporations.

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Provided that, if the debtor, trustee or other person liable in respect of such debt or thing in action has notice -

- (a) that the assignment is disputed by the assignor or any person claiming under him; or
- (b) of any other opposing or conflicting claims to such debt or thing in action;

he may, if he thinks fit, either call upon the persons making claim thereto to interplead concerning the same, or pay the debt or other thing in action into court under the provisions of the Trustee Act, 1925.

(2) This section does not affect the provisions of the Policies of Assurance Act, 1867.

13. (1) All interests in land created by parol and not put in writing and signed by the persons creating the same, or by their agents thereunto lawfully authorised in writing, have, notwithstanding any consideration having been given for the same, the force and effect of interests at will only.

(2) Nothing in the foregoing provisions of this Ordinance shall effect the creation by parol of leases taking effect in possession for a term not exceeding three years (whether or not the lessee is given power to extend the term) at the best rent which can be reasonably obtained without taking a fine.

(3) A lease by the Crown cannot be effected, whatever the term created thereby, by parol.

- (4) Nothing in this section shall -
 - (a) invalidate dispositions by will;
 - (b) affect any interest validly created before the commencement of this Ordinance;
 - (c) affect the right to acquire an interest in land by virtue of taking possession; or
 - (d) affect the operation of law relating to part performance.

14. (1) A person may take an immediate or other interest in land or other property, or the benefit of any condition, right of entry, covenant or agreement over or respecting land or other property, although he is not named as a party to the conveyance or other instrument.

(2) A deed between parties, to effect its objects, has the effect of an indenture though not indented or expressed to be an indenture.

15. Any instrument (whether executed before or after the commencement of this Ordinance) expressed to be supplemental to a previous instrument, shall, as far as may be read and have effect as if the supplemental instrument contained a full recital of the previous instrument.

16. In all deeds, contracts and other instruments executed, made or coming into operation after the commencement of this Ordinance, unless the context requires —

- (a) "month" means a calendar month;
- (b) "person" includes a corporation;
- (c) the singular includes the plural and vice versa;
- (d) the masculine includes the feminine and vice versa.

17. (1) All contracts, whether by specialty or by simple contract, entered into since 7th August 1874 by minors for the repayment of money lent or to be lent, or for goods supplied (other than contracts for necessaries), and all accounts stated with minors are absolutely void:

Provided always that this subsection shall not invalidate any contract into which a minor might, by any statute in force on 7th August 1874 or by any existing or future statute, or by the rules of common law or equity, enter, except such as were on 7th day of August 1874 by law voidable.

(2) No action shall be brought whereby to charge any person upon any promise made after full age to pay any debt contracted during minority, or upon any ratification made after full age of any promise or contract made during infancy, whether there shall or shall not be any new consideration for such promise or ratification after full age.

Persons taking who are not parties and as to indentures.

Provisions as to supplemental instruments.

Construction of expressions used.

Contracts by minors.

Creation of interests in land by parol. (3) For the purpose of this section "minor" means —

- (a) in relation to any time between 7th August 1874 and 31st December 1969, a person who was under the age of twenty-one years; and
- (b) in relation to any time after 31st December 1969, a person under the age of eighteen years, and "minority" shall have a correlative meaning.

18. A married woman has the same capacity to contract as if she were not a married woman.

19. (1) An agreement between two persons to marry one another shall not have effect in the Falkland Islands, wherever the agreement was made, as a contract giving rise to legal rights and no action shall lie in the Falkland Islands for breach of such an agreement, whatever the law applicable to the agreement.

(2) This section shall have effect in relation to agreements entered into before it comes into force, except that it shall not affect any action commenced before it came into force.

20. (1) Where an agreement to marry is terminated, any rule of law relating to the rights of husbands and wives in relation to property in which either or both has beneficial interest shall apply in relation to any property in which either or both of the parties to the agreement had a beneficial interest while the agreement was in force, as it applies in relation to property in which a husband or wife has a beneficial interest.

(2) Where an agreement to marry is terminated any provision of law for the time being in force conferring power upon any judge or court to settle disputes between husband and wife about property shall apply, as if the parties were married, to any dispute by or claim by one of them in relation to property in which either or both had a beneficial interest while the agreement was in force; provided that the application to the judge or court is made within three years of the termination of the agreement.

21. (1) A party to an agreement to marry who makes a gift of property to the other party to the agreement on the condition (express or implied) that it shall be returned if the agreement is terminated shall not be prevented from recovering the property by reason only of his having terminated the agreement.

(2) The gift of an engagement ring shall be presumed to be an absolute gift but such presumption may be rebutted by proving that the ring was given on the condition, express or implied, that it should be returned if the marriage did not take place for any reason.

PART III

CONTRACTS WITH CONSUMERS

22. (1) For the purposes of this Part of this Ordinance, "negligence" means the breach -

- (a) of any obligation, arising from the express or implied terms of a contract, to take reasonable care to exercise reasonable skill in the performance of the contract;
- (b) of any common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty);
- (c) of the common duty of care imposed by the terms of any statute.

(2) This part of this Ordinance is subject to Part V, and in relation to contracts, the operation of sections 23 to 25 and 28 is subject to the exceptions made by Schedule 1.

(3) In the case of both contract and tort, sections 23 to 28 apply (except where the contrary is stated in section 27 (4)) only to business liability, that is liability for breach of obligations or duties arising -

- (a) from things done or to be done by a person in the course of a business (whether his own business or another's); or
- (b) from the occupation of premises used for business purposes by the occupier,

Contracts by married woman. Agreements to marry.

Property of engaged couples.

Gifts between engaged couples.

Scope of Part III. and references to liability are to be read accordingly but liability of an occupier of premises for breach of an obligation or duty towards a person obtaining access to the premises for recreational or educational purposes, being liability for loss or damage suffered by reason of the dangerous state of the premises, is not a business liability of the occupier unless granting that person such access for the purposes concerned falls within the business purposes of the occupier.

(4) In relation to any breach of duty or obligation, it is immaterial for any purpose of this Part of this Ordinance whether the breach was inadvertent or intentional, or whether liability for it arises directly or vicariously.

(5) In this Part of this Ordinance -

"business" includes a profession and the activities of any department of the Falkland Islands Government and the activities of the Falkland Islands Development Corporation;

"goods" includes all personal chattels other than things in action and money, and in particular goods includes all industrial growing crops and things attached to or forming part of the land which are agreed to be severed before sale or under a contract of sale;

"hire purchase agreement" means an agreement under which the goods are bailed in return for periodical payments by the person to whom they are bailed and under which the property in the goods will pass to that person if the terms of that agreement are complied with and one or more of the following occurs —

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event,

but does not include an agreement (a "conditional sale agreement") for the sale of goods or land under which the purchase price or part of it is payable by instalments, and the property in the goods or land is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods or land) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

"negligence" has the meaning given by subsection (1) of this section;

"personal injury" includes any disease and only impairment of physical or mental condition.

(6) Any reference to this Part to an Act is to be construed as a reference to the Act of the United Kingdom Parliament the short title of which is as mentioned to this Part, and subject to such exceptions, modifications and adaptations as by this or any other Ordinance have been or are hereafter made to that Act in its application to the Falkland Islands.

23 (1) A person cannot by reference to any contract term or to a notice given to persons Negligence. Negligence.

(2) In the case of other loss or damage, a person cannot so exclude or restrict his liability for negligence except in so far as the term or notice satisfies the requirement of reasonableness.

(3) Where a contract term or notice purports to exclude or restrict liability for negligence a person's agreement to or awareness of it is not of itself to be taken as indicating his voluntary acceptance of any risk.

24. (1) This section applies as between contracting parties where one of them deals as consumer or on the other's written standard terms of business.

Liability arising in contract.

(2) As against that party, the other cannot by reference to any contract term -

(a) when himself in breach of contract, exclude or restrict any liability of his in respect of the breach; or

- (b) claim to be entitled -
 - (i) to render a contractual performance substantially different from that which was reasonably expected of him, or
 - (ii) in respect of the whole or any part of his contractual obligation, to render no performance at all,

except in so far as (in any of the cases mentioned above in this subsection) the contract term satisfies the requirement of reasonableness.

25. (1) A person dealing as consumer cannot by reference to any contract term be made to indemnify another person (whether a party to the contract or not) in respect of liability that may be incurred by the other for negligence or breach of contract, except in so far as the contract term satisfies the requirement of reasonableness.

(2) This section applies whether the liability in question —

- (a) is directly that of the person to be indemnified or is incurred by him vicariously;
- (b) is to the person dealing as consumer or to someone else.

26. (1) In the case of goods as a type ordinarily supplied for private use or consumption where loss or damage -

Guarantee of Consumer goods.

Unreasonable indemnity clauses.

- (a) arises from the goods proving defective while in consumer use; and
- (b) results from the negligence of a person concerned in the manufacture or distribution of the goods,

liability for the loss or damage cannot be excluded or restricted by reference to any contract term or notice contained in or operating by reference to a guarantee of the goods.

(2) For these purposes -

- (a) goods are to be regarded as "in consumer use" when a person is using them, or has them in his possession for use, otherwise than exclusively for the purposes of a business; and
- (b) anything in writing is a guarantee if it contains or purports to contain some promise or assurance (however worded or presented) that defects will be made good by complete or partial replacement, or by repair, monetary compensation or otherwise.

(3) This section does not apply as between the parties to a contract under or in pursuance of which possession or ownership of the goods passed.

27. (1) Liability for breach of the obligations arising from section 2 of the Sale of Goods Sales. Act 1979 seller's implied undertakings as to title etc cannot be excluded or restricted by reference to any contract term.

(2) As against a person dealing as consumer, liability for breach of the obligations arising from -

- (a) section 13, 14 or 15 of the 1979 Act (seller's implied undertakings as to conformity of goods with description or sample, or as to their quality or fitness for a particular purpose);
- (b) sections 43 and 44 of this Ordinance (the corresponding things in relation to hire-purchase).

cannot be excluded or restricted by reference to any contract term.

(3) As against a person dealing otherwise than as consumer, the liability specified in subsection (2) above can be excluded or restricted by reference to a contract term, but only in so far as the term satisfies the requirement of reasonableness.

(4) The liabilities referred to in this section are not only the business liabilities defined by section 22 (3), but include those arising under any contract of sale of goods or hirepurchase agreement. 28. (1) Where the possession or ownership of goods passes under or in pursuance of a contract not governed by the law of sale of goods or hire-purchase, subsections (2) to (4) below apply as regards the effect (if any) to be given to contract terms excluding or restricting liability for breach of obligation arising by implication of law from the nature of the contract.

(2) As against a person dealing as consumer, liability in respect of the goods correspondence with description or sample, or their quality or fitness for any particular purpose, cannot be excluded or restricted by reference to any such term.

(3) As against a person dealing otherwise than as consumer, that liability can be excluded or restricted by reference to such a term, but only in so far as the term satisfies the requirement of reasonableness.

(4) Liability for breach of the obligations arising under section 2 of the Supply of Goods and Services Act 1982 (implied terms about the title etc in certain contracts for the transfer of the property in goods) cannot be excluded or restricted by references to any such term.

(5) Liability in respect of -

- (a) the right to transfer ownership of the goods, or give possession; or
- (b) the assurance of quiet possession to a person taking goods in pursuance of the contract,

cannot (in a case to which subsection (4) above does not apply) be excluded or restricted by reference to any such term except in so far as the term satisfies the requirement of reasonableness.

29. (1) Where for reliance upon it a contract term has to satisfy the requirement of reasonableness, it may be found to do so and be given effect accordingly notwithstanding that the contract has been terminated either by breach or by a party electing to treat it as repudiated.

Effect of breach.

(2) Where on a breach the contract is nevertheless affirmed by a party entitled to treat it as repudiated, this does not of itself exclude the requirement of reasonableness in relation to any contract term.

30. A person is not bound by any contract term prejudicing or taking away rights of his which arise under, or in connection with the performance of, another contract, so far as those rights extend to the enforcement of another's liability which this Part of this Ordinance prevents that other from excluding or restricting.

31. (1) In relation to a contract term, the requirement of reasonableness for the purposes of this Part of this Ordinance and section 49 of this Ordinance is that the term shall have been a fair and reasonable one to be included having regard to the circumstances which were, or ought reasonably to have been, known to or in the contemplation of the parties when the contract was made.

(2) In determining for the puposes of section 27 or 28 above whether a contract term satisfies the requirement of reasonableness, regard shall be had in particular to the matters specified in Schedule 2 to this Ordinance; but this subsection does not prevent the court or arbitrator from holding, in accordance with any rule of law, that a term which purports to exclude or restrict any relevant liability is not a term of the contract.

(3) In relation to a notice (not being a notice having contractual effect), the requirement of reasonableness under this Ordinance is that it should be fair and reasonable to allow reliance on it, having regard to all the circumstances obtaining when the liability arose or (but for the notice) would have arisen.

(4) Where by reference to a contract term or notice a person seeks to restrict liability to a specified sum of money, and the question arises (under this or any other Ordinance) whether the term or notice satisfies the requirement of reasonableness, regard shall be had in particular (but without prejudice to subsection (2) above in the case of contract terms) to -

(a) the resources which he could expect to be available to him for the purpose of meeting the liability should it arise, and secondary contract.

Evasion by means of a

The "reasonableness" test.

Miscellaneous contracts under which goods pass. (b) how far it was open to him to cover himself by insurance.

(3) It is for those claiming that a contract term or notice satisfies the requirement of reasonableness to show that it does.

32. (1) A party to a contract "deals as consumer" in relation to another party if -

- (a) he neither makes the contract in the course of a business nor holds himself out as doing so; and
- (b) the other party does make the contract in the course of a business; and
- (c) in the case of a contract governed by the law of sale of goods or hire-purchase, or by section 28 of this Ordinance, the goods passing under or in pursuance of the contract are of a type ordinarily supplied for private use or consumption.

(2) But on a sale by auction or by competetive tender the buyer is not in any circumstances to be regarded as dealing as consumer.

(3) Subject to this, it is for those claiming that a party does not deal as consumer to show that he does not.

33. (1) To the extent that any preceding provision of this Part of this Ordinance prevent the exclusion or restriction of any liability they also prevent -

Varieties of exemption clause.

Dealing as consumer.

- making the liability or its enforcement subject to restrictive or onerous conditions;
- (b) excluding or restricting any right or remedy in respect of the liability, or subjecting a person to any prejudice in consequence of his pursuing any such right or remedy;
- (c) excluding or restricting rules of evidence or procedure;

and (to that extent) sections 23 and 26 to 28 also prevent excluding or restricting liability by reference to terms and notices which exclude or restrict the relevant obligation or duty.

(2) But an agreement in writing to submit present or future differences to arbitration is not to be treated under the preceding provisions of this Part of this Ordinance as restricting any liability.

PART IV

PROVISIONS APPLYING TO CERTAIN INTERNATIONAL CONTRACTS

34. In this Part —

"competent authority" means any court, arbitrator or arbiter, government department or public authority;

"enactment" means any legislation of or having the force of law in the Falkland Islands and any instrument having effect by virtue of such legislation; and

"statutory" means conferred by an enactment.

35. (1) The limits imposed by Part III of this Ordinance on the extent to which a person may exclude or restrict liability by reference to a contract term do not apply to liability arising under such a contract as is described in subsection (3) below.

(2) The terms of such a contract are not subject to any requirement of reasonableness under section 24 or 25.

(3) Subject to subsection (4), that description of contract is one whose characteristics are the following -

- (a) either it is a contract of sale of goods or it is one under or in pursuance of which the possession or ownership of goods passes; and
- (b) it is made by parties whose places of business (or, if they have none, habitual residences) are in the territories of different States (the Channel Islands and the Isle of Man and the Falkland Islands being treated for this purpose as different States from the United Kingdom).

Interpretation.

International supply contracts.

- (4) A contract falls within subsection (3) above only if either -
 - (a) the goods in question are, at the time of the conclusion of the contract in the course of carriage, or will be carried, from the territory of one State to the territory of another; or
 - (b) the acts constituting the offer and acceptance have been done in the territories of different States; or
 - (c) the contract provides for the goods to be delivered to the territory of a State other than that within whose territory those acts were done.

36. (1) Where the proper law of a contract is the law of the Falkland Islands only by choice of the parties (and apart from that choice would be the law of some country outside the Falkland Islands) sections 23 to 28 of this Ordinance do not operate as part of the proper law.

(2) Part III of this Ordinance and this Part of this Ordinance have effect notwithstanding any contract term which applies or purports to apply the law of some country outside the Falkland Islands, where (either or both) -

- (a) the term appears to the court or arbitrator to have been imposed wholly or mainly for the purpose of enabling the party imposing it to evade the operation of the said Part III and this Part;
- (b) in the making of the contract one of the parties dealt as consumer, and he was then habitually resident in the Falkland Islands and the essential steps necessary for the making of the contract were taken there, whether by him or by others on his behalf.

37. (1) Nothing in Part III of this Ordinance in this Part removes or restricts the effect of, or prevents reliance upon, any contractual provision which -

- (a) is authorised or required by the express terms or necessary implication by any enactment; or
- (b) being made with a view to compliance with an international agreement to which the United Kingdom is party and which extends to the Falkland Islands, and which does not operate more restrictively than is contemplated by the agreement.

(2) A contract term is to be taken for the purposes of Part III of this Ordinance as satisfying the test of reasonableness if it is incorporated or approved by, or incorporated pursuant to a decision or ruling of a competent authority acting in the exercise of any statutory jurisdiction or function and is not a term in a contract to which the competent authority is itself a party.

PART V

FURTHER PROVISIONS AS TO SALE AND SUPPLY OF GOODS AND AS TO HIRE PURCHASE

38. (1) In this Part -

"antecedent negotiations" in relation to hire purchase agreement means any negotiations or arrangements with the hirer whereby he was induced to make the agreement or which otherwise promoted the transaction to which the agreement related;

"business" has the same meaning as it has under section 22(5) of this Ordinance;

"hirer" means the person who takes or has taken goods from an owner under a hirepurchase agreement and includes a person to whom the hirer's rights or liabilities under the agreement have passed by assignment or by operation of law;

"owner" means the person who lets or has let goods to a hirer under a hire-purchase agreement and includes a person to whom the owners's property in the goods or any of the owner's rights or liabilitites under the agreement has passed by assignment or by operation of law.

(2) For the purpose of this Part any negotiations conducted, or arrangements or representations made, by a servant or agent, if conducted or made by him in the course of his employment or agency, shall be treated as conducted or made by his employer or principal.

Saving for other relevant legislation.

Choice of law

clauses.

42

Interpretation of this part.

39. (1) The Sale of Goods Act 1979 (which prior to the commencement of this Ordinance applied as law of the Falkland Islands by virtue of Part XI of the Interpretation and General Clauses Ordinance 1977) shall continue to apply as law of the Falkland Islands but subject to the exceptions modifications and adaptations set out in Schedule 3 (in addition to those made or having effect by virtue of the said Ordinance) and which said exceptions, modifications and adaptations shall be deemed always to have had effect in the Falkland Islands.

(2) Subject to subsection (1), the provisions of Part XI of the Interpretation and General Clauses Ordinance 1977 shall continue to apply in relation to the Sale of Goods Act 1979.

(3) The Supply of Goods and Services Act 1982 is adopted as law of the Falkland Islands subject to the exceptions, modifications and adaptations set out in Schedule 4.

40 The Uniform Laws on International Sales Act 1967 of the United Kingdom shall apply as law of the Falkland Islands subject to modifications and adaptations set out in Schedule 4.

41. (1) In every hire-purchase agreement, other than one to which subsection (2) below applies, there is -

- (a) an implied condition on the part of the owner that he will have a right to sell the goods at the time when the property is to pass; and
- (b) an implied warranty that the goods are free, and will remain free until the time when the property is to pass from any charge or encumbrance not disclosed or known to the hirer before the agreement is made and that the hirer will enjoy quiet possession of the goods except so far as it may be disturbed by any person entitled to the benefit of any charge or encumbrance so disclosed or known.

(2) In a hire-purchase agreement, in the case of which there appears from the agreement or is to be inferred from the circumstances of the agreement an intention that the owner should transfer only such title as he or a third person may have, there is -

- (a) an implied warranty that all charges or encumbrances known to the owner and not known to the hirer have been disclosed to the hirer before the agreement is made; and
- (b) an implied warranty that neither-
 - (i) the owner; nor
 - (ii) in a case where the parties to the agreement intend that any title which may be transferred shall be only such title as a third person may have, that person; nor
 - (iii) anyone claiming through or under the owner or that third person otherwise than under a charge or encumbrance disclosed or known to the hirer before the agreement is made; will disturb the hirer's quiet possession of the goods.

42. (1) Where under a hire-purchase agreement goods are let by description, there is an implied condition that the goods will correspond with the description; and if under the agreement the goods are let by reference to a sample as well as a description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

(2) Goods shall not be prevented from being let by description by reason only that, being exposed for sale or hire, they are selected by the hirer.

43. (1) Except as provided by this section 44 below and subject to the provisions of any enactment, there is no implied condition or warranty as to the quality or fitness for any particular purpose of goods let under a purchase agreement.

(2) Where the owner lets goods under a hire-purchase agreement in the course of a business, there is an implied condition that the goods are of a merchantable quality, except that there is no such condition -

(a) as regards defects specifically drawn to the hirer's attention before the agreement is made; or Letting goods under hirepurchase agreement by description.

Implied Condi-

tions or warranties as to fitness

for any par-

agreements.

ticular purpose in hire-purchase

Application of Sale of goods Act 1979. (1979 c. 24) and Supply of Goods and Services Act 1982 (1982 c. 29) 1977 No. 14.

Adoption of Uniform Laws on International Sales Act 1967. Implied conditions in hirepurchase agreements. (b) if the hirer examines the goods before the agreement is made, as regards defects which that examination ought to reveal.

(3) Where the owner lets goods under a hire purchase agreement in the course of a business and the hirer, expressly or by implication, makes known to the owner or the person by whom any antecedent negotiations are conducted, any particular purpose for which the goods are being hired, there is an implied condition that the goods supplied under the agreement are reasonably fit for that purpose, whether or not that purpose for which such goods are commonly supplied, except where the circumstances show that the hirer does not rely, or that it is unreasonable for him to rely, on the skill or judgement of the owner or that person.

(4) An implied condition or warranty as to quality or fitness for a particular purpose may be annexed to a hire-purchase agreement by usage.

(5) The foregoing provisions of this section apply to a hire-purchase agreement made by a person who in the course of a business is acting as agent for the owner as they apply to an agreement made by the owner in the course of a business, except where the owner is not letting in the course of business and either the hirer knows that fact or reasonable steps are taken to bring it to the notice of the hirer before the agreement is made.

44. Where under a hire-purchase agreement goods are let by reference to a sample, there is an implied condition ---

- (a) that the bulk will correspond with the sample in quality; and
- (b) that the hirer will have a reasonable opportunity of comparing the bulk with the sample; and
- (c) that the goods will be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

45. An express condition or warranty does not negative a condition or warranty implied by this Part.

PART VI

MISREPRESENTATION

46. Where a person has entered into a contract after a misrepresentation has been made to him, and

- (a) the misrepresentation has become a term of the contract; or
- (b) the contract has been performed;

or both, then, if otherwise he would be entitled to rescind the contract without alleging fraud, he shall be so entitled, subject to the provisions of this Part notwithstanding the matters mentioned in paragraphs (a) and (b) of this section.

47. (1) Where a person has entered into a contract after a misrepresentation has been made to him by another party thereto and as a result thereof he has suffered loss, then if the person making the misrepresentation would be liable to damages in respect thereof had the misrepresentation been made fraudulently, that person shall be so liable notwithstanding that the misrepresentation was not made fraudulently, unless he proves that he had reasonable ground to believe and did believe up to the time the contract was made that the facts represented were true.

(2) Where a person has entered into a contract after a misrepresentation has been made to him otherwise than fraudulently, and he would be entitled, by reason of the misrepresentation, to rescind the contract, then, if it is claimed, in any proceedings arising out of the contract, that the contract ought to be or has been rescinded the court or arbitrator may declare the contract subsisting and award damages in lieu of recission, if of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party.

Goods let under hire-purchase agreement by reference to a sample.

Exclusion of conditions and warranties implied in hirepurchase agreement.

Removal of certain bars to action for innocent misrepresentation.

Damages for misrepresentation. (3) Damages may be awarded against a person under subsection (2) of this section whether or not he is liable to damages under subsection (1) thereof, but where he is so liable any award under the said subsection (2) shall be taken into account in assessing his liability under the said subsection.

48. If any agreement (whether made before or after the commencement of this Ordinance) contains a provision which would exclude or restrict -

- (a) any liability to which a party to a contract may be subject by reason of any misrepresentation made by him before the contract was made; or
- (b) any remedy available to another party to the contract by reason of such a misrepresentation;

that provision shall be of no effect except to the extent (if any) that, in any proceedings arising out of the contract, the court or arbitrator may allow reliance on it as being fair and reasonable in the circumstances of the case.

49. Nothing in this Part shall apply in relation to any misrepresentation or contract of sale which is made before the commencement of this Ordinance.

PART VII

FRUSTRATED CONTRACTS

50. In this Part the expression "the court" means, in relation to any matter, the court or arbitrator by or before whom the matter falls to be determined.

51. (1) Where a contract governed by the law of the Falkland Islands has become impossible of performance or been otherwise frustrated, and the parties thereto have for that reason been discharged from the further performance of the contract, the following provisions of this section shall, subject to the provisions of section 53, have effect in relation thereto.

(2) All sums paid or payable to any party in pursuance of the contract before the time when the parties were so discharged (in this Part referred to as "the time of discharge") shall, in the case of sums so paid, be recoverable from him as money received by him for the use of the party by whom the sums were paid, and, in the case of sums so payable, cease to be so payable:

Provided that, if the party to whom the sums were so paid or payable incurred expenses before that time of discharge in, or for the purpose of, the performance of the contract, the court may, if it considers it just to do so having regard to all the circumstances of the case, allow him to retain or, as the case may be, recover the whole or any part of the sums so paid or payable, not being an amount in excess of the expenses so incurred.

(3) Where any party to the contract has, by reason of anything done by any other party thereto in, or for the purpose of, the performance of the contract, obtained a valuable benefit (other than a payment of money to which the last foregoing subsection applies) before the time of discharge, there shall be recoverable from him by the said other party such sum (if any) not exceeding the value of the said benefit to the party obtaining it, as the court considers just, having regard to all the circumstances of the case and, in particular, —

- (a) the amount of any expenses incurred before the time of discharge by the benefited party in, or for the purpose of, the performance of the contract, including any sums paid or payable by him to any other party in pursuance of the contract and retained or recoverable by that party under the last foregoing subsection, and
- (b) the effect, in relation to the said benefit, of the circumstances giving rise to the frustration of the contract.

(4) In estimating, for the purposes of the foregoing provisions of this section, the amount of any expense incurred by any party to the contract, the court may, without prejudice to the generality of the said provisions, include such a sum as appears to be reasonable in respect of overhead expenses and in respect of any work or services performed personally by the said party.

Avoidance of certain provisions excluding liability for misrepresentation.

Saving for past transactions.

Interpretation.

(5) In considering whether any sum ought to be recovered or retained under the foregoing provisions of this section by any party to the contract, the court shall not take into account any sums which have, by reason of the circumstances giving rise to the frustration of the contract, become payable to that party under any contract of insurance unless there was an obligation to insure imposed by an express term of the frustrated contract or by or under the said party.

(6) Where any person has assumed obligations under the contract in consideration of the conferring of a benefit by any other party to the contract upon any other person, whether a party to the contract or not, the court may, if in all the circumstances of the case it considers it just to do so, treat for the purposes of subsection (3) of this section any benefit so conferred as a benefit by the person who has assumed the obligations as aforesaid.

52. (1) This Part shall apply to contracts, whether made before or after the commencement of this Part, in respect of which the time of discharge is on or after the 1st November 1954 but not to contracts as respect of which the time of discharge is before the said date. Application of Part VI.

(2) Where any contract to which this Act applies contains any provision which, upon the true construction of the contract, is intended to have effect in the event of circumstances arising which operate, or would but for the said provision operate, to frustrate the contract, or is intended to have effect whether such circumstances arise or not, the court shall give effect to the said provision and shall only give effect to the foregoing section of this Act to such extent, if any, as appears to the court to be consistent with the said provision.

(3) Whether it appears to the court that a part of any contract to which this Act applies can properly be severed from the remainder of the contract, being a part wholly performed before the time of discharge, or so performed except for the payment in respect of that part of the contract of sums which are or can be ascertained under the contract, the court shall treat that part of the contract as if it were a separate contract and had not been frustrated and shall treat the foregoing section of this Act as only applicable to the remainder of that contract.

(4) This Part shall not apply -

- (a) to any charterparty, except a time charterparty or a charterparty by way of demise, or to any contract (other than a charterparty) for the carriage of goods by sea; or
- (b) to any contract of insurance, save as is provided by subsection (4) of the foregoing section; or
- (c) to any contract to which section 7 of the Sale of Goods Act 1979 (which avoids contracts for the sale of specific goods which perish before the risk has passed to the buyer) applies, or to any other contract for the sale, or for the sale and delivery, of specific goods, where the contract is frustrated by reason of the fact that the goods have perished.

PART VIII

GENERAL

53. (1) The Application of Enactments Ordinance 1954 is amended by the deletion from the Schedule thereto of the paragraph 49 (which relates to the Law Reform (Frustrated Contracts) Act 1943).

(2) Notwithstanding subsection (1), and insofar as Part VII of this Ordinance (which enacts as Law of the Falkland Islands provisions in all material respects identical to those of the Act mentioned in subsection (1)) is incapable of applying to any contract made or discharged before the commencement of this Ordinance, the said Act shall continue to apply in respect of any such contract.

54. For the sake of avoidance of doubt, it is declared that the common law and the rules and doctrines of equity as applying immediately before the commencement of this Ordinance in the Falkland Islands continue to apply to the law of contract and matters arising out of or connected therewith and are not abrogated by any of the provisions of this Ordinance

Amendment of Application of Enaciments Ordinance 1954. 6 & 7 Geo 6, c. 21.

Saving for Common Law and rules of equity. except insofar as they are inconsistent therewith and, save insofar as they are inconsistent with any provision of this Ordinance or any other law of or applying in the Falkland Islands, shall continue to apply as if this Ordinance had not been enacted.

SCHEDULE 1

(section 22 (2))

SCOPE OF SECTIONS 23 TO 25 AND 28

1. Sections 23 to 25 of this Ordinance do not extend to -

- (a) any contract of insurance (including a contract to pay an annuity on human life);
- (b) any contract so far as it relates to the creation or transfer of an interest in land, or to the termination of such an interest whether by extinction, merger, surrender, forfeiture or otherwise;
- (c) any contract so far as it relates to the creation or transfer of a right or interest in any patent, trademark, copyright, registered design, technical or commercial information or other intellectual property, or relates to the termination of any such right or interest;
- (d) any contract so far as it relates -
 - (i) to the formation or dissolution of a company (which means any body corporate or unincorporated association and includes a partnership), or
 - (ii) to its constitution or the rights or obligations of its corporators or members;
- (e) any contract so far as it relates to the creation or transfer of securities or of any right or interest in securities.

2. Section (1) extends to —

C

- (a) any contract of marine salvage or towage;
- (b) any charterparty of a ship or hovercraft; and
- (c) any contract for the carriage of goods by ship or hovercraft;

but subject to this sections 23 to 25 and 28 do not extend to any such contract except in favour of a person dealing as consumer.

3. Where goods are carried by ship or hovercraft in pursuance of a contract which either -

- (a) specifies that as the means of carriage over part of the journey to be covered, or
- (b) makes no provision as to the means of carriage and does not exclude that means,

then sections 23(2) 24 and 25 do not, except in favour of a person dealing as consumer, extend to the contract as it operates for and in relation to the carriage of the goods by that means.

4. Sections 23(1) and (2) do not extend to a contract of employment, except in favour of the employee.

5. Section 23(1) does not affect the validity of any discharge and indemnity given by a person, on or in connection with an award to him of compensation for pneumoconiosis attributable to employment in the coal industry, in respect of any further claim arising from his contracting that disease.

SCHEDULE 2 (section 32 (2))

"GUIDELINES" FOR APPLICATION OF REASONABLENESS TEST

The matters to which regard is to be had in particular for the purposes of sections 27(3), 28(3) and (4), 31 and 32 are any of the following which appear to be relevant —

- (a) the strength of the bargaining positions of the parties relative to each other, taking into account (among other things) alternative means by which the customer's requirements could have been met;
- (b) whether the customer received an inducement to agree to the term, or in accepting it had an opportunity of entering into a similar contract with other persons, but without having to accept a similar term;
- (c) whether the customer knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties);
- (d) where the term excludes or restricts any relevant liability if some condition is not complied with, whether it was reasonable at the time of the contract to expect that compliance with that condition would be practicable;
- (e) whether the goods were manufactured, processed or adapted to the special order of the customer.

C

SCHEDULE 3 (section 39 (1))

Exceptions, modifications and adaptations subject to which the Sale of Goods Act 1979 applies as law of the Falkland Islands.

Provision of 1979 Act.

(a) section 4(1).

(b) sections 11 (1) and (5)

(c) section 11(7).

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(d) section 21(2).

(e) section 25(2).

(f) section 35(2).

(g) section 49(3).

(h) section 52(4).

(i) section 53(5).

(j) section 55(1).

(k) section 58.

(1) section 61(2).

(m) section 62(5).

(n) Schedule 2.

(o) Schedule 3.

Exceptions, modifications and adaptations.

- (a) In subsection (1), the reference to "any other Act" shall be deemed to include a reference to any Ordinance of the Falkland Islands.
- (b) These provisions (applicable to Scotland) shall not apply.
- (c) All words after "22nd April 1967" shall be omitted.
- (d) The reference to "the Factors Acts" shall be construed as a reference to such Acts subject to any exceptions, modifications and adaptations applying by virtue of any Ordinance in relation to their application as law of the Falkland Islands.
- (e) (i) for the purposes of paragraph (a), "conditional sale agreement" has the same meaning as is given to it within the definition of "hire-purchase agreement" contained in section 22(5) of this Ordinance,
 - (ii) paragraph (b) shall be omitted.
- (f) The like omission as under (c) above.
- (g) This provision (applicable to Scotland) shall not apply.
- (h) This provision (applicable to Scotland) shall not apply.
- (i) This provision (applicable to Scotland) shall not apply.
- (j) The reference to the Unfair Contract Terms Act 1977 shall be omitted and a reference to the Law of Contract Ordinance 1987 substituted for it.
- (k) This provision (applicable in Scotland) shall not apply.
- (1) This provision (applicable to Scotland) shall not apply.
- (m) (i) the reference to Northern Ireland in paragraph 2 shall be omitted,
 - (ii) in paragraph 5 (substituted section 14), omit all words after the semi-colon in subsection (7) of the substituted section 14,
 - (iii) in paragraph 10, omit the reference to Northern Ireland and,
 - (iv) in paragraph 13, in the substituted section 56(1), substitute "the Falkland Islands" for the United Kingdom.
- (n) Omit.
- (o) Omit.

SCHEDULE 4

(section 39 (3))

Exceptions, modifications and adaptations subject to which the Supply of Goods and Services Act 1982 is applied as law of the Falkland Islands

Provision

(a) section 11(1).

(b) section 12(4).

(c) section 12(5).

(d) section 17.

(e) section 18(1).

(f) section 19.

(g) section 20(2) (3) and (6).

(h) section 20(5).

(i) Schedule.

Exceptions, modifications and adaptations

- (a) Delete the words "and the 1977 Act" appearing in the subsections and substitute the words "and Parts III and IV of the Law of Contract Ordinance 1987".
- (b) Delete the words "Secretary of State" appearing in the subsection and substitute the word "Governor".
- (c) Omit.
- (d) Omit.
- (e) (i) delete the definition of "business" appearing in the subsection and substitute the following definition --

" "business" has the same meaning as it has under section 22(5) of the Law of Contract Ordinance 1987",

(ii) delete the definition of "enactment" appearing in the subsection and substitute the following definition —

> " "enactment" means any Ordinance or subsidiary legislation of the Falkland Islands and any imperial enactment for the time being having effect in the Falkland Islands",

(iii) delete the definition of "hire-purchase agreement" appearing in the subsection and substitute the following definition —

> " "hire-purchase agreement" has the same meaning as it has for the purpose of Part IV of the Law of Contract Ordinance 1987";

- (iv) omit the definition of "redemption" and "trading stamps" appearing in the subsection.
- (f) Omit.
- (g) Omit.
- (h) Delete the subsection as appearing and substitute the following subsection —

"(6) No provision of the Act applies to a contract made before the Law of Contract Ordinance 1987 came into force"

(i) Omit.

SCHEDULE 5

(section 40)

Modifications and adaptations subject to which the Uniform Laws on International Sales Act 1967 applies as law of the Falkland Islands.

- (a) In section 1(2) the words "Falkland Islands" shall be substituted for the words "United Kingdom".
- (b) In section 1(4) the words "of any law of or having effect for the time being in the Faikland Islands" shall be substituted for the words "England and Wales, Scotland or Northern Ireland".
- (c) In section 1(6) the words "or the date on which the Law of Contract Ordinance 1987 came into force, whichever is the later" shall be added after the words "United Kingdom" appearing in the subsection.

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The Non-Contributory Old Age Pensions (Amendment) Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short title and Commencement.
- 2. The principal Ordinance.
- 3. Replacement of schedule.

A Bill for

An Ordinance

to amend the Non-Contributory Old Age Pensions Ordinance 1961

BE IT ENACTED by the Legislature of the Falkland Islands as follows: -

1. This Ordinance may be cited as the Non-Contributory Old Age Pensions (Amendment) St Ordinance 1988 and shall come into force on the 4th July 1988.

2. In this Ordinance, "the principal Ordinance" means the Non-Contributory Old Age Pensions Ordinance 1961.

3. The Schedule to the principal Ordinance is replaced by the following Schedule -

"SCHEDULE

Married man	
Unmarried person	
Man or woman separated or living apart from his or her husband or wife £37"	

OBJECTS AND REASONS

To increase the sums payable under the Non-Contributory Old Age Pensions Ordinance 1961.

Ref: TRE/2/2

Short title and commencement.

The Principal Ordinance.

Replacement of Schedule.

The Family Allowances (Amendment) Bill 1988

(No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Citation and Commencement.
- 2. Amendment of Ordinance No. 9 of 1960.

A Bill for

An Ordinance

to amend the Family Allowances Ordinance 1960

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Family Allowances (Amendment) Ordinance 1988 and shall come into force on the 1st January 1989.

2. The Family Allowances Ordinance 1960 is amended by -

(a) the repeal of section 3(2) and by the substitution therefor of the following —

"(2) the Superintendent shall each month pay for each child of a family an allowance at the rate of ± 30 ,"; and

(b) by the repeal of section 3(3) and by the substitution therefor of the following —

"(3) The Superintendent shall pay each month to a man or woman referred to in paragraphs (b) and (c) of Section 5(1) to whom he is paying an allowance or allowances under subsection (2) an allowance of twenty-five pounds in addition to the allowance or allowances being paid under subsection (2)."

OBJECTS AND REASONS

To increase the sums payable under the Family Allowances Ordinance 1960.

Ref: TRE/10/1

53

commencement.

Citation and

Amendment of Ordinance No. 9 of 1960.

The Old Age Pensions (Amendment) Bill 1988

(No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short title.
- 2. The principal Ordinance.
- 3. Repeal and Replacement of Section 6 (2) of the Principal Ordinance.

A Bill for

An Ordinance

to amend the Old Age Pensions Ordinance 1952

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Old Age Pensions (Amendment) Ordinance 1988 Short title, and shall come into force on 4th July 1988.

2. In this Ordinance, "the principal Ordinance" means The Old Age Pensions Ordinance 1952.

3. Section 6(2) of the principal Ordinance is repealed and replaced by the following new section 6(2)

"(2) Subject to the provisions of this Ordinance -

- (a) Every employed male person and every employed female contributor other than the widow of a contributor shall be liable to pay weekly contributions at the rate of £4 per week if between the ages of 17 and 64 years;
- (b) every employer of an employed person or a female contributor other than the widow of a contributor shall be liable to pay weekly contributions at the rate of £6 per week if the employed male person or female contributor is between the ages of 17 and 64 years;
- (c) every self employed male person and every self employed female contributor shall be liable to pay weekly contributions at the rate of £10 per week if between the ages of 17 and 64 years?'.

4. The Schedule to the principal Ordinance is replaced by the following Schedule -

"SCHEDULE

Section 4(2)

RATES OF PENSION

OBJECTS AND REASONS

To increase contributory Old Age Pensions and the contributions payable by contributors and their employers.

Ref: TRE/2/1.

Ordinance. Repeal and replacement of section 6 (2) of the Principal Ordinance.

Replacement of the Schedule.

The principal



THE

FALKLAND ISLANDS GAZETTE (Extraordinary)

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6th May 1988

No. 5

PROCLAMATION

No. 1 of 1988

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 Commonwealth, Defender of the Faith.

BY HIS EXCELLENCY GORDON WESLEY JEWKES, ESQUIRE. Companion of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Falkland Islands.

WHEREAS it is provided by Section 29 (1) of the Constitution that each session of the Legislative Council shall terminate when the Council is Prorogued;

AND WHEREAS it is provided by Section 32 (1) of the Constitution that each session of the Legislative Council shall be held at such place and shall begin at such time as the Governor may appoint by proclamation published in the Gazette:

NOW, THEREFORE, I, GORDON WESLEY JEWKES, do hereby PROCLAIM that the Legislative Council shall be prorogued on Tuesday the 17th day of May 1988;

AND THAT the next session of the Legislative Council shall be held at the Court and Council Chamber of the Town Hall, Stanley, and shall begin at 2 p.m. in the afternoon on Monday the 23rd day of May 1988.

GIVEN under my hand and the Public Seal of the Falkland Islands at Government House, Stanley, this 4th day of May in the year of our Lord One Thousand Nine Hundred and Eighty Eight.

G. W. JEWKES, Governor.

GOD SAVE THE QUEEN



THE

FALKLAND ISLANDS GAZETTE (Extraordinary)

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16th May 1988

No. 6

NOTICE

The following are published in this Gazette --

The Matrimonial Causes (Decree Absolute) General Order 1988 (S.R. & O. No. 5 of 1988);

The Road Traffic (Amendment) Ordinance 1987 (Commencement) Order 1988 (S.R. & O. No. 6 of 1988);

Administration of Justice (Amendment) Bill 1988;

The Defamation Bill 1988.

The Matrimonial Causes Ordinance 1979 (Ordinance No. 14 of 1979)

The Matrimonial Causes (Decree Absolute) General Order 1988

(S.R. & O. No. 5 of 1988)

In exercise of the powers conferred by section 4 (3) of the Matrimonial Causes Ordinance 1979, the Chief Justice makes the following Order -

- 1. (1) This Order may be cited as the Matrimonial Causes (Decree Absolute) General Order 1988, and shall be deemed to have come into operation on the 7th April 1988.
 - (2) In this Order a decree means a decree of divorce or nullity of marriage.
- 2. (1) Subject to paragragh (2) in relation to any decree nisi granted after the coming into operation of this Order, the period of six months specified in section 4 (5) of the Ordinance shall be reduced to six weeks and accordingly the decree shall not be made absolute until the expiration of six weeks from its grant unless the court by special order fixes a shorter period.
 - (2) Where the period of six weeks mentioned in paragragh (1) would expire on a day on which the registry of the court is closed, the period shall be extended until the end of the first day thereafter on which the registry is open.

Made this 11th day of April 1988.

D. R. Davis, Chief Justice.

The Road Traffic (Amendment) Ordinance 1987. (No. 34 of 1987)

The Road Traffic (Amendment) Ordinance 1987 (Commencement) Order 1988

(S.R. & O. No. 6 of 1988)

1. This Order may be cited as the Road Traffic (Amendment) Ordinance 1987 (Commence-Short Title, ment) Order 1988 and shall come into effect on the day it is published in the Gazette.

2. The Road Traffic (Amendment) Ordinance 1987 shall, pursuant to section 1 thereof, come into force on the same day as this Order comes into force under paragraph 1 of this Order.

Commencement of Ordinance No. 34 of 1987.

Made this 13th day of May 1988.

G. W. JEWKES, Governor.

Administration of Justice (Amendment) Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short Title.
- 2. The principal Ordinance.
- 3. Repeal and replacement of section 4 (3) of the principal Ordinance.
- 4. Amendment of section 7H of the principal Ordinance.

Administration of Justice (Amendment) Bill 1988 (No. of 1988

A Bill

for

An Ordinance

To amend the Administration of Justice Ordinance.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Administration of Justice (Amendment) Ordinance Short title. 1988.

2. In this Ordinance, "the principal Ordinance" means the Adminstration of Justice Ordinance (Cap.3).

3. Section 4 (3) of the principal Ordinance is repealed and replaced by the following new section 4(3) —

"(3) to hear and determine civil cases where the amount claimed does not exceed \pounds 1,000, and actions for possessions of land where the land the subject of the action consists only of a dwelling house and land used incidentally to the enjoyment of that dwelling house, and where such an action includes a money claim for arrears of rent, mesne profits or damages related to the use of the dwelling house by the defendent if that money claim does not exceed or does not in aggregate exceed £1,000."

- 4. Section 7H of the principal Ordinance is amended
 - (a) by the deletion of the symbol and figures "£1,000" and by substituting in their place the symbol and figures "£5,000";
 - (b) by the deletion of the full stop at the end of the section and by the addition to the section of the words and punctuation —

"or a magistrate would have jurisdiction to try the matter under section 4(3) of this Ordinance."

OBJECTS OF THE BILL

The objects are to amend the principal Ordinance so as to -

- (a) enable actions for possession of dwelling houses to be tried by a magistrate or the Senior Magistrate;
- (b) to extend the ordinary civil jurisdiction of the Senior Magistrate from £1,000 to £5,000.

The principal Ordinance.

Repeal and replacement of section 4 (3) of the principal Ordinance.

Amendment of section 7H of the principal Ordinance.

The Defamation Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

2. Adoption of certain Acts.

Schedule 1 Acts adopted as law of the Falkland Islands.

Schedule 2 Part I General Modifications.

Part II Modifications to Defamation Act 1952 in its application to the Falkland Islands.

The Defamation Bill 1988 (No. of 1988)

A Bill

for

An Ordinance

To adopt certain Acts as law of the Falkland Islands, subject to certain modifications and adaptations.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Defamation Ordinance 1988.

Short title. Adoption of

certain Acts.

2. The Acts mentioned in Schedule 1 as law of the Falkland Islands are, subject to the modifications and adaptations set out in Schedule 2 in relation thereto, adopted as law of the Falkland Islands and shall have effect therein accordingly.

SCHEDULE 1

(Acts adopted as law of the Falkland Islands)

1. The Libel Act 1792 (32 Geo. 3 c.60)

2. The Criminal Libel Act 1819 (60 Geo. 3 & 1 Geo. 4 c.8)

3. The Libel Act 1843 (6 & 7 Vict. c.96)

4. The Libel Act 1845 (8 & 9 Vict. c.75)

5. The Newspapers, Printers and Reading Rooms Repeal Act 1869 (32 and 33 Vict. c.24)

6. The Newspapers Libel and Registration Act 1881 (44 & 45 Vict. c.60)

7. The Law of Libel Amendment Act 1888 (51 and 52 Vict. c.64)

8. The Slander of Women Act 1891 (54 and 44 Vict. c.51)

9. The Defamation Act 1952 (15 & 16 Geo. VI and 1 Eliz.2 c.66).

SCHEDULE 2

Part I

General Modifications

In their application to the Falkland Islands by virtue of section 2 and Schedule 1 the Acts mentioned in Schedule 1 shall have effect as if -

- (a) for every reference to "the United Kingdom", "Great Britain" or "England" there were substituted a reference to the Falkland Islands;
- (b) for every reference to "Her Majesty's Attorney General or Solicitor General in England or Her Majesty's Advocate in Scotland" (however expressed) there were substituted a reference to the Attorney General;
- (c) every definition of "the registrar" were in terms defining "the registrar" as being the Registrar General and as if every reference to the Board of Trade were substituted by a reference to the Registrar General;
- (d) every reference to a penalty as being "not exceeding level 2 on the standard scale" were a reference to a fine not exceeding £100, and as if every reference to a penalty as being "not exceeding level 3 on the standard scale" were a reference to a fine not exceeding £250.

Part II

Modifications to Defamation Act 1952 in its application to the Falkland Islands

In its application to the Falkland Islands by virtue of section 2 and Schedule 1 the Defamation Act 1952 ("the Act") (in addition to the modifications effected by Part I of this Schedule) shall have effect as if -

- (a) every reference in the Act to "the High Court" were a reference to the Supreme Court;
- (b) the words "thirty-six days" in section 7(2) of the Act read "three months";
- (c) section 9(1) of the Act were omitted;
- (d) the following subsection were substituted for section 9(3) of the Act -

"(3) In this section "broadcasting station" means any station providing broadcasting services for general reception and operated by or with the consent or licence of the Governor or the Government of the Falkland Islands.";

- (e) The words "to the Legislative Council" were substituted for the words "to a local authority or to Parliament" in section 10 of the Act;
- (f) section 14 of the Act were omitted;
- (g) for the purposes only of section 16(3) of the Act (definition of "broadcasting by means of wireless telegraphy") the Wireless Telegraphy Act 1949 had been adopted by this Ordinance as law of the Falkland Islands;
- (h) in paragraph 2 of Schedule 1 to the Act the words "or the Government of the Falkland Islands" appeared immediately after the words "Her Majesty's Government in the United Kingdom" and the word "either" were thereafter substituted for the word "that" thereinafter appearing; and
- (i) there were substituted for paragraph 10 of the Schedule to the Act the following paragraph —

"10. A fair and accurate report of the proceedings at any meeting or sitting (whether in the Falkland Islands or in the United Kingdom, as the case may be) of -

- (a) the Legislative Council or any committee thereof;
- (b) either House of the Parliament at Westminster or any committee of either or both of such Houses;

- (c) the Senior Magistrate or other Magistrate or any Justice or Justices of the Peace acting otherwise than as a court exercising judicial authority;
- (d) any commission, tribunal, committee or person appointed for the purpose of any inquiry by Act of Parliament, Ordinance, by Her Majesty, by the Governor or by a Minister of the Crown;
- (e) any other tribunal, board, committee or body constituted by or under and exercising functions under any Act of Parliament or Ordinance,

not being a meeting or sitting admission to which is denied to representatives of newspapers and other members of the public."

OBJECTS

To make clearer provision for the law of libel in the Falkland Islands and to adopt (in addition to the Acts mentioned in paragraphs 1 to 8 of Schedule 1 which already apply and are now specifically applied) the Defamation Act 1952, subject to the modifications to the Act set out in Schedule 2.



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NOTICE

The following are published in this Gazette —

The Finance and Audit Bill 1988;

The Fisheries (Conservation and Management) (Amendment) Bill 1988;

The Legal Practitioners Bill 1988;

The Public Health (Amendment) Bill 1988;

The Road Traffic (Amendment) Bill 1988.

The Finance and Audit Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

PART I PRELIMINARY

Clause

- 1. Short Title and commencement.
- 2. Interpretation.

PART II

PUBLIC FINANCE

- 3. Consolidated Fund.
- 4. All public monies to be accounted for in the public accounts of the Islands.
- 5. Payments into Consolidated Fund.
- 6. Payments from Consolidated Fund.
- 7. Annual Estimates.
- 8. Appropriation.
- 9. Authorisation of expenditure in advance of appropriation.
- 10. Authorisation of expenditure in excess.
- 11. Special Funds.
- 12. Trust Funds.
- 13. Trusts.
- 14. Power to issue directions.

PART III

CONTROL AND MANAGEMENT OF PUBLIC FINANCES

- 15. Duties of Financial Secretary.
- 16. Powers of Financial Secretary.
- 17. Powers and duties of Treasurer.
- 18. Accounting officer and accountable officers to obey Financial Instructions, regulations and directions.
- 19. Consolidated Fund monies to be kept with specified banks.
- 20. Bank accounts.
- 21. Revenues and other monies to be paid into Consolidated Fund.
- 22. Statutory payments.
- 23. Authorisation of voted expenditure.
- 24. Investment of monies.

- 25. Advances.
- 26. Contingencies Fund.
- 27. Imprests.
- 28. Appropriations and warrants to lapse at the end of financial year.
- 29. Administration of Special Funds.
- 30. Dissolution of Special Funds.
- 31. Administration of Trust Funds.
- 32. Accounting officers.
- 33. Disbursement of and accounting for expenditure on Consolidated Fund services.
- 34. Existing investments.
- 35. Restrictions on borrowing.
- 36. Guarantees.
- 37. Re-allocation within supply votes.

PART IV

DEPOSITS

38. Deposits.

- 39. Investment of deposits.
- 40. Deposits may be used to finance advances.
- 41. Unclaimed deposits.
- 42. Treasurer to administer deposits and make refunds.

PART V

PRINCIPAL AUDITOR

- 43. Appointment of Principal Auditor.
- 44. Remuneration of Principal Auditor.
- 45. Tenure of office.
- 46. Vacancy in office of Principal Auditor.
- 47. Acting Principal Auditor.
- 48. Duties of Principal Auditor.
- 49. Powers of Principal Auditor.
- 50. Powers of Principal Auditor not subject to directions.
- 51. Financial Secretary may authorise Principal Auditor to dispense with examination of vouchers.
- 52. Vouchers which are lost or inadvertently destroyed.
- 53. Principal Auditor not to be required to undertake pre-audit or any duties incompatible with his office.
- 54. Staff and delegation of functions.

PART VI

THE AUDIT AND EXAMINATION OF PUBLIC ACCOUNTS.

- 55. Annual Accounts.
- 56. Report on accounts and special reports.
- 57. Financial Secretary to lay documents transmitted.
- 58. Documents laid to be dealt with in manner prescribed.

59. Notification of irregularities.

PART VII

EXAMINATION AND AUDIT OF THE ACCOUNTS OF STATUTORY CORPORA-TIONS, BOARDS, BODIES AND COMMISSIONS.

- 60. Examination and audit of accounts of statutory corporations and similar bodies.
- 61. Financial Secretary to obtain observations on report of Principal Auditor.
- 62. Audit fees be charged.
- 63. Abandonment of claims, etc. and write-off of public monies and stores.
- 64. Disposal of serviceable stores or property to certain organisations.

part ix

SURCHARGE BY THE FINANCIAL SECRETARY

- 65. Power to surcharge.
- 66. Notification of surcharge.
- 67. Appeal against surcharge.
- 68. Recovery of surcharge.

The Finance and Audit Bill 1988 (No. of 1988)

A Bill for

An Ordinance

to make detailed provision relating to the audit of public funds, to provide for the management of public funds of the Islands, the appropriation of funds for the expenditure of the Government, the withdrawal issue of sums from public funds, the audit of public accounts and matters connected therewith and incidental thereto.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows —

PART I

PRELIMINARY

1. This Ordinance may be cited as the Finance and Audit Ordinance, 1988, and shall come into force on such day as the Governor, by Notice published in the Gazette, shall appoint.

Short title and commencement. Interpretation.

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

"accountable officer" means any public officer, including an accounting officer and a receiver of revenue, concerned in or responsible for the collection, receipt, custody, issue or payment of public monies, stores, stamps, investments, securities or negotiable instruments whether the same are the property of the Goverment or on deposit with or entrusted to the Government or to any public officer in his official capacity either alone or jointly with any other public officer or any other person;

"accounting officer" means any public officer appointed under the provisions of this Ordinance and charged with the duty of accounting for any service in respect of which monies have been appropriated; "Appropriation Ordinance" means any Ordinance to apply a sum out of the Consolidated Fund to the service of a financial year and includes a Supplementary Appropriation Ordinance;

"Consolidated Fund" means the Consolidated Fund referred to in section 69 of the Constitution;

"the Constitution" means Schedule 1 to the Falkland Islands Constitution Order 1985;

"Crown Agents" means the Crown Agents for Overseas Governments and Administrations;

"Debt charges" has the meaning given by section 73(2) of the Constitution;

"Financial Instructions" means the directions and instructions issued by the Financial Secretary as Financial Instructions under section 16(1);

"Financial Secretary" includes any person for the time being acting in the office of Financial Secretary;

"financial year" means the twelve months ending on the thirtieth day of June in any year;

"General Orders" means the General Orders issued from time to time by the Governor defining the conditions of service of public officers:

"Government" means the Government of the Falkland Islands;

"Joint Consolidated Fund" means the fund administered by the Crown Agents in the United Kingdom for the investment of funds lodged by overseas governments and territories;

"Legislative Council" means the Legislative Council of the Falkland Islands;

"Standing Finance Committee" means the standing Committee of that name of the Legislative Council in accordance with that Council's standing orders for the time being in force;

"public monies" includes -

- (a) all revenues or other monies raised or received for the purpose of the Government of the Islands;
- (b) any other monies or funds held, whether temporarily or otherwise, by any public officer in his official capacity, either alone or jointly with any other person, whether public officer or not;

"public stores" means all chattels of whatsoever nature the property of or in possession of or under the control of the Government;

"statutory expenditure" means expenditure charged on the Consolidated Fund by any written law (including this Ordinance) other than an Appropriation Ordinance;

"Supplementary Appropriation Ordinance" means any Ordinance the purposes of which is the appropriation of monies in supplementation of the appropriation already made by an Appropriation Ordinance;

"supply vote" means the total sums appropriated out of the Consolidated Fund for and applied to any purpose by an Appropriation Ordinance;

"the Treasurer" means the Deputy Financial Secretary;

"Trust Fund" means a fund as defined in section 12.

PART II

PUBLIC FINANCE

3. There shall continue to be one revenue fund for the Falkland Islands which shall be styled the Consolidated Fund.

4. All public monies shall be accounted for in the public accounts of the Falkland Islands.

5. Except as otherwise provided in this Ordinance, all revenues and other monies raised or received for the purpose of the Government (not being revenues or other monies which are payable by or under any law, including this Ordinance, into some other fund) shall be paid into and form part of the Consolidated Fund.

6. (1) No monies shall be paid out of the Consolidated Fund except -

- (a) to meet expenditure which is chargeable upon the Consolidated Fund by any law, including this Ordinance;
- (b) where the payment of those monies has been authorised by an Appropriation Ordinance or by a warrant under the hand of the Governor given in accordance with the provisions of this Ordinance;
- (c) for the purpose of repaying any monies received in error by the Consolidated Fund; or
- (d) for the purpose of paying such sums as may be required for any refund, rebate or drawback where the payment of such refund, rebate or drawback is provided for in any Ordinance.

(2) No monies shall be paid out of the Consolidated Fund except in the manner prescribed by this Ordinance.

(3) Any monies forming part of the Consolidated Fund which are -

- (a) deposited with a bank or with the Crown Agents; or
- (b) invested in a manner authorised for the investment of property in the hands of trustees by any law for the time being in force in the United kingdom,

shall not, for the purpose of this section, be deemed to have been issued from the Consolidated Fund.

7. (1) The Financial Secretary shall cause to be prepared and laid before the Legislative Annual Council, before or not later than thirty days after the commencement of each financial estimates. year, estimates of revenue and expenditure of the Government for the next following year.

(2) The estimates of revenue and expenditure laid before the Legislative Council shall be in such form as the Financial Secretary may from time to time direct -

Provided that -

- (a) the estimates of statutory expenditure shall show the sums to be issued from the Consolidated Fund to meet the expenditure on each service and shall contain a reference to the law authorising expenditure on such service to be charged on the Consolidated Fund;
- (b) the estimates of each expenditure vote shall -
 - (i) describe the ambit of the vote;
 - (ii) show the sum required to be supplied for such vote by appropriation; and
 - (iii) contain a reference to the accounting officer appointed in respect of each vote.

8. (1) The expenditure votes contained in the estimates for a financial year shall be included in a Bill which shall be introduced for debate in the Legislative Council to provide for the issue from the Consolidated Fund of the sums necessary to supply those votes and for the appropriation of those sums for the purposes specified in the Bill.

Appropriation.

the public accounts of the Islands. Payments into Consolidated

All public monies to be ac-

Payments from Consolidated Fund.

Fund

(2) Subject to section 26, if in the course of any financial year it is found that the sum appropriated for that financial year for any purpose by an Appropriation Ordinance is insufficient or that a need has arisen for which no sum has been appropriated, a supplementary estimate of the sum required to meet such deficiency or such need, as the case may be, shall be laid before the Legislative Council and shall be included in a Supplementary Appropriation Bill for appropriation.

9. (1) If the Appropriation Ordinance has not come into operation at the commencement of any financial year the Governor shall authorise by warrant under his hand to the Financial Secretary in respect of supply votes the issue of monies from the Consolidated Fund for the purpose of meeting the expenditure necessary to carry on the service of the Government until the expiration of four months from the beginning of that financial year or the coming into force of the Appropriation Ordinance whichever is the earlier:

Provided that the sum so authorised shall not exceed one third of the aggregate of the sums provided for such services in the Appropriation Ordinance of the previous financial year.

(2) On receipt of any warrant issued in accordance with subsection (1), the Financial Secretary may permit expenditure of monies to the extent and in accordance with the tenor of that warrant

(3) Any sums so expended shall be set off against the amounts respectively provided in the Appropriation Ordinance upon the same coming into operation.

10. (1) If at the close of account for any financial year it is found that monies have been expended -

Authorisation of expenditure in excess.

Authorisation of expenditure in

advance of ap-

propriation.

- (a) on any expenditure vote in excess of the sum appropriated therefor by an Appropriation Ordinance;
- (b) for a purpose for which no monies have been voted and appropriated; or
- (c) on any subhead of an expenditure vote in excess of the sum assigned thereto in the estimates of expenditure for the financial year and for which no further sum has been applied pursuant to section 37,

the amount so expended shall be included in a Statement of Expenditure in Excess which shall be laid before the Legislative Council and the sum required to meet such excess or such amount as shall be allowed shall be included in a Supplementary Appropriation Bill for appropriation:

Provided that in the case of expenditure in excess on any subhead the Financial Secretary may direct, pursuant to section 37, that the sum required to meet such excess shall be provided out of any surplus arising on any sum assigned to any other subhead within the same vote.

11. (1) The Legislative Council, with the prior concurrence of the Secretary of State, may —

- (a) make provision in any Appropriation Ordinance for the establishment of a Special Fund; and
- (b) by resolution hypothecate revenue for any Special Fund so established.

(2) A Special Fund shall not form part of the Consolidated Fund and shall be administered, and the expenditure therefrom shall be regulated, in accordance with the provisions of this Ordinance.

12. (1) For the purpose of this Ordinance "Trust Fund" means -

Trust Funds.

Special Funds.

(a) any fund established by an Ordinance other than an Appropriation Ordinance; or (b) any fund of monies held by or deposited with or entrusted to the Government pursuant to the terms of a deed or trust, trust intrument, agreement whether expressed or implied or any arrangement governing the use of the monies so held.

(3) A Trust Fund shall not form part of the Consolidated Fund and, subject to section 13, shall be administered in accordance with the provisions of this Ordinance.

13. (1) Nothing in this Ordinance shall extend to, abridge, or alter the terms of any trust Trusts. or shall be construed as authorising the making of any regulation or the giving of any directions or instructions requiring any person to obey such regulations, directions or instructions in relation to monies held on trust which contravene or are inconsistent with the terms of such trust.

(2) No public officer shall accept appointment as a trustee of a Trust Fund without the prior written authority of the Governor and any appointment contrary to this subsection shall be void.

14. The Governor may issue to the Financial Secretary such directions not inconsistent with the provisions of this Ordinance as may appear to him to be necessary and expedient for the proper carrying out of the intent and purpose of this Ordinance:

Provided that such directions as are in force for like purposes at the coming into operation of this Ordinance shall continue in force insofar as they are applicable until superseded by directions issued under this section.

PART III

CONTROL AND MANAGEMENT OF PUBLIC FINANCES

15. The Financial Secretary shall so supervise the finances of the Government as to ensure that a full account is made to the Legislative Council and for such purposes shall, subject to this Ordinance, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of the Government.

16. (1) The Financial Secretary -

- (a) may give such directions and instructions as may appear to him to be necessary and expedient for the advantage, economy and safety of public monies and public property and shall give special accounting instructions to be known as Financial Instructions;
- (b) shall take all proper steps to ensure that any directions issued under section 14 and any directions and instructions given pursuant to the provisions of this section are brought to the notice of all persons directly affected thereby; and
- (c) shall be entitled to inspect all offices and shall be given access at all times thereto and shall be given all available information he may require with regard to the monies and property to which this Ordinance applies and to all documents and records in respect thereof; and

Duties of Financial Secretary.

Powers of Financial Secretary.

Power to issue directions.

(d) shall be entitled to inspect the monies and property specified in section 18 so far as may be necessary for the purpose of ensuring compliance with any directions issued under section 14 and any directions or instruction given pursuant to paragraph (a).

(2) The Financial Secretary may delegate by writing under his hand all or any of the powers conferred upon him by subsection (1)(c) and (d).

(3) Without prejudice to the generality of subsection (1) and this subsection Financial Instructions shall provide for -

- (a) the collection, custody, issue, expenditure, due accounting for, care and management of all public funds and the guidance for all persons concerned therewith;
- (b) the effectual recording, examination, inspection and departmental checking of all receipts, payments and expenditure and the keeping of all necessary books and accounts;
- (c) the forms for all accounts, books, returns and documents whatsoever required for the proper accounting for public monies and public stores;
- (d) the purchase, safe custody, issue, sale or other disposal or writing-off of stores and other property of the Government and the proper accounting for and stocktaking of such stores and property;
- (e) the custody, handling and the proper accounting for stamps, investments, securities or negotiable instruments whether the property of Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or any other person;
- (f) the reporting of losses, by whatever means, of public money, stamps, accountable documents of whatever kind and public stores and the reporting of the damage to or destruction of any property of the Government; and
- (g) the issue of public tenders and the powers and duties of tender boards;

Provided that such directions and instructions as are in force for like purposes at the coming into operation of this Ordinance shall continue in force insofar as they are applicable until superceded by directions or instructions issued under this section.

17. (1) The Treasurer, in the discharge of his duties as the officer charged with the compilation and management of the accounts of the Government and with the conduct of the Treasury, may, with the prior written approval of the Financial Secretary, give general instructions not inconsistent with this Ordinance and Regulations made thereunder, and may in his discretion give special accounting instructions:

Powers and duties of Treasurer.

Provided always that such special accounting instructions shall not conflict with or extend to abridge or amend Financial Instructions or any other direction or instruction given by the Financial Secretary under the provisions of section 16.

(2) Without prejudice to the generality of the duties imposed on the Treasurer by subsection (1) and to the powers conferred on the Financial Secretary by section 16, the Treasurer shall -

- (a) ensure that all monies received and paid by Government are brought promptly and properly to account;
- (b) refuse payment on any vouchers wrong or insufficient in content or that contravene Financial Instructions or any other regulations, directions or instructions properly made or given under the provisions of this Ordinance for the management of public monies, or that are in his opinion in any other way unacceptable in support of a charge on public funds;

- (c) report to the Financial Secretary in writing any apparent defect in departmental control of revenue, expenditure, cash, stamps, stores and other property of the government and any breach or non-observance of Financial Instructions that may come or be brought to his notice; and
- (d) ensure, insofar as is practicable, that adequate provisions exist for the safe custody of public monies, stamps securities and other accountable documents.

18. Every accounting officer and every accountable officer shall comply with Financial Instructions, shall obey all regulations made and directions or instructions given by the Financial Secretary under section 16 or under powers delegated by him under that section and all instructions that may from time to time be given by the Treasurer under section 17 or in respect of the custody and handling of and the accounting for public monies, public stores, stamps, investments, securities or negotiable instruments whether the property of the Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or to any other person.

19. All sums accounted for in the Consolidated Fund shall be kept with such bank or banks as the Financial Secretary shall from time to time determine:

Provided that this section shall not apply to monies invested under the provisions of section 24.

20. No public or official account shall be opened at any bank without the prior written authority of the Financial Secretary.

21. (1) Except as is otherwise provided in this Ordinance, all revenues and other monies received for the purpose of the Government shall be paid into the Consolidated Fund in accordance with Financial Instructions or any other instructions of the Financial Secretary and of the Treasurer relating thereto.

(2) For the avoidance of doubt it is hereby declared that the reference to monies raised or received for the purpose of the Government does not include monies received on deposit or held in trust.

22. The Financial Secretary shall authorise the Treasurer from time to time on his requisition, if satisfied as to the correctness thereof, to pay out of the Consolidated Fund the sums falling due during the financial year for statutory expenditure.

23. (1) Subject to subsection (2) and any directions issued under section 14, on the coming into operation of the Appropriation Ordinance and any Supplementary Appropriation Ordinance, the Governor shall authorise the Treasurer by General Warrant under his hand to pay out of the Consolidated Fund such sums as may be required for the supply votes; and

(2) Notwithstanding the issue of a General Warrant it shall be within the discretion of the Governor to limit or suspend at any time expenditure (not being statutory expenditure) with or without cancellation of the Warrant if, in his opinion, financial exigencies or the public interest so require.

24. (1) The Financial Secretary may authorise the investment of monies forming part of the Consolidated Fund with a bank, either at call or subject to notice not exceeding twelve months or with the Joint Consolidated Fund or in a manner authorised for the investment of property in the hands of trustees by any law for the time being in force in the United Kingdom.

(2) All investments made under this section together with any interest received therefrom shall form part of the Consolidated Fund.

25. (1) Subject to the provisions of this section, the Governor may, by advance Warrant A under his hand authorise the Treasurer to make disbursements of monies forming part of the Consolidated Fund or of other public monies for the purpose of making advances —

Advances.

(a) on behalf of, and recoverable from, other governments and administrations;

Accounting officer and accountable officers to obey Financial Instructions, regulations and directions.

Consolidated Fund monies to be kept with specified banks.

Bank accounts.

Revenues and other monies to be paid into the Consolidated Fund.

Statutory payments.

Authorisation of voted expenditure.

Investment of monies.

- (b) to, or on account of, trusts and other funds administered by the Government;
- (c) to, or on behalf of public bodies, institutions or individuals where such advances are, in the opinion of the Governor, in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances are made; or
- (d) to public officers for such puposes and on such terms as may be prescribed from time to time by General Orders.

(2) The total of the sums issued and disbursed for the purpose of making advances under (b), (c) and (d) of subsection (1) shall not exceed in aggregate at any time, after deducting repayments, an amount of one million pounds.

26. (1) In order to defray unforeseen and urgent expenditures for which no other provision exists, the Financial Secretary may establish a Contigencies Fund by issue from the Consolidated Fund of sums not exceeding in the aggregate the amount of two and half per cent of the total sums appropriated by the appropriation legislation enacted in relation to the preceeding financial year.

Contingencies Fund.

(2) The Financial Secretary, if he is satisfied that, due to exceptional circumstances which could not have been foreseen, an urgent need for expenditure has arisen -

- (a) for which no monies have been appropriated or for which the sum appropriated is insufficient;
- (b) for which funds cannot be provided under the provisions of section 37; and
- (c) which cannot be deferred without serious detriment to the public service;

may, by Contingencies Warrant under his hand, and in anticipation of the grant of an appropriation by the Legislative Council, authorise an advance from the Contingencies Fund to meet that need and shall forthwith report his action to the Executive Council.

(3) Where any advance is made from the Contingencies Fund under the provisions of this section a supplementary estimate of the sum required for the service for which such advance was made shall be presented to the Legislative Council at its meeting next following the date on which the Contingencies Warrant was issued and shall be included in a Supplementary Appropriation Bill for appropriation.

(4) Upon the grant of an appropriation to meet the expenditure in respect of which an advance was made under the provisions of this section, the Contingencies Warrant authorising such advance shall lapse and shall cease to have effect and the advance shall be deemed to have been made for the purpose of the grant and shall be accounted for accordingly.

(5) Nothing in this section shall be construed as permitting the avoidance of the terms and conditions attached to the grant of monies to the Government by the Government of the United Kingdom or by any other government, institution or authority or of any instruction which may for the time being be in force regulating the issue of monies from United Kingdom funds.

27. (1) The Financial Secretary may, by Imprest Warrant under his hand, authorise the Treasurer to issue imprests from the Consolidated Fund to public officers for any purpose for which monies have been appropriated therefrom.

Imprests.

(2) Except as otherwise provided in subsection (4) any public officer to whom an imprest has been issued pursuant to subsection (1) shall retire such imprest before the end of the financial year in which the imprest was issued or, if some earlier date is specified in the Imprest Warrant, on or before such earlier date.

(3) Where any public officer to whom subsection (2) applies fails to retire an imprest in accordance with the provisions of that subsection, the Treasurer shall forthwith recover the amount of the imprest by deduction from the salary or other emoluments of such public officer. (4) A public officer to whom an imprest has been issued pursuant to subsection (1) for the purpose of his travelling on duty outside the Falkland Islands shall retire such imprest in such manner and at such time as the Financial Secretary shall, by directions given under section 16, require, and where any public officer to whom this subsection applies fails to comply with such directions the Treasurer shall forthwith redeem the amount of the imprest by deduction from the salary or other emoluments of such public officer in such manner as the Financial Secretary may direct.

(5) Notwithstanding the provisions of this Ordinance, or of any other law, an elected member of the Legislative Council shall, for the purpose of this section, be deemed to be a public officer.

28. Except as otherwise provided in this Ordinance, every appropriation by the Legislative Council of public monies for the service of any financial year and every warrant issued under this Ordinance shall lapse and cease to have effect at the close of that financial year.

29. (1) An accounting officer shall be appointed in respect of each Special Fund to administer such Fund and to control and account for the payment of monies therefrom and shall be personally accountable therefor.

(2) Without prejudice to the generality of section 16, the Financial Secretary shall, in respect of each Special Fund, give directions for the administration and control thereof and for regulating the payment of monies thereto and the expenditure of monies therefrom.

(3) A Special Fund shall be kept in a separate account by the Treasurer or, where by virtue of the directions given by the Financial Secretary in relation to that Fund pursuant to subsection (2) some other public officer is appointed the accounting officer for the Fund, by that accounting officer:

Provided that it shall be lawful for the Treasurer to keep the account on behalf of such accounting officer.

(4) Notwithstanding section 21 and 22 neither the receipts nor accruals of a Special Fund nor any balance of monies standing to the credit of a Special Fund at the close of a financial year shall be paid into the Consolidated Fund but shall be retained for the purpose of that Special Fund.

(5) The Financial Secretary may authorise the investment of monies standing to the credit of a Special Fund in like manner to that provided by section 24 in respect of the Consolidated Fund.

30. (1) If —

- (a) the monies in a Special Fund are exhausted and no legal provisions exist whereby further monies may be paid into that Special Fund; or
- (b) the objects for which a Special Fund was established are fulfilled or cease to exist and in the opinion of the Financial Secretary there is no likelihood that any objects for which that Special Fund could lawfully be used will arise in future,

the Governor may, by Order published in the Gazette, dissolve such Special Fund.

(2) The monies remaining in any Special Fund dissolved by virtue of an Order under subsection (1) made pursuant to paragraph (b) thereof shall thereupon be paid into and shall form part of the Consolidated Fund.

31. (1) A Trust Fund shall be administered and the payment of monies therefrom shall be governed by the terms of the law, deed of trust, trust instrument or agreement as the case may be creating such Trust Fund.

(2) If in relation to any Trust Fund no such law, deed of trust, trust instrument or agreement exists, or exists but the Financial Secretary considers that inadequate provision is made

Dissolution of Special Funds.

Administration of Trust Funds.

Appropriations and warrants to lapse at the end of Financial year.

Administration of Special Funds. therein for the administration of such Trust Fund or for the control of payments thereto or expenditure therefrom or for the proper accounting therefor, he shall subject to section 13 -

(a) appoint a public officer to be the accounting officer for such Trust Fund; and

(b) give directions in respect of such matters in relation to that Trust Fund.

(3) The accounting officer for a Trust Fund shall be personally accountable for all monies received by or disbursed from and held in such a Fund.

(4) Subject to section 13 and this section, the Financial Secretary may authorise the investment of monies standing to the credit of a Trust Fund in like manner to that provided by section 24 in respect of the Consolidated Fund.

32. (1) An accounting officer shall be appointed by relation to office by the Governor in respect of each expenditure vote to control and account for the expenditure of monies applied to that vote by an Appropriation Ordinance.

Accounting officers.

(2) An accounting officer shall be personally accountable for all public monies received, ed, collected or disbursed and for all public monies received, held or disposed of by or on account of the department or service for which the vote for which he is accounting officer is provided.

(3) An accounting officer may, with the prior written approval of the Financial Secretary, appoint a public officer under his control to be the receiver of revenue for the collection of any item of revenue for which he is accountable to the Legislative Council and shall define in writing to the satisfaction of the Financial Secretary the extent to which the powers and duties conferred and imposed on him in respect of the receipt and collection of public monies for which he is accounting officer shall be exercised or performed on his behalf by such receiver of revenue.

(4) The appointment of a receiver of revenue under subsection (3) for the collection of any item of revenue shall not abate or abridge the personal accountability of the accounting officer making the appointment for that item of revenue.

(5) Without prejudice to subsection (3), the accounting officer may, and shall if so required by the Financial Secretary, define in writing the extent to which the powers and duties conferred and imposed upon him may be exercised or performed on his behalf by any public officer under his control and give such directions as may be necessary to ensure the proper exercise or performance of such powers and duties.

33. (1) In this section the expression "Consolidated Fund Services" means the services of Government, the expense of which is charged on or payable from the Consolidated Fund under or by virtue of any law other than an Appropriation Ordinance, but including this Ordinance.

(2) Subject to section 22, the disbursement of monies provided in any financial year to meet expenditure on the Consolidated Fund Services shall be controlled and accounted for by the Treasurer.

34. All investments held by or on behalf of the Government on the date of the coming into operation of this Ordinance shall, be deemed to have been made out of monies issued from the Consolidated Fund and shall be deemed to form part of that Fund and, not-withstanding that such investments are not such as may be made under section 24, may be retained.

35. (1) The Government shall not borrow money except in accordance with this Ordinance and with the prior approval of the Secretary of State.

(2) The powers conferred by a general or any specific Loans Ordinance or by an Appropriation Ordinance to borrow money by means of advances from a bank or from the Crown Agents may be exercised by means of a fluctuating overdraft.

(3) Debt charges upon any money borrowed by the Government in the manner provided for in subsection (2) shall be charged upon and paid out of the Consolidated Fund without further appropriation than this Ordinance. Disbursement of and accounting for expenditure on Consolidated Fund services.

Existing investments.

Restrictions on borrowing.

36. No guarantee involving any financial liability shall be binding upon the Government unless such guarantee is given in accordance with any other Ordinance or unless it has been approved by the Secretary of State and ratified by resolution of the Standing Finance Committee.

37. (1) If, in the opinion of the Financial Secretary, the exigencies of the public service render it necessary or expedient to vary the sum assigned to any purpose within a supply vote shown in the estimates of expenditure for any financial year or to make provisions for a new purpose within such vote, he may direct by means of a Virement Warrant that there shall be applied in aid of any purpose for which the sum assigned may be deficient or in aid of any new purpose a further sum out of any surplus arising on any sum assigned to any other purpose within the same supply vote:

Provided that ---

- (a) the sum appropriated for any supply vote by the Appropriation Ordinance and by any Supplementary Appropriation is not thereby exceeded; and
- any new purpose to which any sum is assigned shall be within the ambit of (5) the vote.

(2) Any Virement Warrant issued under subsection (1) shall be laid before the Standing Finance Committee at its meeting next following the date on which such Virement Warrant was signed.

(3) Nothing in this section shall be construed as permitting the avoidance of the terms and conditions attached to the grant of monies to the Government by the Government of the United Kingdom or by any other government, institution or authority or of any instructions which may for the time being be in force regulating the issue of monies from United Kingdom funds.

PART IV

DEPOSITS

38. Any monies, not being raised or received for the purposes of the Government, which Deposits. may be deposited with the Treasurer or with any other public officer authorised by the Treasurer or by regulations made under this Ordinance to receive the same (such monies hereinafter referred to as deposits) shall not form part of the Consolidated Fund and, except as provided in this Part, shall not be applied in any way for the purposes of Government.

39. (1) The Financial Secretary may authorise the investment of deposits in like manner to that provided by section 24(1) in respect of the Consolidated Fund.

(2) Any interest or dividend received in respect of deposits invested in accordance with subsection (1) shall be paid into the Consolidated Fund.

40. The Financial Secretary may authorise the Treasurer to use deposits for the purposes of making advances for all or any of the purposes specified in section 25(1):

Provided that deposits shall not be used where the advance in question is repayable or recoverable as the case may be after close of the financial year in which the advance is made.

41. Any deposit which is unclaimed for five years may, with the approval of the Treasurer, be paid into the Consolidated Fund for the public purposes of the Government:

Provided that if any person entitled thereto shall subsequently prove to the satisfaction of the Treasurer his claim to any such deposit the Treasurer shall thereupon refund to such person his deposit.

42. Subject to the provisions of this Part, the Treasurer is hereby authorised to administer and, in appropriate cases, to refund deposits to the persons entitled to them.

Investment of deposits.

Deposits may be used to finance advances.

Unclaimed deposits.

Treasurer to administer deposits and make refunds.

Guarantees.

Re-allocation within supply votes

PART V

PRINCIPAL AUDITOR

43. (1) In accordance with section 76 of the Constitution and Regulation 19 of Colonial Regulations the Governor in his discretion and with the prior approval of the Secretary of State shall appoint in writing an officer, to be styled the Principal Auditor, who shall not be capable, while holding the office of Principal Auditor, of holding any other office of profit under the Government.

Provided that the person holding the office of Principal Auditor at the commencement of this Ordinance shall be deemed to have been appointed in pursuance of this section

(2) On any vacancy occurring in the office of Principal Auditor from death, retirement, resignation or other cause, the Governor in his discretion and with the prior approval of the Secretary of State shall appoint in writing a person in his place.

44. (1) Subject to subsection (2) the remuneration of the Principal Auditor shall be at such rate and on such terms as the Governor acting in his discretion shall, from time to time, determine:

Provided that such remuneration shall not be reduced during his tenure of his office without the consent of the Principal Auditor.

(2) The remuneration payable to the Principal Auditor by virtue of this section shall be charged on and issued out of the Consolidated Fund.

45. (1) The Principal Auditor shall hold office during good behaviour and may be removed from office only by the Governor in his discretion with the prior approval of the Secretary of State and in any such case a full statement of the circumstances shall, at the first opportunity, be made to the Legislative Council.

(2) The office of Principal Auditor shall be deemed to be an office in the public service and, save as otherwise provided in subsection (1), as agreed by the Governor the provisions of the law and regulations relating to the public service shall apply to him:

Provided that the terms and conditions of office applicable to the Principal Auditor upon his appointment shall not be made less favourable to him during the currency of his appointment.

46. In the event of the Principal Auditor being unable through illness or for any other cause to perform the duties of his office the Governor, in his discretion and with the prior approval of the Secretary of State, may appoint in writing another person to act as Principal Auditor until such time as the Principal Auditor section **43** to be the Principal Auditor.

47. (1) If, in the opinion of the Governor, the Principal Auditor is likely to be unable to exercise his powers or perform the duties of his office during any period by reason of absence or inability to act from illness or any other cause, the Governor in his discretion and with the prior approval of the Secretary of State, may appoint in writing a public officer to act as Principal Auditor during such period.

(2) Every person appointed to act as Principal Auditor pursuant to section 46 or subsection (1) shall have and may exercise all the powers and authority and shall perform all the duties by this Ordinance conferred and imposed upon the Principal Auditor and section 43(1) shall apply accordingly.

(3) Notwithstanding section 45(2) every public officer appointed to act as Principal Auditor under section 46 or subsection (1) shall, for the period for which such public officer acts as Principal Auditor, be paid such allowance at such annual rate as the Governor acting in his discretion shall determine.

48. The Principal Auditor shall enquire into and audit the accounts of the Treasurer and of accounting officers and of all accountable officers and in his audit he shall make such examination as he may deem necessary to satisfy himself -

 (a) that all reasonable precautions have been taken to safeguard the collection and custody of revenue and that the Ordinance, directions and instructions relating thereto have been duly observed;

Appointment of Principal Auditor.

Remuneration of Principal Auditor.

Tenure of office.

Vacancy in office of Principal Auditor.

Acting Principal Auditor.

Duties of Principal Auditor.

- (b) that monies which have been appropriated and disbursed have been expended to the purposes for which they were appropriated and that the expenditure conforms to the authority which governs it;
- (c) that public monies other than those which have been appropriated have been dealt with in accordance with proper authority;
- (d) that all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of cash, stamps, securities and stores and that the regulations, directions and instructions relating thereto have been duly observed; and
- (e) that adequate regulations, directions or instructions exist for the guidance of accounting officers and accountable officers.

49. (1) In the exercise of the duties imposed upon him by this Ordinance the Principal Auditor may -

Powers of Principal Auditor.

- (a) call upon any officer for any explanations and information which the Prinsipal Auditor may require in order to enable him to discharge his duties;
- (b) authorise any person publicly carrying on the profession of accountant or any public officer to conduct on his behalf an inquiry examination or audit and such person or officer shall report thereon to the Principal Auditor;
- (c) without payment of any fee cause search to be made in and extracts to be taken from any public office; and
- (d) lay before the Attorney-General a case in writing as to any question regarding the interpretation of any Ordinance or regulation concerning the powers of the Principal Auditor or the discharge of his duties, and the Attorney-General shall give a written opinion upon such matter.

(2) In the exercise of his duties the Principal Auditor or any person duly authorised by him in writing shall have access to all records, books, vouchers, documents and to all cash, stamps, securities, stores or other Government property of any kind whatsoever in the possession of any public officer.

50. In the exercise of his powers of audit and reporting on accounts the Principal Auditor shall not be subject to the direction or control of any person or authority.

Powers of Principal Auditor not subject to

51. Notwithstanding sections 48 and 49, in the examination of any account it shall be lawful for the Financial Secretary, in cases where it shall appear to him to be reasonable and expedient for the public service and after satisfying himself that the vouchers relating to the account in question have been examined and certified as correct by the appropriate accounting officer, to authorise the Principal Auditor to admit and allow without further examination the sums so certified in support of the charges to which they relate.

52. In the event that any voucher has been lost or inadvertently destroyed the Financial Secretary may, if upon due enquiry he is satisfied as to the circumstances of such loss or destruction, authorise the payment to stand charged in the accounts.

53. (1) The Principal Auditor shall not be required to undertake any examination of accounts partaking of the nature of a pre-audit which involves the acceptance by him of responsibility which would preclude him from full criticism of any accounting transaction after such transaction has been duly recorded.

(2) The Principal Auditor shall not be required to undertake any duties outside those pertaining to his office if, in his opinion, such duties are incompatible with the responsibilities and duties of that office.

54. (1) The staff required to assist the Principal Auditor in the performance of his duties shall be composed of such officers as the Governor, after consultation with the Principal Auditor, may from time to time determine.

cipal Auditor not subject to directions. Financial

Secretary may authorise Principal Auditor to dispense with examination of vouchers.

Vouchers which are lost or inadvertently destroyed.

Principal Auditor not to be required to undertake preaudit or any duties incompatible with his office.

Staff and delegation of functions.

(2) Anything which, under the authority of this Ordinance or of any other law, is directed to be done by the Principal Auditor, other than certifying of and reporting on accounts, may be done by an officer of his staff so authorised by him in writing.

PART VI

THE AUDIT AND EXAMINATION OF PUBLIC ACCOUNTS

55. (1) Within a period of six months after the end of each financial year there shall be transmitted to the Principal Auditor by the Treasurer accounts showing fully the financial position of the Islands at the end of the year, which shall include —

Annual Accounts.

- (a) a Statement of Assets and Liabilities;
- (b) an Annual Abstract Account of revenue and expenditure by heads and votes respectively;
- (c) a comparative statement of estimated and actual revenue by subhead;
- (d) a comparative statement of estimated and actual expenditure by subheads;
- (e) a statement of expenditure in excess;
- (f) a statement of balances on advance accounts from the Consolidated Fund analysed under the various categories set out in section 25;
- (g) a statement of outstanding loans made from the Consolidated Fund by annual and aggregate receipts and payments;
- (h) a statement of investments showing the Funds on behalf of which such investments have been made;
- (i) a statement of contingent liabilities;
- (j) a statement of arrears of revenue by subheads;
- (k) a statement of Contingencies Fund, Special Fund and Trust Fund balances by annual and aggregrate receipts and payments and showing in respect of each such Fund the investments or other assets relating thereto;
- (1) a statment of losses of cash and stores and abandoned claims;
- (m) a statement of ex-gratis payments;
- (n) a statement of unretired imprests;
- (o) tabular summaries of unallotted stores;
- (p) such other statements as the Legislative Council may from time to time by resolution require.

(2) Within a period of six months after the close of the financial year of the close of such period of account as may be provided in any law or trust instrument relating thereto or in the absence of any such provision, the close of such period of account as may be prescribed by directions given by the Financial Secretary pursuant to section 29(2) or section 31(2) as the case may be —

- (a) any officer administering a Special Fund; and
- (b) any officer adminstering any Trust or other fund or account not provided for in this section,

shall prepare, sign and transmit to the Principal Auditor on account of such fund or account relating to the period of account in such form as the Treasurer may from time to time require.

56. (1) On receipt of the accounts prescribed by section 55 the Principal Auditor shall cause them to be examined and audited and shall, within a period of six months after their receipt prepare, sign and transmit to the Financial Secretary a report on the examination and audit of all such accounts.

Report on accounts and special reports. (2) The Principal Auditor may at any time, if it appears to him desirable, transmit to the Governor a special report on any matter incidental to his powers and duties under this Ordinance.

57. (1) A copy of every document transmitted under section 56 to be laid before the Legislative Council at its next meeting following the date on which such documents were received by the Financial Secretary or the Governor, as the case may be.

58. Every document laid before the Legislative Council in accordance with section 57 shall be dealt with in the manner prescribed by the Legislative Council Standing Orders.

59. If at any time it appears to the Principal Auditor that substantial irregularities have occurred in the receipt, custody, issue or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property, or in the accounting for the same, he shall immediately bring the matter, in writing, to the notice of the Governor.

PART VII

EXAMINATION AND AUDIT OF THE ACCOUNTS OF

STATUTORY CORPORATIONS, BOARDS, BODIES AND COMMISSIONS

60. (1) Notwithstanding anything to the contrary contained in any Ordinance in force on the coming into operation of this Ordinance, the accounts of any statutory corporation, board, body or commission to which this section applies shall be examined and audited by the Principal Auditor.

(2) In the exercise of the duty imposed upon him by subsection (1) the Principal Auditor -

- (a) shall have, in relation to such statutory corporation, board, body or commission and its members, officers and employees, the same powers and discretion as are conferred upon him by sections 48 and 49 in relation to public offers, public monies, stamps, securities, stores or other Government property;
- (b) may authorise any person publicly carrying on the profession of accountant or any public officer to inspect, examine or audit the books and accounts of any corporation, board, body or commission which the Principal Auditor may be required to examine and audit pursuant to this section and such person or public officer shall report thereon to the Principal Auditor in such manner as the Principal Auditor may direct;

(3) The Principal Auditor shall prepare a report on the examination and audit of the accounts referred to in this section and shall transmit such report to the Governor for presentation to the Legislative Council.

(4) This section shall apply to any corporate body established by Ordinance and to any statutory board, body or commission which is not incorporated -

- (a) which is in receipt of a contribution from the public funds of the Falkland Islands; or
- (b) the operations of which may, under the Ordinance establishing the same or under any Ordinance relating thereto, impose or create a liability upon such public funds.

61. On receipt of any account and the report of the Principal Auditor thereon as required by section 60(3), the Governor shall obtain the observations of the corporation, board, body or commission concerned on any matter to which attention has been called by the Principal Auditor in such report and such observations shall be presented to the Legislative Council with the said account and report.

62. Any statutory corporation and board, body or commission the accounts of which are audited by the Principal Auditor under section 60 shall, in respect of such audit, pay such fee as may be determined by the Governor acting in his discretion after consultation with the Principal Auditor.

Financial Secretary to obtain observations on report of Principal Auditor.

Audit fees be charged.

Examination and audit of accounts of statutory corporations and similar bodies.

80

Financial Secretary to lay

documents

transmitted.

in manner prescribed.

Documents laid to be dealt with

Notification of irregularities.

PART VIII

ABANDONMENT OF CLAIMS AND WRITE-OFF OF PUBLIC MONIES AND STORES.

63. The Governor may authorise the Financial Secretary to abandon or remit any claim by or on behalf of the Government or any service thereof and to write-off losses of public monies, stores or other moveable property belonging to Government or provided for the public service.

64. The Financial Secretary may authorise the gift of serviceable stores or property not required for Government purposes to institutions or organisations in the Falkland Islands established solely or principally for education, scientific, cultural or charitable purpose:

Provided that where the value of such stores or property exceeds five thousand the prior approval of the Governor shall be required.

PART IX

SURCHARGE BY THE FINANCIAL SECRETARY.

65. If, at any time, it appears to the Financial Secretary that any person who is or was employed as a public officer -

- (a) has failed to collect any monies owing to the Government for the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of public monies or for any unauthorised expenditure in excess or for any payment of public monies, which is not duly vouched; or
- (c) is or was responsible for any deficiency in or for the loss or destruction of or damage to any public monies, stamps, securities, stores or other Government property,

and if, within a period specified by the Financial Secretary, an explanation satisfactory to him is not furnished with regard to such failure to collect, improper payment, unauthorised expenditure in excess, payment not duly vouched, deficiency, loss, destruction or damage as the case may be, the Financial Secretary may surcharge the said person such sum as he may determine:

Provided that -

- the Financial Secretary in determining the sum to be surcharged shall take due account of the ability of the said person to pay the surcharge without undue financial hardship; and
- (ii) the sum to be surcharged shall not in any case exceed the amount of any such monies not collected or the amount of such improper payment, unauthorised expenditure in excess, payment not duly vouched, deficiency or the value of such loss, destruction, damage as the case may be, or twenty-five per centum of the gross annual salary or pension, as may be applicable, of the said person whichever is the lesser amount.

66. The Financial Secretary shall cause the person surcharged and the Treasurer and the Principal Auditor to be notified in writing of any surcharge made under the immediately preceding section.

67. (1) Any person who is aggrieved by any surcharge made against him under section 65 shall have the right of appeal to the Governor within a period of one month (or such longer period as the Governor, after consultation with the Financial Secretary, may allow) from the date on which he is notified of the surcharge.

(2) The Governor, acting in his discretion after making or causing to be made such investigations as he may deem to be necessary, may confirm the surcharge or direct that the person surcharged be released wholly or in part from the surcharge as may appear to him to be just and reasonable.

68. (1) The Treasurer, on being notified of a surcharge made under section 65 shall cause

Abandonment of claims, etc. and write-off of public monies and stores.

Disposal of serviceable stores or property to certain organisations.

Power to surcharge.

Notification of surcharge.

Appeal against surcharge.

Recovery of surcharge. the amount of the surcharge to be recovered from the person surcharged in such manner as the Financial Secretary may by directions given under subsection (2), authorise:

Provided that no recoveries shall be made until after the expiration of the period allowed under section 67 for the lodging of an appeal:

And provided that where the person surcharged appeals under section 67 no recoveries shall be made until and unless the amount of the surcharged has been confirmed or otherwise determined in accordance with that section.

(2) The amount of any surcharge made under the provisions of this Part shall be recovered by such monthly instalments by deductions from salary, pension or other emoluments or the person surcharged as the Financial Secretary may direct:

Provided that -

- no one such deduction shall exceed twenty- five per centum of the gross monthly salary or pension, as the case may be of the person surcharged;
- (b) the number of instalments shall not exceed twelve: and
- (c) where the person surcharged is due to be paid any monies of whatsoever description by the Government, other than by way of salary or pension, the Financial Secretary may require the amount of any surcharge imposed on that person to be deducted from such monies in whole or in part as he considers just and reasonable.

(3) The provisions of subsections (1) and (2) shall be without prejudice to the right, which is hereby declared, of the Attorney-General, to sue for and recover the amount of any surcharge as a civil debt due to the Government.

Ref: AUD/8/2

OBJECTS AND REASONS

As stated in the long title.

The Fisheries (Conservation and Management) (Amendment) Bill 1988 of 1988) (No.

ARRANGEMENT OF PROVISIONS

Paragragh

1. Short Title.

- 2. The principal Ordinance.
- 3. Amendment of section 20 of the principal Ordinance.

The Fisheries (Conservation and Management) (Amendment) Bill

1988

No. of 1988)

A BH

ÎOF

An Ordinance

To amend the Fisheries (Conservation and Management) Ordinance 1986

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Fisheries (Conservation and Management) (Amend-Short title. ment) Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Fisheries (Conservation and Management) Ordinance 1986.

3. Section 20 of the principal Ordinance is amended by the addition thereto, immediately after subsection (3) thereof, of the following new subsection (4) -

"(4) Nothing in this Ordinance shall be construed so as to require the fees terms and conditions of licences granted for exploratory or scientific purposes (within the meaning given to that phrase by regulation 3 of the Fishing Licences (Applications and Fees) Regulations Order 1987) to be prescribed by Regulations made under this section and any such licence may be granted for such fee (if any) and upon such terms and conditions as may, in respect of the particular licence, have been approved by the Governor."

The principal Ordinance.

Amendment of section 20 of the principal Ordinance

(S R & O No.21 of 1987)

OBJECTS AND REASONS

To enable exploratory and scientific licences to be dealt with on their individual merits.

Ref: FIS/29/8

The Legal Practitioners Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

- 2. Interpretation.
- 3. Entitlement to practice.
- 4. Prohibition Order.
- 5. Saving.

The Legal Practitioners Bill 1988

(No. of 1988)

A Bill

îo P

An Ordinance

To make provision as to the persons who are entitled to practice law in the Falkland Islands and to appear to represent other persons before the courts of the Falkland Islands

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Legal Practitioners Ordinance 1988.

2. (1) In this Ordinance —

"Commonwealth" has the same meaning as it has for the purposes of the Falkland Islands Constitution Order 1985;

"legal practitioner" means a person who is entitled to practice as an advocate or as a solicitor, attorney or proctor in any court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland.

(2) For the purposes of subsection (1), a person shall be regarded as entitled to practice as an advocate or, as the case may be, as a solicitor, attorney or proctor if he has been called, enrolled or otherwise admitted as such (and has not subsequently been disbarred or removed from the roll of advocates or, as the case may be, of solicitors, attorneys or proctors) notwithstanding that -

- (a) he holds or acts in any office the holder of which, by the law of any country outside the Falkland islands, is precluded from practising in a court in that country; or
- (b) he does not hold a practising certificate or has not satisfied any other like condition of his being permitted to practice in the country or jurisdiction in which he is called enrolled or otherwise admitted.

3. A legal practitioner is entitled to practice law in the Falkland Islands and to represent any person before any court in the Falkland Islands if

Entitlement to practice.

- (a) no order is in force in respect of him under section 4; and
- (b) he is either —

Interpretation. SI 1985 No. 444.

Short title.

- (i) resident in the Falkland Islands, or
- (ii) entitled under the law of the Falkland Islands relating to immigration for the time being in force, and whether by virtue of any permit issued to him under the provisions of that law or otherwise, to enter into and remain in the Falkland Islands for the purpose of practising law therein or, as the case may be, representing any person before any court of the Falkland Islands:

Provided that a person who is within the Falkland Islands and who proves himself to be a legal practitioner shall be deemed to satisfy the provisions of paragraph (b) of this section unless the contrary be proved.

4 (1) A legal practitioner shall not be entitled to practice law in the Falkland Islands or as such to represent any person before any court in the Falkland Islands if an Order has been made in respect of him under subsection (2) of this section.

Prohibition Order.

(2) The Chief Justice may of his own motion or on the application of the Attorney General or of any other person whom the Chief Justice may consider to be a fit and proper person to make such an application, order that the person named in an Order under this subsection ("the respondent") shall not for such period of time as shall be stated in such Order, or until further Order, practice law in the Falkland Islands or as a legal practitioner represent any person before any court in the Falkland Islands but no Order shall be made under this subsection unless ---

- (a) the Chief Justice is satisfied that having regard to the conduct of the respondent and all the circumstances relevant thereto it is just and proper that such an Order should be made; and
- (b) the Chief Justice is satisfied that the respondent has had a fair and adequate opportunity of answering or defending himself in respect of any allegation against or in respect of him upon which an application under this section is founded.
- (3) The Chief Justice may make rules in relation to applications under subsection (1).

5. Nothing in this Ordinance shall in any way affect any provision of law by virtue of s which a person may be permitted, other than by reason of possession of any professional qualification as a lawyer, to represent any other person before any court in the Falkland Islands.

Saving.

OBJECTS AND REASONS

The law of the Falkland Islands as to the admission of lawyers and the right to practice law in the Falkland Islands is not clear. It appears to be the case that as a matter of practice any lawyer who is in the Falkland Islands and who possesses a Commonwealth or Irish qualification is entitled to practice as a lawyer. The Constitution makes provision as to defence by legal practitioners of persons accused of criminal offences but the position as to representation in civil matters is not dealt with there. The above Bill has been drawn to reflect the practise and the provisions of the Constitution mentioned. It confers upon the Chief Justice a right to order that a person should not be allowed to practice as a lawyer in the Falkland Islands if misconduct by him is proved and he has had an opportunity of answering the allegations against him.

Ref: LEG/10/70

The Public Health (Amendment) Bill 1988 (No. of 1988)

Arrangement of Provisions

Clause

1. Short Title.

2. The principal Ordinance. (Cap. 54)

3. Amendment of section 39 of the principal Ordinance.

4. Repeal and replacement of Second Schedule.

The Public Health (Amendment) Bill 1988

(No. of 1988)

a Bill

2of

An Ordinance

To amend the Public Health Ordinance (Cap. 54)

1. This Ordinance may be cited as the Public Health (Amendment) Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Public Health Ordinance.

3. (1) Section 39 (2) of the principal Ordinance is repealed and replaced by the following new section 39 (2) —

"(2) The subsidiary legislation of England specified in the Second Schedule to this Ordinance shall apply in the Falkland Islands subject to all such modifications and adaptations as are required by section 76 of the Interpretation and General Clauses Ordinance 1977."

4. The Second Schedule of the principal Ordinance is repealed and replaced by the following new Second Schedule.

"SECOND SCHEDULE s.39(2)

Subsidiary legislation of England adopted as law of the Falkland Islands --

1. The Public Health (Aircraft) Regulations 1979 (SI 1979 No. 1434).

2. The Public Health (Ships) Regulations 1979 (SI 1979 No. 1435)?"

OBJECTS AND REASONS

The effect of this Bill is to replace the Second Schedule to the Public Health Ordinance ("the Quarantine Regulations") with the more modern provisions, complying with international practice, contained in the English legislation adopted by the new Second Schedule. These regulations contain detailed provisions related to the health of arriving and departing ships and aircraft and of persons on board them.

Ref: MED/10/2

The principal Ordinance. (Cap. 54) Amendment of section 39 of the principal Ordinance.

Short title.

Repeal and replacement of the Second Schedule.

86

The Road Traffic (Amendment) Ordinance 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

2. The principal Ordinance.

3. Amendment of section 2 of the principal Ordinance.

The Road Traffic (Amendment) Bill 1988 (No of 1988)

A Bill

for

An Ordinance

To amend the Road Instite Ordinance Cap 60

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Road Traffic Ordinance.

3. Section 2 of the principal Ordinance is amended —

- (a) by constituting the existing section 2 as subsection (1) of that section;
- (b) by adding thereto the following new subsection (2) immediately after subsection (1) thereof —

"(2) Where a person is serving in any police section or corps of any of Her Majesty's regular armed forces and is a reserve member of the Falkland Islands Police Force he shall be deemed to be a police officer in uniform at all times that he is wearing the uniform of that police section or corps of Her Majesty's regular armed forces."

OBJECTS AND REASONS

The purpose of this Bill is to amend the law so that a military policeman who is a reserve member of the Falkland Islands Police Force can, if he is wearing military police uniform, exercise powers of arrest exercisable only by a police officer in uniform. The object of provisions of the law requiring a power of arrest to be exercised by a police officer in uniform (and not one in plain clothes) is so that the person concerned will know that he is being arrested by a police officer. Military policemen in service uniform wear insignia indicating that they are military policemen. The object of the provisions mentioned is therefore achieved. The particular reason for the amendment is to enable military policemen who are reserve members of the Falkland Islands police force to exercise the powers of arrest under section 9H of the Ordinance in relation to drinking and driving offences, and so that the law may be enforced on public roads in the Mount Pleasant complex.

Ref: POL/10/5

Printed by the Government Printer, Stanley, Falkland Islands. Price : Five Pounds & Fifty Pence. Short title.

The principal Ordinance. (Cap. 60) Amendment of section 2 of the principal Ordinance.



THE

GAZETTE FALKLAND ISLANDS

PUBLISHED BY AUTHORITY

Vol. XCVII _____

31st May 1988

No. 8 ____

Morgan Edmund Goss, Engineer, Falkland Islands Government Air Service, 2.11.87. Mrs. Charlene Rose Rowland, Clerk, Public Service, 25.4.88.	The findings of the Co the quarter ended 31st M general information —
Miss Anna Constance Eve King, Assistant Air Traffic Controller, Falkland Islands Government Air Service, 2.5.88.	Quarter Ended Pe 31st March 1988
Peter W. Milner, General Manager, Falkland Islands Government Air Service 6.5.88.	2. Hourly paid employ the scope of the Wages
David Frederick Burgess, Education Officer, (Head Master Senior School), Education Department, 17.5.88.	increase of 4.5p per hou 1988. Ref: INT/2/2.
Resignation Miss Caroline Ford, Clerk, Public Service, 6.5.88.	No. 19
wiss Caroline Fold, Clerk, Fublic Service, 0.3.88.	Prisons O
NOTICES	Appointment of Bo
No. 17 2nd May 1988.	In accordance with Sec dinance, I Hereby Appe
Intimation has been received from the Right	Jessie Booth, J.P. (Senic
Honourable the Secretary of State for Foreign and Commonwealth Affairs to the effect that Her	Janet Lynda Cheek, J.P.
Majesty will not be advised to exercise Her power of	Terence George Spruce,
disallowance in respect of the following Ordinance of the Colony —	to be members of the Be one year with effect from

No. 31 of 1987 The Immigration (Amendment) Ordinance 1987.

Appointments

| No. 18

4th May 1988.

st of Living Committee for March 1988 are published for

Quarter Ended	Percentage Increase over 1971 Prices
31st March 1988	482.07%

ees in Stanley coming within Agreement qualified for an r with effect from 1st April

4th May 1988.

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ard of Visiting Justices

ction 7 of the Prisons Oroint —

or Member)

Ref: POL/19/1.

J.P.,

oard of Visiting Justices for the 1st day of January 1988.

Made this 4th day of May 1988.

G. W. JEWKES, Governor.

89

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. I)

IN THE MATTER OF DOROTHY FAY ALAZIA, deceased of Teal Inlet, Falkland Islands, who died at Stanley on the 21st April 1988, intestate.

WHEREAS George Robert Alazia has applied for Letters of Administration to administer the estate of the said deceased in the Faikland Islands.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 11th May 1988. Ref: PRO/4/88. S. HALFORD, Registrar.

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF GEORGE ALEXANDER STEWART, deceased of Stanley, Falkland Islands, who died at Stanley on the 22nd November 1987, intestate.

WHEREAS Sylvia Rose Stewart, has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Colony who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 11th May 1988. Ref: PRO/3/88. S. HALFORD, Registrar.

NOTICE

The following are published in this Gazette —

The Fishing Licences (Applications and Fees) Regulations Order 1988 (S.R. & O. No. 7 of 1988);

The Suppression of Terrorism Act 1978 (Hong Kong) Order 1987.

The United States of America (Extradition) (Amendment) Order 1987;

The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) Regulations Order 1988 (S.R. & O. No. 7 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation and Commencement.
- 2. Interpretation.
- 3. Existing Finfish licence.
- 4. Types of licences.
- 5. Fees.
- 6. Transhipment licence fees.

Schedule

Scale 1 - All Areas All Species Licences Trawlers.

Scale 2 - All Areas Finfish Licences Trawlers.

Scale 3 - West Area Finfish Only Licences Trawlers.

The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) Regulations Order 1988 (S.R. & O. No. 7 of 1988)

IN EXERCISE of his powers under section 20 of The Fisheries (Conservation and Management) Ordinance 1986 the Governor in Council makes the following Order -

1. (1) This Order may be cited as the Fishing Licences (Application and Fees) Regulations Order 1988, shall come into force on the day it is first published in the Gazette and shall cease to have effect on 31st December 1988.

(2) This Order is hereinafter called "these Regulations" and any paragraph of this Order may be cited (and is hereinafter described as) a regulation bearing the same number as that paragraph and every subparagraph of a paragraph of this Order may be cited as (and is hereinafter described as) a paragraph of the same number of the regulation in which it appears.

2. In these Regulations -

"existing Finfish Licence" means a Finfish Licence within regulation 5 of the existing Regulations.

"the existing Regulations" means the Fishing Licences (Application and Fees) Regulations Order 1987 (as amended); and

"exploratory or scientific purposes", "fishing licence" and "the principal Regulations" have the same meaning as in the existing Regulations.

Interpretation.

Citation and

commencement.

90

3. Nothing in these Regulations shall in any way affect the validity of an existing Finfish Licence, but no Finfish Licence may be granted after the commencement of these Regulations other than a Finfish Licence granted under the provisions of these Regulations.

4. (1) For the purposes of these Regulations the following categories of licences may be issued -

(a) All Areas All Species licences;

(b) All Areas Finfish licences; and

(c) West Area Finfish licences.

(2) An All Areas All Species Licence shall permit the catching or taking of fish of any species in any part of the Falkland Islands Interim Conservation and Management Zone outside the territorial sea of the Falkland Islands in respect of squid only on or after 1st August 1988 and until and including 30th September 1988 or such later date as may be notified by the Director of Fisheries.

(3) An All Areas Finfish Licence shall have the same effect as an All Areas All Species licence, except that it shall not permit the catching or taking of squid at any time.

(4) A West Area Finfish Only Licence shall permit the taking of any vertebrate fish in any part of the Falkland Islands Interim Conservation and Management Zone which lies to the west of sixty degrees of West Longitude.

(5) Nothing in any previous provision of this Regulation shall in any way operate so as to prevent the impositions of conditions or restrictions on any licence in accordance with the principal Regulations.

5. There shall be payable in respect of licences to which regulation 4 relates fees calculated Fees. in accordance with the Schedule.

6. The fees payable for transhipment licences are increased from £1500 to £1750 with effect from 1st July 1988.

Transhipment licence fees.

SCHEDULE

1. In the Scales set out in this Schedule, "GT" means Gross Tonnage as shown in a Tonnage Certificate issued in accordance with the International Tonnage Measurement Rules. Where the tonnage of the ship exceeds a figure appearing in column 1 of a Scale, but does not exceed the next following figure appearing in that Column, the fee is to be calculated on the basis of that next following figure in Column one. The fees in the scales apply to trawlers.

2. In respect of longliners (that is to say vessels taking or attempting to take fish only be means of lines) fees of half the amount derived by application of the relevant scale shall be payable.

3. A licence is not transferable.

Existing Finfish licences.

Types of licences.

SCALE 1

All Areas All Species Licences

TRAWLERS

GT	Fee per
	month
200	2443
300	3452
400	4343
500	5128
600	5821
760	6432
800	6971
900	7446
1000	7865
1100	8234
1200	8560
1300	8847
1400	9100
1500	9324
1600	9521
1700	9695
1800	9848
1900	9983
2000	10103
2100	10208
2200	10208
2300	10208
2400	10208
2500	10208
2600	10208
MAXIMUM	10208

SCALE 2

All Areas Finfish Licences

TRAWLERS

GT	Fee per
	month
200	1506
300	1875
400	2234
500	2581
600	2917
700	3240
800	3553
900	3856
1000	4145
1100	4425
1200	4691
1300	4948
1400	5193
1500	5426
1600	5649
1700	5859
1800	6059
1900	6245
2000	6422
2100	6588
2200	6741
2300	6884
2400	7014
2500	7134
2600	7241
MAXIMUM	7350

SCALE 3

West Area Finfish only Licences

TRAWLERS

GT	Fee per
	month
200	979
300	1218
400	1452
500	1677
600	1895
700	2105
800	2309
900	2505
1000	2694
1100	2876
1200	3049
1300	3255
1400	3392
1500	3663
1600	3954
1700	4247
1800	4392
1900	4684
2000	4842
2100	4842
2200	4842
2300	4842
2400	4842
2500	4842
2600	4842
MAXIMUM	4842

Made this 20th day of May 1988.

G. W. Jewkes, Governor.

Ref: FIS/29/16B.

STATUTORY INSTRUMENTS

1987 No. 2045

PREVENTION AND SUPPRESSION OF TERRORISM

The Suppression of Terrorism Act 1978 (Hong Kong) Order 1987

Made - - - -Laid Before Parliament Coming into Force 26th November 1987 4th December 1987 1st January 1988

At the Court at Buckingham Palace, the 26th day of November 1987

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 7(3) of the Suppression of Terrorism Act 1978(a), or otherwise in Her Majesty vested, 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 Suppression of Terrorism Act 1978 (Hong Kong) Order 1987 and shall come into force on 1st January 1988.

2. (1) Subject to Article 3 below, sections 1, 2, 3, 4, 5, 8 and 9 of the Suppression of Terrorism Act 1978 and Schedule 1 thereto, modified and adapted as in the Schedule hereto, shall extend to Hong Kong.

(2) For the purpose of construing the said Act as so extended as part of the law of Hong Kong "the Territory" means the territory of Hong Kong including its territorial waters.

3. The aforesaid provisions of the said Act shall apply in Hong Kong in relation to any Commonwealth country, foreign state or United Kingdom dependency in respect of which an order is or may be made under section 5(1) of the Act as it applies in the United Kingdom in accordance with the terms of the relevant order but, save to the extent that it is necessary to take account of the words "convention country" in order to determine the way in which such provisions apply in relation to any such Commonwealth country, foreign state or United Kingdom dependency, they shall not apply in relation to a convention country until an order bringing the Act into force for that purpose has been made in Hong Kong by the Governor under section 9(3) of the Act, modified and adapted as in the Schedule hereto.

> G. I. de Deney, Clerk of the Privy Council.

(a) 1978 c. 26.

Sections 1, 2, 3, 4, 5, 8 and 9 of the Suppression of Terrorism Act 1978 and the Schedule 1 thereto as extended to Hong Kong.

1. (1) This section applies to any offence of which a person is accused or has been convicted outside the Territory if the act constituting the offence, or the equivalent act, would, if it took place in the Territory or, in the case of an extraterritorial offence, in corresponding circumstances outside the Territory, constitute one of the offences listed in Schedule 1 to this Act.

(2) For the puposes mentioned in subsection (3) below —

- (a) no offence to which this section applies shall be regarded as an offence of a political character; and
- (b) no proceedings in respect of an offence to which this section applies shall be regarded as a criminal matter of a political character or as criminal proceedings of a political character.

(3) Those puposes are -

- (a) the purposes of the Extradition Act 1870 in relation to any requisition for the surrender of the fugitive criminal made on behalf of a convention country after the coming into force of this paragragh;
- (b) the purposes of the Fugitive Offenders Act 1967 as extended to the Territory in relation to any request for the return of a person under that Act made on behalf of a convention country after the coming into force of this paragragh; and
- (c) the purposes of section 5 of the Extradition Act 1873 (evidence for foreign criminal matters) and section 5 of the Evidence (Proceedings in Other Jurisdictions) Act 1975 (evidence for criminal proceedings outside the Territory) as extended to the Territory (or the equivalent provision in the law of the Territory) in relation to any criminal proceedings instituted in a convention country (not being the Republic of Ireland) after the coming into force of this paragragh.

2. In relation to any requisition for surrender of a fugitive criminal made as mentioned in section 1(3)(a) above in respect of an offence to which section 1 above applies, the Extradition Act 1870 shall have effect as if at the end of paragragh (1) of section 3 (which prohibits the surrender of a criminal if he proves as there mentioned that the requisition of his surrender has in fact been made with a view to try or punish him for an offence of a political character) there were added the words "or with a view to try or punish him on account of his race, religion, nationality, or political opinions, or that he might, if surrendered, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality or political opinions".

3. (1) There shall be deemed to be included in the list of extradition crimes contained in Schedule 1 to the Extradition Act 1870 -

- (a) any offence under the Explosive Substances Act 1883;
- (b) any indictable offence under the Firearms Act 1968; and
- (c) any attempt to commit any of the crimes in that list (including crimes added to it after the coming into force of this subsection), to the extent that any such attempt is not already an extradition crime under the law of the Territory.

(2) There shall be deemed to be included among the description of offences set out in Schedule 1 to the Fugitive Offenders Act 1967 as extended to the Territory —

(a) any indictable offence under the Offences against the Person Act 1861;

- (b) any offence under the Explosive Substances Act 1883; and
- (c) any indictable offence under the Firearms Act 1968.

4. (1) If a person, whether a United Kingdom national or not, does in a convention country any act which, if he had done it in the Territory, would have made him guilty in the Territory of -

- (a) an offence mentioned in paragragh 1, 2, 4, 5, 10, 11, 12, 13 or 14 of Schedule 1 to this Act; or
- (b) an offence of attempting to commit any offence so mentioned,

he shall, in the Territory, be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had done it there.

(2) If a person, whether a United Kingdom national or not, does in a convention country any act to or in relation to a protected person which, if he had done it in the Territory, would have made him guilty in the Territory of -

- (a) an offence mentioned in paragragh 3, 6, 8 or 9 of Schedule 1 to this Act; or
- (b) an offence of attempting to commit any offence so mentioned,

he shall, in the Territory, be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had done it there.

For the purposes of this subsection it is immaterial whether a person knows that another person is a protected person.

(3) If a person who is a national of a convention country but not a United Kingdom national does outside the Territory and that convention country any act which makes him in that convention country guilty of an offence and which, if he had been a United Kingdom national would have made him in the Territory guilty of an offence mentioned in paragraph 1, 2, or 13 of Schedule i to this Act, he shall, in the Territory, be guilty of the offence or offences aforesaid of which the act would have made him guilty if he had been a United Kingdom national.

(4) Proceedings for an offence which would not be an offence apart from this section shall not be instituted except by or with the consent of the Attorney General of the Territory.

(5) In this section the expression "Attorney General" includes the Solicitor-General.

(6) In this section "a protected person" means, in relation to any such act as is mentioned in subsection (2) above, any of the following, namely -

- (a) a person who at the time of the act is a Head of State, a member of a body which performs the functions of Head of State, a member of a body which performs the functions of Head of State under the constitution of the State, a Head of Government or a Minister for Foreign Affairs and is outside the territory of the State in which he holds office;
- (b) a person who at the time of the act is a representaive or an official of a State or an official or agent of an international organisation of an intergovernmental character, is entitled under international law to special protection from attack on his person, freedom or dignity and does not fall within the preceding paragraph;
- (c) a person who at the time of the act is a member of the family of another person mentioned in either of the preceding paragraphs and
 - (i) if the other person is mentioned in paragraph (a) above, is accompanying him, or
 - (ii) if the other person is mentioned in paragraph (b) above, is a member of his household;

and if in any proceedings a question arises as to whether a person is or was a protected person, a certificate issued by or under the authority of the Governor and stating any fact relating to the question shall be conclusive evidence of that fact.

- (7) For the purposes of this section any act done -
 - (a) on board a ship registered in a convention country, being an act which, if the ship had been registered in the United Kingdom or the Territory, would have constituted an offence within the jurisdiction of the Admiralty; or
 - (b) on board an aircraft registered in a convention country while the aircraft is in flight elsewhere than in or over the country; or
 - (c) on board a hovercraft registered in a convention country while the hovercraft is in journey elsewhere than in or over that country,

shall be treated as done in that convention country; and section 7(2) of the Tokyo Convention Act 1967 (meaning of "in flight" or, as applied to hovercraft, "in journey") as extended to the Territory shall apply for the purposes of this subsection as it applies for the purposes of section 1 of that Act.

- 5. In the case of any country which, not being a convention country, is either -
 - (a) a designated Commonwealth country within the meaning of the Fugitive Offenders Act 1967 as extended to the Territory; or
 - (b) a foreign state with which there is in force an arrangement of the kind described in section 2 of the Extradition Act 1870 with respect to the surrender to that state of fugitive criminals; or
 - (c) a United Kingdom dependency within the meaning of the Fugitive Offenders Act 1967, as extended to the Territory,

where the Secretary of State has by an order made under section 5(1) of this Act as it applies in the United Kingdom directed -

- (i) in the case of a country within paragraph (a) or (b) above, that all or any of the provisions of this Act which would, apart from this section, apply only in relation to convention countries shall apply in relation to that country (subject to such exceptions, if any, as may be specified in the order) as they apply in relation to a convention country; or
- (ii) in the case of a country within paragragh (c) above, that the provisions of section 4 above shall so apply in relation to that country;

and while such an order is in force in the case of any such country, the provisions in question shall apply in relation to it accordingly, whether this Act has come into force in the Territory for the purposes of arrangements between the Territory and a convention country or not.

8. (1) In this Act -

"act" includes omission;

"convention country" means a country for the time being designated in an order made under this Act as it applies in the United Kingdom by the Secretary of State as a party to the European Convention on the Suppression of Terrorism signed at Strasbourg on the 27th January 1977;

"country" includes any territory;

"United Kingdom national" means a British citizen, British Dependent Territories citizen, a British Overseas citizen or a British National (Overseas).

(2) Except so far as the context otherwise requires, any reference in this Act to an enactment is a reference to it as amended by or under any other enactment, including this Act.

(3) For the purposes of this Act sections 18, 20, 21, 22, 23, 24, 28, 29, 30, 48, 55 and 56 of the Offences against the Person Act 1861, sections 1 and 20 of the Sexual Offences Act 1956, sections 2 and 3 of the Explosive Substances Act 1883, sections 16 and 17 of the Firearms Act 1968 and section 1 of the Criminal Damage Act 1971, if not already in force in the Territory, shall be deemed to be in force as they are in force in England.

9. (1) This Act may be cited as the Suppression of Terrorism Act 1978.

(3) This Act shall come into force on 1st January 1987 save that, in relation to a convention country, it shall come into force on such day as the Governor may by order appoint and different days may be so appointed for different purposes.

SCHEDULE 1 TO THE ACT

Sections 1 and 4

LIST OF OFFENCES

Common law offences

- 1. Murder.
- 2. Manslaughter or culpable homicide.
- 3. Rape.
- 4. Kidnapping, abduction or plagium.
- 5. False imprisonment.
- 6. Assault occasioning actual bodily harm or causing injury.
- 7. Wilful fire-raising.

Offences against the person

8. An offence under any of the following provisions of the Offences against the Person Act 1861 -

- (a) section 18 (wounding with intent to cause grievous bodily harm);
- (b) section 20 (causing grievous bodily harm);
- section 21 (attempting to choke etc. in order to commit or assist in the committing of any indictable offence);
- (d) section 22 (using chloroform etc. to commit or assist in the committing of any indictable offence);
- (e) section 23 (maliciously administering poison etc. so as to endanger life or inflict grievous bodily harm);
- (f) section 24 (maliciously administering poison etc. with intent to injure etc.);
- (g) section 48 (rape).

9. An offence under section 1 of the Sexual Offences Act 1956 (rape).

Abduction

10. An offence under any of the following provisions of the Offences against the Person Act 1861 -

- (a) section 55 (abduction of unmarried girl under 16);
- (b) section 56 (child-stealing or receiving stolen child).

11. An offence under section 20 of the Sexual Offences Act 1956 (abduction of unmarried girl under 16).

Taking of Hostages

11A. An offence under the Taking of Hostages Act 1982.

Explosives

12. An offence under any of the following provisions of the Offences against the Person Act 1861 -

- (a) section 28 (causing bodily injury by gunpowder);
- (b) section 29 (causing gunpowder to explode etc. with intent to do grievous bodily harm);
- (c) section 30 (placing gunpowder near a building etc. with intent to cause bodily injury).

13. An offence under any of the following provisions of the Explosive Substances Act 1883 -

- (a) section 2 (causing explosion likely to endanger life or property);
- (b) section 3 (doing any act with intent to cause such an explosion, conspiring to cause such an explosion, or making or possessing explosive with intent to endanger life or property).

Firearms

14. The following offences under the Firearms Act 1968 -

- (a) an offence under section 16 (possession of firearm with intent to injure);
- (b) an offence under subsection (1) of section 17 (use of firearm or imitation firearm to resist arrest) involving the use or attempted use of a firearm within the meaning of that section.

Offences against property

16. An offence under section 1(2) of the Criminal Damage Act 1971 (destroying or damaging property intending to endanger life or being reckless as to danger to life).

Offences in relation to aircraft

18. An offence under the Hijacking Act 1971.

19. An offence under Part I of the Protection of Aircraft Act 1973.

Attempts

20. An offence of attempting to commit any offence mentioned in a preceding paragragh of this Schedule.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends sections 1, 2, 3, 4, 5, 8 and 9 of, and Schedule 1 to, the Suppression of Terrorism Act 1978, subject to exceptions, adaptations and modifications, to Hong Kong.

STATUTORY INSTRUMENTS

1987 No. 2046

FUGITIVE CRIMINAL

The United States of America (Extradition) (Amendment) Order 1987

Made - - - -Laid Before Parliament Coming into Force 26th November 1987 4th December 1987 1st January 1988

At the Court at Buckingham Palace, the 26th day of November 1987 Present,

The Queen's Most Exceilent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 2, 17 and 21 of the Extradition Act 1870(a), or otherwise in Her Majesty vested, 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 United States of America (Extradition) (Amendment) Order 1987, and shall come into force on 1st January 1988.

2. The United States of America (Extradition) (Amendment) Order 1986(b) shall be amended by inserting in Schedule 2 thereto the words "Hong Kong" below the entry for Gibraltar.

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

(a) 1870 c. 52. (b) S.I. 1986/2020.

EXPLANATORY NOTE (This note is not part of the Order)

This Order amends the United States of America (Extradition) (Amendment) Order 1986 (which applies the Extradition Acts 1870 to 1895 in the case of the United States of America in accordance with arrangements made with that Country) by inserting an entry for Hong Kong, to which the 1986 Order will now apply.



THE

FALKLAND ISLANDS GAZETTE

(Extraordinary)

PUBLISHED BY AUTHORITY

Ξ

No. 20

Vol. XCVII	No. 9

NOTICE

15th June 1988.

Falkland Islands Constitution Order 1985

SCHEDULE 1

Section 19 (1)

DESIGNATION OF PERSON TO ASSUME AND PERFORM THE FUNCTIONS OF THE GOVERNOR

Take Notice that pursuant to the provisions of section 19 (1) of Schedule 1 to the Falkland Islands Constitution Order 1985 Her Majesty has been pleased to designate Harold Theodore Rowlands, Commander of the Most Excellent Order of the British Empire, to assume and perform the functions of the office of Governor of the Falkland Islands from the 15th day of June 1988 until the holder of the office of Governor resumes the functions of that office.





FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVII

30th June 1988

No. 10

Appointments

Miss Julie Anne Fisher, Woman Police Constable, Falkland Islands Police Force, 3.3.88.

Miss Joanne Bonner, Clerk, Public Service, 16.5.88.

Zane Hirtle, Agricultural Assistant, Agricultural Research Centre, 16.5.88.

Edward Joseph Whiteside, Teacher of Spanish, Education Department, 27.5.88.

Mrs. Phyllis Mary Rendell, Chief Education Officer, Education Department, 6.6.88.

Acting Appointments

Colin Frank Redston, Acting Chief Executive, Secretariat, 13.2.88 - 3.3.88 and since 4.6.88.

Robert John King, Acting Collector of Customs and Harbour Master, Customs and Harbour Department, 28.5.88.

David Ford, Acting Fire Officer, Police, Fire and Rescue Service, 1.6.88.

Mrs. Camilla Marie Clarke, Acting Senior Telephone Operator, Posts and Telecommunications Department, 1.6.88.

Richard Edwin John Fogerty, Acting Education Officer (Camp Education Supervisor), Education Department, 6.6.88.

Promotion

David Morris, from Police Constable, Falkland Islands Police Force, to Station Sergeant, Falkland Islands Police Force, 1.6.88.

Completion of Contracts

Richard Sawle, Teacher, Education Department, 20.5.88.

James Mahony, Education Officer (Headmaster Senior School), Education Department, 31.5.88.

Resignations

Neil George Hewitt, Junior Customs Officer, Customs and Harbour Department, 31.5.88.

Mrs. Eileen Mary Murphy, M.A., B.Liu., Chief Education Officer, Education Department, 2.6.88.

Mrs. Vera Joan Bonner, Clerk (Cashier), Treasury, 10.6.88.

Determination of Engagement

David Harriman, Teacher, Education Department, 20.5.88.

NOTICES

No. 21

10th June 1988.

Appointment of Acting Attorney General

I, Gordon Wesley Jewkes, Esquire, Companion of the Most Distinguished Order of St. Michael and St. George, Governor of the Falkland Islands —

Hereby Appoint ---

Rose Mary McIlroy to be Acting Attorney General in the absence of David Geoffrey Lang with effect from the 10th day of June 1988.

Given under my hand this 10th day of June 1988.

G. W. JEWKES, Governor. 24th June 1988.

In accordance with section 9(1) of the Fisheries (Conservation and Management) Ordinance 1986, His Excellency the Governor has appointed Ewen Alastair Lindsey Keith Cameron, Deputy Director of Fisheries with effect from 3rd June 1988.

No. 23

No. 22

24th June 1988.

In accordance with section 29(2) of the Administration of Justice Ordinance (Cap. 3), His Excellency the Governor has appointed Rose Mary McIlroy, Deputy Coroner with effect from 7th June 1988.

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF PETER KIDDLE, deceased of Stanley, Falkland Islands, who died at Stanley on the 24th day of April 1988, leaving a will dated the 10th day of September 1987.

WHEREAS Jeannie Paullina Burston has applied for Letters of Administration with the said will annexed to administer the estate of the said deceased in the Falkland Islands.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 11th May 1988. Ref: PRO/7/88. S. HALFORD, Registrar.

In the Supreme Court of the Falkland Islands NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. I)

IN THE MATTER OF JOHN MURDOCH MORRISON, deceased of Stanley, Falkland Islands, who died at Stanley on the 1st day of June 1988, intestate.

WHEREAS Michael John Morrison, has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 17th June 1988. Ref: PRO/11/88. S. HALFORD, Registrar.

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF THOMAS NATHANIEL BRAXTON, deceased of Stanley, Falkland Islands, who died at Stanley on the 1st day of November 1987, leaving a will dated the 25th day of November 1977.

WHEREAS Michael Luxton has applied for Letters of Administration with the said will annexed to administer the estate of the said deceased in the Falkland Islands.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 21st June 1988. Ref: PRO/6/88. S. HALFORD, Registrar.

In the Supreme Court of the Falkland Islands NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF DAVID SMITH EMSLEY, deceased of Stanley, Falkland Islands, who died at Stanley on the 16th day of June 1987, intestate.

WHEREAS Sharon Halford as Official Administrator has applied for Letters of Administration to administer the estate of the said deceased in the Falkland Islands.

NOTICE IS HEREBY GIVEN pursuant to section 15 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

Stanley, Falkland Islands, 22nd June 1988. Ref: PRO/4/87. S. HALFORD, Registrar.

Customs Ordinance (Cap. 16)

In exercise of the powers conferred by section 4 of the Customs Ordinance, I hereby appoint —

CORPORAL K. MOSS, W.R.A.F.,

to be a Temporary Customs Officer with effect from 20th May, 1988 to 19th September, 1988.

R. J. KING, Acting Collector of Customs.

Application for a Publican's Retail licence

In accordance with Section 7(1) of the Licensing Ordinance, an application has been made by -

Mr. Robert Fiddes

for a Publican's Retail Licence in respect of the premises known as the Upland Goose Hotel. Any objection to the granting of a licence must be made not later than the 30th June 1988.

> H. T. ROWLANDS, Financial Secretary.

The Treasury, Stanley. 9th June 1988.

NOTICE

The following are published in this Gazette —

The Appropriation Ordinance 1988 (No. 1 of 1988);

The Old Age Pensions (Amendment) Ordinance 1988 (No. 2 of 1988);

The Non-Contributory Old Age Pensions (Amendment) Ordinance 1988 (No. 3 of 1988);

The Family Allowances (Amendment) Ordinance 1988 (No. 4 of 1988);

The Administration of Justice (Amendment) Ordinance 1988 (No. 5 of 1988);

The Defamation Ordinance 1988 (No. 6 of 1988);

The Legal Practitioners Ordinance 1988 (No. 7 of 1988);

The Public Health (Amendment) Ordinance 1988 (No. 8 of 1988);

The Road Traffic (Amendment) Ordinance 1988 (No. 9 of 1988);

The Fisheries (Conservation and Management) (Amendment) Ordinance 1988 (No. 10 of 1988);

The Finance and Audit Ordinance 1988 (No. 11 of 1988);

The Taxes (Various Companies) Exemptions Order 1988 (S.R. & O. No. 8 of 1988);

Resolutions of the Legislative Council.

The Appropriation Ordinance 1988 (No. 1 of 1988)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.

2. Appropriation of £28,646,190 for the service of the year 1988-89.

Schedule

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor,

The Appropriation Ordinance 1988.

(No 1 of 1988)

An Ordinance to Provide for the Service of the Financial Year commencing on 1st July 1988 and ending on 30th June 1989.

> (Assented : to 8th June 1988) (Commencement : 1st July 1988) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Appropriation Ordinance 1988.

Short title.

2. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the service of the year commencing on 1st July 1988 and ending on 30th June 1989 of ("the financial year"), sums not exceeding in aggregate the sum of twenty-eight million, six hundred and forty-six thousand, one hundred and ninety pounds, which 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 and which will come in course of payment during the financial year.

Appropriation of £28,646,190 for the year 1988-89

SCHEDULE				
Number	Head of Service	£		
PART 1 - OF	PERATING BUDGET			
100	Aviation	734,500		
150	Posts and Telecommunications	591,880		
200	Medical	1,224,440		
250	Education and Training	1,031,050		
300	Customs and Harbour	223,750		
320	Fisheries	6,501,830		
350	Public Works	3,957,810		
390	Fox Bay Village	85,910		
400	Agriculture	138,080		
450	Justice	148,410		
500	Military	99,430		
550	Police, Fire and Rescue Service	469,230		
600	Secretariat, Treasury and Central Store	892,890		
650	Pensions and Gratuities	269,300		
700	Social Welfare	268,200		
750	Governor	116,440		
800	Legislature	44,030		
850	Falkland Islands Government Office	208,210		
860	Agricultural Research Centre	422,340		
900	Income Tex Refunds	50,000		
TOTAL OPERATING EXPENDITURE		17,477,730		
PART 2 - CA	APITAL BUDGET			
951	Expenditure to be met from Local Funds	10,618,010		
952	Expenditure to be met from External Aid	550,450		
TOTAL EXPENDITURE		28,646,190		

Ref: TRE/14/25.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Old Age Pensions (Amendment) Ordinance 1988 (No. 2 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short title.
- 2. The principal Ordinance.
- 3. Repeal and Replacement of Section 6 (2) of the Principal Ordinance.
- 4. Replacement of the Schedule.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Old Age Pensions (Amendment) Ordinance 1988. (No. 2 of 1988)

An Ordinance to amend the Old Age Pensions Ordinance 1952.

(Assented to : 8th June 1988) (Commencement : 4th July 1988) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands as follows ----

1. This Ordinance may be cited as the Old Age Pensions (Amendment) Ordinance 1988 Sho and shall come into force on 4th July 1988.

2. In this Ordinance, "the principal Ordinance" means The Old Age Pensions Ordinance 1952.

3. Section 6(2) of the principal Ordinance is repealed and replaced by the following new section 6(2)

"(2) Subject to the provisions of this Ordinance –

- (a) Every employed male person and every employed female contributor other than the widow of a contributor shall be liable to pay weekly contributions at the rate of £3.40 per week if between the ages of 17 and 64 years;
- (b) every employer of an employed person or a female contributor other than the widow of a contributor shall be liable to pay weekly contributions at the rate of £5.10 per week if the employed male person or female contributor is between the ages of 17 and 64 years;
- (c) every self employed male person and every self employed female contributor shall be liable to pay weekly contributions at the rate of £8.50 per week if between the ages of 17 and 64 years."

4. The Schedule to the principal Ordinance is replaced by the following Schedule -

Short title.

The principal Ordinance.

Repeal and replacement of section 6 (2) of the Principal Ordinance.

Replacement of the Schedule.

"SCHEDULE

Section 4(2)

RATES OF PENSION

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Non-Contributory Old Age Pensions (Amendment) Ordinance 1988

(No. 3 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short title and Commencement.
- 2. The principal Ordinance.
- 3. Replacement of schedule.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Non-Contributory Old Age Pensions (Amendment) Ordinance 1988.

(No. 3 of 1988)

An Ordinance to amend the Non-Contributory Old Age Pensions Ordinance 1961.

(Assented to : 8th June 1988) (Commencement : 4th July 1988) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands as follows: ---

1. This Ordinance may be cited as the Non-Contributory Old Age Pensions (Amendment) Ordinance 1988 and shall come into force on the 4th July 1988.

2. In this Ordinance, "the principal Ordinance" means the Non-Contributory Old Age Pensions Ordinance 1961.

3. The Schedule to the principal Ordinance is replaced by the following Schedule -

"SCHEDULE

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Short title and commencement.

The Principal Ordinance.

Replacement of Schedule.

The Family Allowances (Amendment) Ordinance 1988. (No. 4 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Citation and Commencement.
- 2. Amendment of Ordinance No. 9 of 1950.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Family Allowances (Amendment) Ordinance 1988. (No. 4 of 1988)

An Ordinance to amend the Family Allowances Ordinance 1960.

(Assented to : 8th June 1988) (Commencement : 1st January 1989) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Family Allowances (Amendment) Ordinance 1988 and shall come into force on the 1st January 1989.

2. The Family Allowances Ordinance 1960 is amended by —

(a) the repeal of section 3(2) and by the substitution therefor of the following -

"(2) the Superintendent shall each month pay for each child of a family an allowance at the rate of ± 30 "; and

(b) by the repeal of section 3(3) and by the substitution therefor of the following —

"(3) The Superintendent shall pay each month to a man or woman referred to in paragraphs (b) and (c) of Section 5(1) to whom he is paying an allowance or allowances under subsection (2) an allowance of twenty-five pounds in addition to the allowance or allowances being paid under subsection (2)".

Ref: TRE/10/1.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Citation and commencement.

Amendment of Ordinance No. 9 of 1960.

The Administration of Justice (Amendment) Ordinance 1988. (No. 5 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short Title.
- 2. The principal Ordinance.
- 3. Repeal and replacement of section 4 (3) of the principal Ordinance.
- 4. Amendment of section 7H of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Administration of Justice (Amendment) Ordinance 1988. (No. 5 of 1988)

An Ordinance to amend the Administration of Justice Ordinance.

(Assented to : 8th June 1988) (Commencement : on publication) (Published: 30th June 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Administration of Justice (Amendment) Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Adminstration of Justice Ordinance (Cap.3).

3. Section 4 (3) of the principal Ordinance is repealed and replaced by the following new section 4(3) —

"(3) to hear and determine civil cases where the amount claimed does not exceed £1,000, and actions for possessions of land where the land the subject of the action consists only of a dwelling house and land used incidentally to the enjoyment of that dwelling house, and where such an action includes a money claim for arrears of rent, mesne profits or damages related to the use of the dwelling house by the defendent if that money claim does not exceed or does not in aggregate exceed £1,000?"

4. Section 7H of the principal Ordinance is amended -

- by the deletion of the symbol and figures "£1,000" and by substituting in (a) their place the symbol and figures "£5,000";
- (b) by the deletion of the full stop at the end of the section and by the addition to the section of the words and punctuation -

"or a magistrate would have jurisdiction to try the matter under section 4(3) of this Ordinance"

Ref: LEG/10/7.

Short title.

The principal Ordinance.

Repeal and replacement of section 4 (3) of the principal Ordinance,

Amendment of section 7H of the principal Ordinance.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Defamation Ordinance 1988 (No. 6 of 1988)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.

2. Adoption of certain Acts.

Schedule 1 Acts adopted as law of the Falkland Islands.

Schedule 2 Part I General Modifications.

Part II Modifications to Defamation Act 1952 in its application to the Falkland Islands.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Defamation Ordinance 1988.

(No. 5 of 1988)

An Ordinance to adopt certain Acts as law of the Falkland Islands, subject to certain modifications and adaptations.

(Assented to : 8th June 1988) (Commencement : on publication) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Defamation Ordinance 1988.

Short title.

certain Acts.

2. The Acts mentioned in Schedule 1 as law of the Falkland Islands are, subject to the modifications and adaptations set out in Schedule 2 in relation thereto, adopted as law of the Falkland Islands and shall have effect therein accordingly.

SCHEDULE 1

(Acts adopted as law of the Falkland Islands)

1. The Libel Act 1792 (32 Geo. 3 c.60)

2. The Criminal Libel Act 1819 (60 Geo. 3 & 1 Geo. 4 c.8)

3. The Libel Act 1843 (6 & 7 Vict. c.96)

4. The Libel Act 1845 (8 & 9 Vict. c.75)

5. The Newspapers, Printers and Reading Rooms Repeal Act 1869 (32 and 33 Vict. c.24)

6. The Newspapers Libel and Registration Act 1881 (44 & 45 Vict. c.60)

7. The Law of Libel Amendment Act 1888 (51 and 52 Vict. c.64)

8. The Slander of Women Act 1891 (54 and 44 Vict. c.51)

9. The Defamation Act 1952 (15 & 16 Geo. VI and 1 Eliz.2 c.66).

SCHEDULE 2

Part I

General Modifications

In their application to the Falkland Islands by virtue of section 2 and Schedule 1 the Acts mentioned in Schedule 1 shall have effect as if -

- (a) for every reference to "the United Kingdom", "Great Britain" or "England" there were substituted a reference to the Falkland Islands;
- (b) for every reference to "Her Majesty's Attorney General or Solicitor General in England or Her Majesty's Advocate in Scotland" (however expressed) there were substituted a reference to the Attorney General;
- (c) every definition of "the registrar" were in terms defining "the registrar" as being the Registrar General and as if every reference to the Board of Trade were substituted by a reference to the Registrar General;
- (d) every reference to a penalty as being "not exceeding level 2 on the standard scale" were a reference to a fine not exceeding £100, and as if every reference to a penalty as being "not exceeding level 3 on the standard scale" were a reference to a fine not exceeding £250.

Part II

Modifications to Defamation Act 1952 in its application to the Falkland Islands

In its application to the Falkland Islands by virtue of section 2 and Schedule 1 the Defamation Act 1952 ("the Act") (in addition to the modifications effected by Part I of this Schedule) shall have effect as if -

- (a) every reference in the Act to "the High Court" were a reference to the Supreme Court;
- (b) the words "thirty-six days" in section 7(2) of the Act read "three months";
- (c) section 9(1) of the Act were omitted;
- (d) the following subsection were substituted for section 9(3) of the Act -

"(3) In this section "broadcasting station" means any station providing broadcasting services for general reception and operated by or with the consent or licence of the Governor or the Government of the Falkland Islands.";

- (e) The words "to the Legislative Council" were substituted for the words "to a local authority or to Parliament" in section 10 of the Act;
- (f) section 14 of the Act were omitted;
- (g) for the purposes only of section 16(3) of the Act (definition of "broadcasting by means of wireless telegraphy") the Wireless Telegraphy Act 1949 had been adopted by this Ordinance as law of the Falkland Islands;
- (h) in paragraph 2 of Schedule 1 to the Act the words "or the Government of the Falkland Islands" appeared immediately after the words "Her Majesty's Government in the United Kingdom" and the word "either" were thereafter substituted for the word "that" thereinafter appearing; and
- (i) there were substituted for paragraph 10 of Schedule 1 to the Act the following paragraph —

"10. A fair and accurate report of the proceedings at any meeting or sitting (whether in the Falkland Islands or in the United Kingdom, as the case may be) of -

- (a) the Legislative Council or any committee thereof;
- (b) either House of the Parliament at Westminster or any committee of either or both of such Houses;

- (c) the Senior Magistrate or other Magistrate or any Justice or Justices of the Peace acting otherwise than as a court exercising judicial authority;
- (d) any commission, tribunal, committee or person appointed for the purpose of any inquiry by Act of Parliament, Ordinance, by Her Majesty, by the Governor or by a Minister of the Crown;
- (e) any other tribunal, board, committee or body constituted by or under and exercising functions under any Act of Parliament or Ordinance,

not being a meeting or sitting admission to which is denied to representatives of newspapers and other members of the public?

Ref: LEG/10/69.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Legal Practitioners Ordinance 1988 (No. 7 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short Title.
- 2. Interpretation.
- 3. Entitlement to practice.
- 4. Prohibition Order.
- 5. Saving.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Legal Practitioners Ordinance 1988. (No. 7 of 1988)

An Ordinance to make provision as to the persons who are entitled to practice law in the Falkland Islands and to appear to represent other persons before the courts of the Falkland Islands.

> (Assented to : 8th June 1988) (Commencement : on publication) (Cublished : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

- 1. This Ordinance may be cited as the Legal Practitioners Ordinance 1988.
- 2. (1) In this Ordinance —

"Commonwealth" has the same meaning as it has for the purposes of the Falkland Islands Constitution Order 1985;

"legal practitioner" means a person who is entitled to practice as an advocate or as a solicitor, attorney or proctor in any court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland.

(2) For the purposes of subsection (1), a person shall be regarded as entitled to practice as an advocate or, as the case may be, as a solicitor, attorney or proctor if he has been called, enrolled or otherwise admitted as such (and has not subsequently been disbarred or removed from the roll of advocates or, as the case may be, of solicitors, attorneys or proctors) notwithstanding that -

- (a) he holds or acts in any office the holder of which, by the law of any country outside the Falkland islands, is precluded from practising in a court in that country; or
- (b) he does not hold a practising certificate or has not satisfied any other like condition of his being permitted to practice in the country or jurisdiction in which he is called enrolled or otherwise admitted.

3. A legal practitioner is entitled to practice law in the Falkland Islands and to represent any person before any court in the Falkland Islands if Entitlement to practice.

- (a) no order is in force in respect of him under section 4; and
- (b) he is either —

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Short title. Interpretation. SI 1985 No. 444.

- (i) resident in the Falkland Islands, or
- (ii) entitled under the law of the Falkland Islands relating to immigration for the time being in force, and whether by virtue of any permit issued to him under the provisions of that law or otherwise, to enter into and remain in the Falkland Islands for the purpose of practising law therein or, as the case may be, representing any person before any court of the Falkland Islands:

Provided that a person who is within the Falkland Islands and who proves himself to be a legal practitioner shall be deemed to satisfy the provisions of paragraph (b) of this section unless the contrary be proved.

4 (1) A legal practitioner shall not be entitled to practice law in the Falkland Islands or as such to represent any person before any court in the Falkland Islands if an Order has been made in respect of him under subsection (2) of this section.

Prohibition Order.

(2) The Chief Justice may of his own motion or on the application of the Attorney General or of any other person whom the Chief Justice may consider to be a fit and proper person to make such an application, order that the person named in an Order under this subsection ("the respondent") shall not for such period of time as shall be stated in such Order, or until further Order, practice law in the Falkland Islands or as a legal practitioner represent any person before any court in the Falkland Islands but no Order shall be made under this subsection unless --

- (a) the Chief Justice is satisfied that having regard to the conduct of the respondent and all the circumstances relevant thereto it is just and proper that such an Order should be made; and
- (b) the Chief Justice is satisfied that the respondent has had a fair and adequate opportunity of answering or defending himself in respect of any allegation against or in respect of him upon which an application under this section is founded.
- (3) The Chief Justice may make rules in relation to applications under subsection (1).

5. Nothing in this Ordinance shall in any way affect any provision of law by virtue of Saving. which a person may be permitted, other than by reason of possession of any professional qualification as a lawyer, to represent any other person before any court in the Falkland Islands.

Ref: LEG/10/70.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Public Health (Amendment) Ordinance 1988 (No. 8 of 1988)

Arrangement of Provisions

Section

- 1. Short Title.
- 2. The principal Ordinance. (Cap. 54)
- 3. Amendment of section 39 of the principal Ordinance.
- 4. Repeal and replacement of Second Schedule.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Public Health (Amendment) Ordinance 1988. (No. 8 of 1988)

An Ordinance to amend the Public Health Ordinance (Cap. 54).

(Assented to : 8th June 1988) (Commencement : on publication) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Public Health (Amendment) Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Public Health Ordinance.

3. (1) Section 39 (2) of the principal Ordinance is repealed and replaced by the following new section 39 (2) -

"(2) The subsidiary legislation of England specified in the Second Schedule to this Ordinance shall apply in the Falkland Islands subject to all such modifications and adaptations as are required by section 76 of the Interpretation and General Clauses Ordinance 1977."

4. The Second Schedule of the principal Ordinance is repealed and replaced by the following new Second Schedule.

"SECOND SCHEDULE (s.39(2))

Subsidiary legislation of England adopted as law of the Falkland Islands -

1. The Public Health (Aircraft) Regulations 1979 (SI 1979 No. 1434).

2. The Public Health (Ships) Regulations 1979 (SI 1979 No. 1435)?'

Ref: MED/10/2.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Short title.

The principal Ordinance. (Cap. 54) Amendment of section 39 of the principal Ordinance.

Repeal and replacement of the Second Schedule.

The Road Traffic (Amendment) Ordinance 1988 (No. 9 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short Title.
- 2. The principal Ordinance.
- 3. Amendment of section 2 of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor,

The Road Traffic (Amendment) Ordinance 1988.

(No. 9 of 1988)

An Ordinance to amend the Road Traffic Ordinance Cap 60.

(Assented to : 8th June 1988) (Commencement : on publication) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Road Traffic (Amendment) Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Road Traffic Ordinance.

3. Section 2 of the principal Ordinance is amended -

- (a) by constituting the existing section 2 as subsection (1) of that section;
- (b) by adding thereto the following new subsection (2) immediately after subsection (1) thereof —

"(2) Where a person is serving in any police section or corps of any of Her Majesty's regular armed forces and is a reserve member of the Falkland Islands Police Force he shall be deemed to be a police officer in uniform at all times that he is wearing the uniform of that police section or corps of Her Majesty's regular armed forces."

Ref: POL/10/5.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Short title.

The principal Ordinance. (Cap. 60) Amendment of section 2 of the principal Ordinance.

The Fisheries (Conservation and Management) (Amendment) Ordinance 1988.

(No. 10 of 1988)

Arrangement of Provisions

Section

- 1. Short Title,
- 2. The principal Ordinance.
- 3. Amendment of section 20 of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Fisheries (Conservation and Management) (Amendment) Ordinance 1988.

(No. 10 of 1988)

An Ordinance to amend the Fisheries (Conservation and Management) Ordinance 1986.

> (Assented to : 8th June 1988) (Commencement : on publication) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Fisheries (Conservation and Management) (Amendment) Ordinance 1988.

In this Ordinance, "the principal Ordinance" means the Fisheries (Conservation and 2. Management) Ordinance 1986.

3. Section 20 of the principal Ordinance is amended by the addition thereto, immediately after subsection (3) thereof, of the following new subsection (4) -

"(4) Nothing in this section shall be construed so as to require the fees terms and conditions of licences granted for exploratory or scientific purposes (within the meaning given to that phrase by regulation 3 of the Fishing Licences (Applications and Fees) Regulations Order 1987) to be prescribed by Regulations made under this section and any such licence may be granted for such fee (if any) and upon such terms and conditions as may, in respect of the particular licence, have been approved by the Governor."

Ref: F1S/29/8.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Short title.

The principal Ordinance

Amendment of section 20 of the principal Ordinance.

(S R & O No. 21 of 1987).

The Finance and Audit Ordinance 1988 (No. 11 of 1988)

ARRANGEMENT OF PROVISIONS

PART I

PRELIMINARY

Section

- 1. Short Title and commencement.
- 2. Interpretation.

PART II

PUBLIC FINANCE

- 3. Consolidated Fund.
- 4. All public monies to be accounted for in the public accounts of the Islands.
- 5. Payments into Consolidated Fund.
- 6. Payments from Consolidated Fund.
- 7. Annual Estimates.
- 8. Appropriation.
- 9. Authorisation of expenditure in advance of appropriation.
- 10. Authorisation of expenditure in excess.
- 11. Special Funds.
- 12. Trust Funds.
- 13. Trusts.
- 14. Power to issue directions.

PART III

CONTROL AND MANAGEMENT OF PUBLIC FINANCES

- 15. Duties of Financial Secretary.
- 16. Powers of Financial Secretary.
- 17. Powers and duties of Treasurer.
- 18. Accounting officer and accountable officers to obey Financial Instructions, regulations and directions.
- 19. Consolidated Fund monies to be kept with specified banks.
- 20. Bank accounts.
- 21. Revenues and other monies to be paid into Consolidated Fund.
- 22. Statutory payments.
- 23. Authorisation of voted expenditure.
- 24. Investment of monies.

- 25. Advances.
- 26. Contingencies Fund.
- 27. Imprests.
- 28. Appropriations and warrants to lapse at the end of financial year.
- 29. Administration of Special Funds.
- 30. Dissolution of Special Funds.
- 31. Administration of Trust Funds.
- 32. Accounting officers.
- 33. Disbursement of and accounting for expenditure on Consolidated Fund services.
- 34. Existing investments.
- 35. Restrictions on borrowing.
- 36. Guarantees.
- 37. Re-allocation within supply votes.

PART IV

DEPOSITS

38. Deposits.

- 39. Investment of deposits.
- 40. Deposits may be used to finance advances.
- 41. Unclaimed deposits.
- 42. Treasurer to administer deposits and make refunds.

PART V

PRINCIPAL AUDITOR

- 43. Appointment of Principal Auditor.
- 44. Renumeration of Principal Auditor.
- 45. Tenure of office.
- 46. Vacancy in office of Principal Auditor.
- 47. Acting Principal Auditor.
- 48. Duties of Principal Auditor.
- 49. Powers of Principal Auditor.
- 50. Powers of Principal Auditor not subject to directions.
- 51. Financial Secretary may authorise Principal Auditor to dispense with examination of vouchers.
- 52. Vouchers which are lost or inadvertently destroyed.
- 53. Principal Auditor not to be required to undertake pre-audit or any duties incompatible with his office.
- 54. Staff and delegation of functions.

PART VI

THE AUDIT AND EXAMINATION OF PUBLIC ACCOUNTS.

- 55. Annual Accounts.
- 56. Report on accounts and special reports.
- 57. Financial Secretary to lay documents transmitted.
- 58. Documents laid to be dealt with in manner prescribed.

59. Notification of irregularities.

PART VII

EXAMINATION AND AUDIT OF THE ACCOUNTS OF STATUTORY CORPORA-TIONS, BOARDS, BODIES AND COMMISSIONS.

60. Examination and audit of accounts of statutory corporations and similar bodies.

61. Financial Secretary to obtain observations on report of Principal Auditor.

62. Audit fees be charged.

PART VIII

ABANDONMENT OF CLAIMS AND WRITE-OFF OF PUBLIC MONIES AND STORES.

63. Abandonment of claims, etc. and write-off of public monies and stores.

64. Disposal of serviceable stores or property to certain organisations.

PART IX

SURCHARGE BY THE FINANCIAL SECRETARY

65. Power to surcharge.

66. Notification of surcharge.

67. Appeal against surcharge.

68. Recovery of surcharge.

ELIZABETH II



Colony of the Falkland Islands

GORDON WESLEY JEWKES, C.M.G. Governor.

The Finance and Audit Ordinance 1988. (No. 11 of 1988)

An Ordinance to make detailed provision relating to the audit of public funds, to provide for the management of public funds of the Islands, the appropriation of funds for the expenditure of the Government, the withdrawal and issue of sums from public funds, the audit of public accounts and matters connected therewith and incidental thereto.

> (Assented to : 8th June 1988) (Commencement : to be fixed) (Published : 30th June 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

PART I PRELIMINARY

1. This Ordinance may be cited as the Finance and Audit Ordinance, 1988, and shall come into force on such day as the Governor, by Notice published in the Gazette, shall appoint.

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

commencement.

Short title and

"accountable officer" means any public officer, including an accounting officer and a receiver of revenue, concerned in or responsible for the collection, receipt, custody, issue or payment of public monies, stores, stamps, investments, securities or negotiable instruments whether the same are the property of the Goverment or on deposit with or entrusted to the Government or to any public officer in his official capacity either alone or jointly with any other public officer or any other person;

"accounting officer" means any public officer appointed under the provisions of this Ordinance and charged with the duty of accounting for any service in respect of which monies have been appropriated; "Appropriation Ordinance" means any Ordinance to apply a sum out of the Consolidated Fund to the service of a financial year and includes a Supplementary Appropriation Ordinance;

"Consolidated Fund" means the Consolidated Fund referred to in section 69 of the Constitution;

"the Constitution" means Schedule 1 to the Falkland Islands Constitution Order 1985;

"Crown Agents" means the Crown Agents for Overseas Governments and Administrations;

"Debt charges" has the meaning given by section 73(2) of the Constitution;

"Financial Instructions" means the directions and instructions issued by the Financial Secretary as Financial Instructions under section 16(1);

"Financial Secretary" includes any person for the time being acting in the office of Financial Secretary;

"financial year" means the twelve months ending on the thirtieth day of June in any year;

"General Orders" means the General Orders issued from time to time by the Governor defining the conditions of service of public officers;

"Joint Consolidated Fund" means the fund administered by the Crown Agents in the United Kingdom for the investment of funds lodged by overseas governments and territories;

"Legislative Council" means the Legislative Council of the Falkland Islands;

"Standing Finance Committee" means the standing Committee of that name of the Legislative Council in accordance with that Council's standing orders for the time being in force;

"public monies" includes -

- (a) all revenues or other monies raised or received for the purpose of the Government of the Islands;
- (b) any other monies or funds held, whether temporarily or otherwise, by any public officer in his official capacity, either alone or jointly with any other person, whether public officer or not;

"public stores" means all chattels of whatsoever nature the property of or in possession of or under the control of the Government;

"statutory expenditure" means expenditure charged on the Consolidated Fund by any written law (including this Ordinance) other than an Appropriation Ordinance;

"Supplementary Appropriation Ordinance" means any Ordinance the purposes of which is the appropriation of monies in supplementation of the appropriation already made by an Appropriation Ordinance;

"supply vote" means the total sums appropriated out of the Consolidated Fund for and applied to any purpose by an Appropriation Ordinance;

"the Treasurer" means the Deputy Financial Secretary;

"Trust Fund" means a fund as defined in section 12.

PART II

PUBLIC FINANCE

3. There shall continue to be one revenue fund for the Falkland Islands which shall be styled the Consolidated Fund.

4. All public monies shall be accounted for in the public accounts of the Falkland Islands.

5. Except as otherwise provided in this Ordinance, all revenues and other monies raised or received for the purpose of the Government of the Falkland Islands (not being revenues or other monies which are payable by or under any law, including this Ordinance, into some other fund) shall be paid into and form part of the Consolidated Fund.

6. (1) No monies shall be paid out of the Consolidated Fund except -

- (a) to meet expenditure which is chargeable upon the Consolidated Fund by any law, including this Ordinance;
- (b) where the payment of those monies has been authorised by an Appropriation Ordinance or by a warrant under the hand of the Governor given in accordance with the provisions of this Ordinance;
- (c) for the purpose of repaying any monies received in error by the Consolidated Fund; or
- (d) for the purpose of paying such sums as may be required for any refund, rebate or drawback where the payment of such refund, rebate or drawback is provided for in any Ordinance.

(2) No monies shall be paid out of the Consolidated Fund except in the manner prescribed by this Ordinance.

(3) Any monies forming part of the Consolidated Fund which are -

- (a) deposited with a bank or with the Crown Agents; or
- (b) invested in a manner authorised for the investment of property in the hands of trustees by any law for the time being in force in the United kingdom,

shall not, for the purpose of this section, be deemed to have been issued from the Consolidated Fund.

7. (1) The Financial Secretary shall cause to be prepared and laid before the Legislative A Council, before or not later than thirty days after the commencement of each financial year, estimates of revenue and expenditure of the Government for the next following year.

Annual estimates.

(2) The estimates of revenue and expenditure laid before the Legislative Council shall be in such form as the Financial Secretary may from time to time direct -

Provided that -

- (a) the estimates of statutory expenditure shall show the sums to be issued from the Consolidated Fund to meet the expenditure on each service and shall contain a reference to the law authorising expenditure on such service to be charged on the Consolidated Fund;
- (b) the estimates of each expenditure vote shall -
 - (i) describe the ambit of the vote;
 - (ii) show the sum required to be supplied for such vote by appropriation; and
 - (iii) contain a reference to the accounting officer appointed in respect of each vote.

8. (1) The expenditure votes contained in the estimates for a financial year shall be included in a Bill which shall be introduced for debate in the Legislative Council to provide for the issue from the Consolidated Fund of the sums necessary to supply those votes and for the appropriation of those sums for the purposes specified in the Bill.

Appropriation.

Payments into Consolidated Fund.

Payments from Consolidated Fund.

All public monies to be accounted for in the public accounts of the Islands.

(2) Subject to section 26, if in the course of any financial year it is found that the sum appropriated for that financial year for any purpose by an Appropriation Ordinance is insufficient or that a need has arisen for which no sum has been appropriated, a supplementary estimate of the sum required to meet such deficiency or such need, as the case may be, shall be laid before the Legislative Council and shall be included in a Supplementary Appropriation Bill for appropriation.

9. (1) If the Appropriation Ordinance has not come into operation at the commencement of any financial year the Governor shall authorise by warrant under his hand to the Financial Secretary in respect of supply votes the issue of monies from the Consolidated Fund for the purpose of meeting the expenditure necessary to carry on the service of the Government until the expiration of four months from the beginning of that financial year or the coming into force of the Appropriation Ordinance whichever is the earlier:

Provided that the sum so authorised shall not exceed one third of the aggregate of the sums provided for such services in the Appropriation Ordinance of the previous financial year.

(2) On receipt of any warrant issued in accordance with subsection (1), the Financial Secretary may permit expenditure of monies to the extent and in accordance with the tenor of that warrant

(3) Any sums so expended shall be set off against the amounts respectively provided in the Appropriation Ordinance upon the same coming into operation.

10. (1) If at the close of account for any financial year it is found that monies have been expended -

Authorisation of expenditure in excess.

Authorisation of

expenditure in advance of ap-

propriation.

- (a) on any expenditure vote in excess of the sum appropriated therefor by an Appropriation Ordinance;
- (b) for a purpose for which no monies have been voted and appropriated; or
- (c) on any subhead of an expenditure vote in excess of the sum assigned thereto in the estimates of expenditure for the financial year and for which no further sum has been applied pursuant to section 37,

the amount so expended shall be included in a Statement of Expenditure in Excess which shall be laid before the Legislative Council and the sum required to meet such excess or such amount as shall be allowed shall be included in a Supplementary Appropriation Bill for appropriation:

Provided that in the case of expenditure in excess on any subhead the Financial Secretary may direct, pursuant to section 37, that the sum required to meet such excess shall be provided out of any surplus arising on any sum assigned to any other subhead within the same vote.

11. (1) The Legislative Council, with the prior concurrence of the Secretary of State, may —

- make provision in any Appropriation Ordinance for the establishment of a Special Fund; and
- (b) by resolution hypothecate revenue for any Special Fund so established.

(2) A Special Fund shall not form part of the Consolidated Fund and shall be administered, and the expenditure therefrom shall be regulated, in accordance with the provisions of this Ordinance.

12. (1) For the purpose of this Ordinance "Trust Fund" means —

Trust Funds.

Special Funds.

 (a) any fund established by an Ordinance other than an Appropriation Ordinance; or 138

(b) any fund of monies held by or deposited with or entrusted to the Government pursuant to the terms of a deed or trust, trust intrument, agreement whether expressed or implied or any arrangement governing the use of the monies so held.

(3) A Trust Fund shall not form part of the Consolidated Fund and, subject to section 13, shall be administered in accordance with the provisions of this Ordinance.

13. (1) Nothing in this Ordinance shall extend to, abridge, or alter the terms of any trust Trusts. or shall be construed as authorising the making of any regulation or the giving of any directions or instructions requiring any person to obey such regulations, directions or instructions in relation to monies held on trust which contravene or are inconsistent with the terms of such trust.

(2) No public officer shall accept appointment as a trustee of a Trust Fund without the prior written authority of the Governor and any appointment contrary to this subsection shall be void.

14. The Governor may issue to the Financial Secretary such directions not inconsistent with the provisions of this Ordinance as may appear to him to be necessary and expedient for the proper carrying out of the intent and purpose of this Ordinance:

Provided that such directions as are in force for like purposes at the coming into operation of this Ordinance shall continue in force insofar as they are applicable until superseded by directions issued under this section.

PART III

CONTROL AND MANAGEMENT OF PUBLIC FINANCES

15. The Financial Secretary shall so supervise the finances of the Government as to ensure that a full account is made to the Legislative Council and for such purposes shall, subject to this Ordinance, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of the Government.

16. (1) The Financial Secretary —

- (a) may give such directions and instructions as may appear to him to be necessary and expedient for the advantage, economy and safety of public monies and public property and shall give special accounting instructions to be known as Financial Instructions;
- shall take all proper steps to ensure that any directions issued under section (b) 14 and any directions and instructions given pursuant to the provisions of this section are brought to the notice of all persons directly affected thereby; and
- shall be entitled to inspect all offices and shall be given access at all times (c) thereto and shall be given all available information he may require with regard to the monies and property to which this Ordinance applies and to all documents and records in respect thereof; and

Duties of Financial Secretary.

Powers of Financial Secretary.

Power to issue

directions.

(d) shall be entitled to inspect the monies and property specified in section 18 so far as may be necessary for the purpose of ensuring compliance with any directions issued under section 14 and any directions or instruction given pursuant to paragraph (a).

(2) The Financial Secretary may delegate by writing under his hand all or any of the powers conferred upon him by subsection (1)(c) and (d).

(3) Without prejudice to the generality of subsection (1) and this subsection Financial Instructions shall provide for -

- (a) the collection, custody, issue, expenditure, due accounting for, care and management of all public funds and the guidance for all persons concerned therewith;
- (b) the effectual recording, examination, inspection and departmental checking of all receipts, payments and expenditure and the keeping of all necessary books and accounts;
- (c) the forms for all accounts, books, returns and documents whatsoever required for the proper accounting for public monies and public stores;
- (d) the purchase, safe custody, issue,sale or other disposal or writing-off of stores and other property of the Government and the proper accounting for and stocktaking of such stores and property;
- (e) the custody, handling and the proper accounting for stamps, investments, securities or negotiable instruments whether the property of Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or any other person;
- (f) the reporting of losses, by whatever means, of public money, stamps, accountable documents of whatever kind and public stores and the reporting of the damage to or destruction of any property of the Government; and
- (g) the issue of public tenders and the powers and duties of tender boards;

Provided that such directions and instructions as are in force for like purposes at the coming into operation of this Ordinance shall continue in force insofar as they are applicable until superceded by directions or instructions issued under this section.

17. (1) The Treasurer, in the discharge of his duties as the officer charged with the compilation and management of the accounts of the Government and with the conduct of the Treasury, may, with the prior written approval of the Financial Secretary, give general instructions not inconsistent with this Ordinance and Regulations made thereunder, and may in his discretion give special accounting instructions:

Powers and duties of Treasurer.

Provided always that such special accounting instructions shall not conflict with or extend to abridge or amend Financial Instructions or any other direction or instruction given by the Financial Secretary under the provisions of section 16.

(2) Without prejudice to the generality of the duties imposed on the Treasurer by subsection (1) and to the powers conferred on the Financial Secretary by section 16, the Treasurer shall —

- (a) ensure that all monies received and paid by Government are brought promptly and properly to account;
- (b) refuse payment on any vouchers wrong or insufficient in content or that contravene Financial Instructions or any other regulations, directions or instructions properly made or given under the provisions of this Ordinance for the management of public monies, or that are in his opinion in any other way unacceptable in support of a charge on public funds;

- (c) report to the Financial Secretary in writing any apparent defect in departmental control of revenue, expenditure, cash, stamps, stores and other property of the government and any breach or non-observance of Financial Instructions that may come or be brought to his notice; and
- (d) ensure, insofar as is practicable, that adequate provisions exist for the safe custody of public monies, stamps securities and other accountable documents.

18. Every accounting officer and every accountable officer shall comply with Financial Instructions, shall obey all regulations made and directions or instructions given by the Financial Secretary under section 16 or under powers delegated by him under that section and all instructions that may from time to time be given by the Treasurer under section 17 or in respect of the custody and handling of and the accounting for public monies, public stores, stamps, investments, securities or negotiable instruments whether the property of the Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or to any other person.

19. All sums accounted for in the Consolidated Fund shall be kept with such bank or banks as the Financial Secretary shall from time to time determine:

Provided that this section shall not apply to monies invested under the provisions of section 24.

20. No public or official account shall be opened at any bank without the prior written authority of the Financial Secretary.

21. (1) Except as is otherwise provided in this Ordinance, all revenues and other monies received for the purpose of the Government shall be paid into the Consolidated Fund in accordance with Financial Instructions or any other instructions of the Financial Secretary and of the Treasurer relating thereto.

(2) For the avoidance of doubt it is hereby declared that the reference to monies raised or received for the purpose of the Government does not include monies received on deposit or held in trust.

22. The Financial Secretary shall authorise the Treasurer from time to time on his requisition, if satisfied as to the correctness thereof, to pay out of the Consolidated Fund the sums falling due during the financial year for statutory expenditure.

23. (1) Subject to subsection (2) and any directions issued under section 14, on the coming into operation of the Appropriation Ordinances and any Supplementary Appropriation Ordinance, the Governor shall authorise the Treasurer by General Warrant under his hand to pay out of the Consolidated Fund such sums as may be required for the supply votes; and

(2) Notwithstanding the issue of a General Warrant it shall be within the discretion of the Governor to limit or suspend at any time expenditure (not being statutory expenditure) with or without cancellation of the Warrant if, in his opinion, financial exigencies or the public interest so require.

24. (1) The Financial Secretary may authorise the investment of monies forming part of the Consolidated Fund with a bank, either at call or subject to notice not exceeding twelve months or with the Joint Consolidated Fund or in a manner authorised for the Investment of property in the hands of trustees by any law for the time being in force in the United Kingdom.

(2) All investments made under this section together with any interest received therefrom shall form part of the Consolidated Fund.

25. (1) Subject to the provisions of this section, the Governor may, by advance Warrant Ac under his hand authorise the Treasurer to make disbursements of monies forming part of the Consolidated Fund or of other public monies for the purpose of making advances —

countable officers to obey Financial Instructions, regulations and directions.

Accounting officer and ac-

Consolidated Fund monies to be kept with specified banks.

Bank accounts.

Revenues and other monies to be paid into the Consolidated Fund.

Statutory payments.

Authorisation of voted expenditure.

Investment of monies.

Advances.

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(a) on behalf of, and recoverable from, other governments and administrations;

- (b) to, or on account of, trusts and other funds administered by the Government;
- (c) to, or on behalf of public bodies, institutions or individuals where such advances are, in the opinion of the Governor, in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances are made; or
- (d) to public officers for such puposes and on such terms as may be prescribed from time to time by General Orders.

(2) The total of the sums issued and disbursed for the purpose of making advances under (b), (c) and (d) of subsection (1) shall not exceed in aggregate at any time, after deducting repayments, an amount of one million pounds.

26. (1) In order to defray unforeseen and urgent expenditures for which no other provision exists, the Financial Secretary may establish a Contingencies Fund by issue from the Consolidated Fund of sums not exceeding in the aggregate the amount of one half per cent of the total sums appropriated by the appropriation legislation enacted in relation to the preceeding financial year.

Contingencies Fund.

(2) The Financial Secretary, if he is satisfied that, due to exceptional circumstances which could not have been foreseen, an urgent need for expenditure has arisen -

- (a) for which no monies have been appropriated or for which the sum appropriated is insufficient;
- (b) for which funds cannot be provided under the provisions of section 37; and
- (c) which cannot be deferred without serious detriment to the public service;

may, by Contingencies Warrant under his hand, and in anticipation of the grant of an appropriation by the Legislative Council, authorise an advance from the Contingencies Fund to meet that need and shall forthwith report his action to the Executive Council.

(3) Where any advance is made from the Contingencies Fund under the provisions of this section a supplementary estimate of the sum required for the service for which such advance was made shall be presented to the Legislative Council at its meeting next following the date on which the Contingencies Warrant was issued and shall be included in a Supplementary Appropriation Bill for appropriation.

(4) Upon the grant of an appropriation to meet the expenditure in respect of which an advance was made under the provisions of this section, the Contingencies Warrant authorising such advance shall lapse and shall cease to have effect and the advance shall be deemed to have been made for the purpose of the grant and shall be accounted for accordingly.

(5) Nothing in this section shall be construed as permitting the avoidance of the terms and conditions attached to the grant of monies to the Government by the Government of the United Kingdom or by any other government, institution or authority or of any instruction which may for the time being be in force regulating the issue of monies from United Kingdom funds.

27. (1) The Financial Secretary may, by Imprest Warrant under his hand, authorise the F Treasurer to issue imprests from the Consolidated Fund to public officers for any purpose for which monies have been appropriated therefrom.

Imprests.

(2) Except as otherwise provided in subsection (4) any public officer to whom an imprest has been issued pursuant to subsection (1) shall retire such imprest before the end of the financial year in which the imprest was issued or, if some earlier date is specified in the Imprest Warrant, on or before such earlier date.

(3) Where any public officer to whom subsection (2) applies fails to retire an imprest in accordance with the provisions of that subsection, the Treasurer shall forthwith recover the amount of the imprest by deduction from the salary or other emoluments of such public officer. (4) A public officer to whom an imprest has been issued pursuant to subsection (1) for the purpose of his travelling on duty outside the Falkland Islands shall retire such imprest in such manner and at such time as the Financial Secretary shall, by directions given under section 16, require, and where any public officer to whom this subsection applies fails to comply with such directions the Treasurer shall forthwith redeem the amount of the imprest by deduction from the salary or other emoluments of such public officer in such manner as the Financial Secretary may direct.

(5) Notwithstanding the provisions of this Ordinance, or of any other law, an elected member of the Legislative Council shall, for the purpose of this section, be deemed to be a public officer.

28. Except as otherwise provided in this Ordinance, every appropriation by the Legislative Council of public monies for the service of any financial year and every warrant issued under this Ordinance shall lapse and cease to have effect at the close of that financial year.

29. (1) An accounting officer shall be appointed in respect of each Special Fund to administer such Fund and to control and account for the payment of monies therefrom and shall be personally accountable therefor.

(2) Without prejudice to the generality of section 16, the Financial Secretary shall, in respect of each Special Fund, give directions for the administration and control thereof and for regulating the payment of monies thereto and the expenditure of monies therefrom.

(3) A Special Fund shall be kept in a separate account by the Treasurer or, where by virtue of the directions given by the Financial Secretary in relation to that Fund pursuant to subsection (2) some other public officer is appointed the accounting officer for the Fund, by that accounting officer:

Provided that it shall be lawful for the Treasurer to keep the account on behalf of such accounting officer.

(4) Notwithstanding section 21 and 22 neither the receipts nor accruals of a Special Fund nor any balance of monies standing to the credit of a Special Fund at the close of a financial year shall be paid into the Consolidated Fund but shall be retained for the purpose of that Special Fund.

(5) The Financial Secretary may authorise the investment of monies standing to the credit of a Special Fund in like manner to that provided by section 24 in respect of the Consolidated Fund.

30. (1) If --

- (a) the monies in a Special Fund are exhausted and no legal provisions exist whereby further monies may be paid into that Special Fund; or
- (b) the objects for which a Special Fund was established are fulfilled or cease to exist and in the opinion of the Financial Secretary there is no likelihood that any objects for which that Special Fund could lawfully be used will arise in future,

the Governor may, by Order published in the Gazette, dissolve such Special Fund.

(2) The monies remaining in any Special Fund dissolved by virtue of an Order under subsection (1) made pursuant to paragraph (b) thereof shall thereupon be paid into and shall form part of the Consolidated Fund.

31. (1) A Trust Fund shall be administered and the payment of monies therefrom shall be governed by the terms of the law, deed of trust, trust instrument or agreement as the case may be creating such Trust Fund.

(2) If in relation to any Trust Fund no such law, deed of trust, trust instrument or agreement exists, or exists but the Financial Secretary considers that inadequate provision is made

Dissolution of Special Funds.

Administration of Trust Funds.

Appropriations and warrants to lapse at the end of Financial year. Administration of Special Funds. therein for the administration of such Trust Fund or for the control of payments thereto or expenditure therefrom or for the proper accounting therefor, he shall subject to section 13 - 13

- (a) appoint a public officer to be the accounting officer for such Trust Fund; and
- (b) give directions in respect of such matters in relation to that Trust Fund.

(3) The accounting officer for a Trust Fund shall be personally accountable for all monies received by or disbursed from and held in such a Fund.

(4) Subject to section 13 and this section, the Financial Secretary may authorise the investment of monies standing to the credit of a Trust Fund in like manner to that provided by section 24 in respect of the Consolidated Fund.

32. (1) An accounting officer shall be appointed by relation to office by the Governor in respect of each expenditure vote to control and account for the expenditure of monies applied to that vote by an Appropriation Ordinance.

(2) An accounting officer shall be personally accountable for all public monies received, collected or disbursed and for all public monies received, held or disposed of by or on account of the department or service for which the vote for which he is accounting officer is provided.

(3) An accounting officer may, with the prior written approval of the Financial Secretary, appoint a public officer under his control to be the receiver of revenue for the collection of any item of revenue for which he is accountable to the Legislative Council and shall define in writing to the satisfaction of the Financial Secretary the extent to which the powers and duties conferred and imposed on him in respect of the receipt and collection of public monies for which he is accounting officer shall be exercised or performed on his behalf by such receiver of revenue.

(4) The appointment of a receiver of revenue under subsection (3) for the collection of any item of revenue shall not abate or abridge the personal accountability of the accounting officer making the appointment for that item of revenue.

(5) Without prejudice to subsection (3), the accounting officer may, and shall if so required by the Financial Secretary, define in writing the extent to which the powers and duties conferred and imposed upon him may be exercised or performed on his behalf by any public officer under his control and give such directions as may be necessary to ensure the proper exercise or performance of such powers and duties.

33. (1) In this section the expression "Consolidated Fund Services" means the services of Government, the expense of which is charged on or payable from the Consolidated Fund under or by virtue of any law other than an Appropriation Ordinance, but including this Ordinance.

(2) Subject to section 22, the disbursement of monies provided in any financial year to meet expenditure on the Consolidated Fund Services shall be controlled and accounted for by the Treasurer.

34. All investments held by or on behalf of the Government on the date of the coming into operation of this Ordinance shall, be deemed to have been made out of monies issued from the Consolidated Fund and shall be deemed to form part of that Fund and, not-withstanding that such investments are not such as may be made under section 24, may be retained.

35. (1) The Government shall not borrow money except in accordance with this Ordinance and with the prior approval of the Secretary of State:

Provided that if the Secretary of State has not, within thirty days after an application for approval of a borrowing detailing the intended amount, intended purposes and intended terms and conditions of that borrowing is received by him, notified that he will not approve the same, he shall, for the purpose of this Ordinance, be deemed to have approved that borrowing.

(2) The powers conferred by a general or any specific Loans Ordinance or by an Appropriation Ordinance to borrow money by means of advances from a bank or from the Crown Agents may be exercised by means of a fluctuating overdraft.

(3) Debt charges upon any money borrowed by the Government in the manner provided for in subsection (2) shall be charged upon and paid out of the Consolidated Fund without further appropriation than this Ordinance.

Disbursement of and accounting for expenditure on Consolidated Fund services.

Existing investments.

Restrictions on borrowing.

Accounting officers. 36. No guarantee involving any financial liability shall be binding upon the Government Guarantees. unless such guarantee is given in accordance with any other Ordinance or unless it has been approved by the Secretary of State and ratified by resolution of the Standing Finance Committee.

37. (1) If, in the opinion of the Financial Secretary, the exigencies of the public service render it necessary or expedient to vary the sum assigned to any purpose within a supply vote shown in the estimates of expenditure for any financial year or to make provisions for a new purpose within such vote, he may direct by means of a Virement Warrant that there shall be applied in aid of any purpose for which the sum assigned may be deficient or in aid of any new purpose a further sum out of any surplus arising on any sum assigned to any other purpose within the same supply vote:

Provided that -

- the sum appropriated for any supply vote by the Appropriation Ordinance (a) and by any Supplementary Appropriation is not thereby exceeded; and
- (b) any new purpose to which any sum is assigned shall be within the ambit of the vote.

(2) Any Virement Warrant issued under subsection (1) shall be laid before the Standing Finance Committee at its meeting next following the date on which such Virement Warrant was signed.

(3) Nothing in this section shall be construed as permitting the avoidance of the terms and conditions attached to the grant of monies to the Government by the Government of the United Kingdom or by any other government, institution or authority or of any instructions which may for the time being be in force regulating the issue of monies from United Kingdom funds.

PART IV

DEPOSITS

38. Any monies, not being raised or received for the purposes of the Government, which Deposits. may be deposited with the Treasurer or with any other public officer authorised by the Treasurer or by regulations made under this Ordinance to receive the same (such monies hereinafter referred to as deposits) shall not form part of the Consolidated Fund and, except as provided in this Part, shall not be applied in any way for the purposes of Government.

39. (1) The Financial Secretary may authorise the investment of deposits in like manner to that provided by section 24(1) in respect of the Consolidated Fund.

(2) Any interest or dividend received in respect of deposits invested in accordance with subsection (1) shall be paid into the Consolidated Fund.

40. The Financial Secretary may authorise the Treasurer to use deposits for the purposes of making advances for all or any of the purposes specified in section 25(1):

Provided that deposits shall not be used where the advance in question is repayable or recoverable as the case may be after close of the financial year in which the advance is made.

41. Any deposit which is unclaimed for five years may, with the approval of the Treasurer, be paid into the Consolidated Fund for the public purposes of the Government:

Provided that if any person entitled thereto shall subsequently prove to the satisfaction of the Treasurer his claim to any such deposit the Treasurer shall thereupon refund to such person his deposit.

42. Subject to the provisions of this Part, the Treasurer is hereby authorised to administer and, in appropriate cases, to refund deposits to the persons entitled to them.

Investment of deposits.

Deposits may be used to finance advances

Unclaimed deposits.

Treasurer to administer deposits and make refunds.

Re-allocation within supply votes

PART V

PRINCIPAL AUDITOR

43. (1) In accordance with section 76 of the Constitution and Regulation 19 of Colonial Regulations the Governor in his discretion and with the prior approval of the Secretary of State shall appoint in writing an officer, to be styled the Principal Auditor, who shall not be capable, while holding the office of Principal Auditor, of holding any other office of profit under the Government.

(2) On any vacancy occurring in the office of Principal Auditor from death, retirement, resignation or other cause, the Governor in his discretion and with the prior approval of the Secretary of State shall appoint in writing a person in his place.

44. (1) Subject to subsection (2) the remuneration of the Principal Auditor shall be at such rate and on such terms as the Governor acting in his discretion shall, from time to time, determine:

Provided that such remuneration shall not be reduced during his tenure of his office without the consent of the Principal Auditor.

(2) The reumeration payable to the Principal Auditor by virtue of this section shall be charged on and issued out of the Consolidated Fund.

45. (1) The Principal Auditor shall hold office during good behaviour and may be removed from office only by the Governor in his discretion with the prior approval of the Secretary of State and in any such case a full statement of the circumstances shall, at the first opportunity, be made to the Legislative Council.

(2) The office of Principal Auditor shall be deemed to be an office in the public service and, save as otherwise provided in subsection (1), as agreed by the Governor the provisions of the law and regulations relating to the public service shall apply to him:

Provided that the terms and conditions of office applicable to the Principal Auditor upon his appointment shall not be made less favourable to him during the currency of his appointment.

46. In the event of the office of Principal Auditor becoming vacant the Governor in his discretion and with the prior approval of the Secretary of State, may appoint in writing another person to act as Principal Auditor in accordance with section 43.

47. (1) If, in the opinion of the Governor, the Principal Auditor is likely to be unable to exercise his powers or perform the duties of his office during any period by reason of absence or inability to act from illness or any other cause, the Governor in his discretion and with the prior approval of the Secretary of State, may appoint in writing a public officer to act as Principal Auditor during such period.

(2) Every person appointed to act as Principal Auditor pursuant to section 46 or subsection (1) shall have and may exercise all the powers and authority and shall perform all the duties by this Ordinance conferred and imposed upon the Principal Auditor and section 43(1) shall apply accordingly.

(3) Notwithstanding section 45(2) every public officer appointed to act as Principal Auditor under section 46 or subsection (1) shall, for the period for which such public officer acts as Principal Auditor, be paid such allowance at such annual rate as the Governor acting in his discretion shall determine.

48. The Principal Auditor shall enquire into and audit the accounts of the Treasurer and of accounting officers and of all accountable officers and in his audit he shall make such examination as he may deem necessary to satisfy himself -

 (a) that all reasonable precautions have been taken to safeguard the collection and custody of revenue and that the Ordinance, directions and instructions relating thereto have been duly observed;

Appointment of Principal Auditor.

Remuneration of Principal Auditor.

Tenure of office.

Vacancy in office of Principal Auditor.

Acting Principal Auditor.

Duties of Principal Auditor.

- (b) that monies which have been appropriated and disbursed have been expended to the purposes for which they were appropriated and that the expenditure conforms to the authority which governs it;
- (c) that public monies other than those which have been appropriated have been dealt with in accordance with proper authority;
- (d) that all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of cash, stamps, securities and stores and that the regulations, directions and instructions relating thereto have been duly observed; and
- (e) that adequate regulations, directions or instructions exist for the guidance of accounting officers and accountable officers.

49. (1) In the exercise of the duties imposed upon him by this Ordinance the Principal Auditor may --

Powers of Principal Auditor.

- (a) call upon any officer for any explanations and information which the Principal Auditor may require in order to enable him to discharge his duties;
- (b) authorise any person publicly carrying on the profession of accountant or any public officer to conduct on his behalf an inquiry examination or audit and such person or officer shall report thereon to the Principal Auditor;
- (c) without payment of any fee cause search to be made in and extracts to be taken from any public office; and
- (d) lay before the Attorney-General a case in writing as to any question regarding the interpretation of any Ordinance or regulation concerning the powers of the Principal Auditor or the discharge of his duties, and the Attorney-General shall give a written opinion upon such matter.

(2) In the exercise of his duties the Principal Auditor or any person duly authorised by him in writing shall have access to all records, books, vouchers, documents and to all cash, stamps, securities, stores or other Government property of any kind whatsoever in the possession of any public officer.

50. In the exercise of his powers of audit and reporting on accounts the Principal Auditor shall not be subject to the direction or control of any person or authority.

Powers of Principal Auditor not subject to directions.

51. Notwithstanding sections 48 and 49, in the examination of any account it shall be lawful for the Financial Secretary, in cases where it shall appear to him to be reasonable and expedient for the public service and after satisfying himself that the vouchers relating to the account in question have been examined and certified as correct by the appropriate accounting officer, to authorise the Principal Auditor to admit and allow without further examination the sums so certified in support of the charges to which they relate.

52. In the event that any voucher has been lost or inadvertently destroyed the Financial Secretary may, if upon due enquiry he is satisfied as to the circumstances of such loss or destruction, authorise the payment to stand charged in the accounts.

53. (1) The Principal Auditor shall not be required to undertake any examination of accounts partaking of the nature of a pre-audit which involves the acceptance by him of responsibility which would preclude him from full criticism of any accounting transaction after such transaction has been duly recorded.

(2) The Principal Auditor shall not be required to undertake any duties outside those pertaining to his office if, in his opinion, such duties are incompatible with the responsibilities and duties of that office.

54. (1) The staff required to assist the Principal Auditor in the performance of his duties shall be composed of such officers as the Governor, after consultation with the Principal Auditor, may from time to time determine.

not subject to directions. Financial Secretary may authorise Principal Auditor to

dispense with ex-

amination of

vouchers.

Vouchers which are lost or inadvertently destroyed.

Principal Auditor not to be required to undertake preaudit or any duties incompatible with his office.

Staff and delegation of functions.

(2) Anything which, under the authority of this Ordinance or of any other law, is directed to be done by the Principal Auditor, other than certifying of and reporting on accounts, may be done by an officer of his staff so authorised by him in writing.

PART VI

THE AUDIT AND EXAMINATION OF PUBLIC ACCOUNTS

55. (1) Within a period of six months after the end of each financial year there shall be transmitted to the Principal Auditor by the Treasurer accounts showing fully the financial position of the Islands at the end of the year, which shall include -

Annual Accounts.

- (a) a Statement of Assets and Liabilities;
- (b) an Annual Abstract Account of revenue and expenditure by heads and votes respectively;
- (c) a comparative statement of estimated and actual revenue by subhead;
- (d) a comparative statement of estimated and actual expenditure by subheads;
- (e) a statement of expenditure in excess;
- (f) a statement of balances on advance accounts from the Consolidated Fund analysed under the various categories set out in section 25;
- (g) a statement of outstanding loans made from the Consolidated Fund by annual and aggregate receipts and payments;
- (h) a statement of investments showing the Funds on behalf of which such investments have been made;
- (i) a statement of contingent liabilities;
- (j) a statement of arrears of revenue by subheads;
- (k) a statement of Contingencies Fund, Special Fund and Trust Fund balances by annual and aggregrate receipts and payments and showing in respect of each such Fund the investments or other assets relating thereto;
- (1) a statment of losses of cash and stores and abandoned claims;
- (m) a statement of ex-gratia payments;
- (n) a statement of unretired imprests;
- (o) tabular summaries of unallotted stores;
- (p) such other statements as the Legislative Council may from time to time by resolution require.

(2) Within a period of six months after the close of the financial year of the close of such period of account as may be provided in any law or trust instrument relating thereto or in the absence of any such provision, the close of such period of account as may be prescribed by directions given by the Financial Secretary pursuant to section 29(2) or section 31(2) as the case may be —

- (a) any officer administering a Special Fund; and
- (b) any officer adminstering any Trust or other fund or account not provided for in this section,

shall prepare, sign and transmit to the Principal Auditor on account of such fund or account relating to the period of account in such form as the Treasurer may from time to time require.

56. (1) On receipt of the accounts prescribed by section 55 the Principal Auditor shall cause them to be examined and audited and shall, within a period of six months after their receipt prepare, sign and transmit to the Financial Secretary a report on the examination and audit of all such accounts.

Report on accounts and special reports. (2) The Principal Auditor may at any time, if it appears to him desirable, transmit to the Governor a special report on any matter incidental to his powers and duties under this Ordinance.

57. (1) A copy of every document transmitted under section 56 to be laid before the Legislative Council at its next meeting following the date on which such documents were received by the Financial Secretary or the Governor, as the case may be.

58. Every document laid before the Legislative Council in accordance with section 57 shall be dealt with in the manner prescribed by the Legislative Council Standing Orders.

59. If at any time it appears to the Principal Auditor that substantial irregularities have occurred in the receipt, custody, issue or expenditure of public monies or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property, or in the accounting for the same, he shall immediately bring the matter, in writing, to the notice of the Governor.

PART VII

EXAMINATION AND AUDIT OF THE ACCOUNTS OF

STATUTORY CORPORATIONS, BOARDS, BODIES AND COMMISSIONS

60. (1) Norwithstanding anything to the contrary contained in any Ordinance in force on the coming into operation of this Ordinance, the accounts of any statutory corporation, board, body or commission to which this section applies shall be examined and audited by the Principal Auditor.

(2) In the exercise of the duty imposed upon him by subsection (1) the Principal Auditor -

- (a) shall have, in relation to such statutory corporation, board, body or commission and its members, officers and employees, the same powers and discretion as are conferred upon him by sections 48 and 49 in relation to public offers, public monies, stamps, securities, stores or other Government property;
- (b) may authorise any person publicly carrying on the profession of accountant or any public officer to inspect, examine or audit the books and accounts of any corporation, board, body or commission which the Principal Auditor may be required to examine and audit pursuant to this section and such person or public officer shall report thereon to the Principal Auditor in such manner as the Principal Auditor may direct;

(3) The Principal Auditor shall prepare a report on the examination and audit of the accounts referred to in this section and shall transmit such report to the Governor for presentation to the Legislative Council.

(4) This section shall apply to any corporate body established by Ordinance and to any statutory board, body or commission which is not incorporated -

- (a) which is in receipt of a contribution from the public funds of the Falkland Islands; or
- (b) the operations of which may, under the Ordinance establishing the same or under any Ordinance relating thereto, impose or create a liability upon such public funds.

61. On receipt of any account and the report of the Principal Auditor thereon as required by section 60(3), the Governor shall obtain the observations of the corporation, board, body or commission concerned on any matter to which attention has been called by the Principal Auditor in such report and such observations shall be presented to the Legislative Council with the said account and report.

62. Any statutory corporation and board, body or commission the accounts of which are audited by the Principal Auditor under section 60 shall, in respect of such audit, pay such fee as may be determined by the Governor acting in his discretion after consultation with the Principal Auditor.

Financial Secretary to obtain observations on report of Principal Auditor.

Audit fees be charged.

and audit of accounts of statutory corporations and similar bodies.

Examination

149

Financial Secretary to lay

documents

transmitted.

in manner prescribed.

Documents laid to be dealt with

Notification of irregularities.

PART VIII

ABANDONMENT OF CLAIMS AND WRITE-OFF OF PUBLIC MONIES AND STORES.

63. The Governor may authorise the Financial Secretary to abandon or remit any claim by or on behalf of the Government or any service thereof and to write-off losses of public monies, stores or other moveable property belonging to Government or provided for the public service.

64. The Financial Secretary may authorise the gift of serviceable stores or property not required for Government purposes to institutions or organisations in the Falkland Islands established solely or principally for education, scientific, cultural or charitable purpose:

Provided that where the value of such stores or property exceeds five thousand pounds the prior approval of the Governor shall be required.

PART IX

SURCHARGE BY THE FINANCIAL SECRETARY.

65. If, at any time, it appears to the Financial Secretary that any person who is or was employed as a public officer -

- (a) has failed to collect any monies owing to the Government for the collection of which he is or was responsible;
- (b) is or was responsible for any improper payment of public monies or for any unauthorised expenditure in excess or for any payment of public monies, which is not duly vouched; or
- (c) is or was responsible for any deficiency in or for the loss or destruction of or damage to any public monies, stamps, securities, stores or other Government property,

and if, within a period specified by the Financial Secretary, an explanation satisfactory to him is not furnished with regard to such failure to collect, improper payment, unauthorised expenditure in excess, payment not duly vouched, deficiency, loss, destruction or damage as the case may be, the Financial Secretary may surcharge the said person such sum as he may determine:

Provided that -

- (i) the Financial Secretary in determining the sum to be surcharged shall take due account of the ability of the said person to pay the surcharge without undue financial hardship; and
- (ii) the sum to be surcharged shall not in any case exceed the amount of any such monies not collected or the amount of such improper payment, unauthorised expenditure in excess, payment not duly vouched, deficiency or the value of such loss, destruction, damage as the case may be, or twenty-five per centum of the gross annual salary or pension, as may be applicable, of the said person whichever is the lesser amount.

66. The Financial Secretary shall cause the person surcharged and the Treasurer and the Principal Auditor to be notified in writing of any surcharge made under the immediately preceding section.

67. (1) Any person who is aggrieved by any surcharge made against him under section 65 shall have the right of appeal to the Governor within a period of one month (or such longer period as the Governor, after consultation with the Financial Secretary, may allow) from the date on which he is notified of the surcharge.

(2) The Governor, acting in his discretion after making or causing to be made such investigations as he may deem to be necessary, may confirm the surcharge or direct that the person surcharged be released wholly or in part from the surcharge as may appear to him to be just and reasonable.

68. (1) The Treasurer, on being notified of a surcharge made under section 65 shall cause

Abandonment of claims, etc. and write-off of public monies and stores.

Disposal of serviceable stores or property to certain organisations.

Power to surcharge.

Notification of surcharge.

Appeal against surcharge.

Recovery of surcharge. the amount of the surcharge to be recovered from the person surcharged in such manner as the Financial Secretary may by directions given under subsection (2), authorise:

Provided that no recoveries shall be made until after the expiration of the period allowed under section 67 for the lodging of an appeal:

And provided that where the person surcharged appeals under section 67 no recoveries shall be made until and unless the amount of the surcharged has been confirmed or otherwise determined in accordance with that section.

(2) The amount of any surcharge made under the provisions of this Part shall be recovered by such monthly instalments by deductions from salary, pension or other emoluments or the person surcharged as the Financial Secretary may direct:

Provided that ---

- no one such deduction shall exceed twenty-five per centum of the gross monthly salary or pension, as the case may be of the person surcharged;
- (b) the number of instalments shall not exceed twelve; and
- (c) where the person surcharged is due to be paid any monies of whatsoever description by the Government, other than by way of salary or pension, the Financial Secretary may require the amount of any surcharge imposed on that person to be deducted from such monies in whole or in part as he considers just and reasonable.

(3) The provisions of subsections (1) and (2) shall be without prejudice to the right, which is hereby declared, of the Attorney-General, to sue for and recover the amount of any surcharge as a civil debt due to the Government.

Ref AUD/8/2.

Passed by the Legislature of the Falkland Islands this 28th day of May 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Taxes and Duties (Special Exemptions) Ordinance 1987 (section 3(1))

The Taxes (Various Companies) Exemptions Order 1988 (S.R. & O. No. 8 of 1988)

Arrangement of Provisions

Paragragh

- 1. Citation.
- 2. Interpretation.
- 3. Exemption from tax.

Schedule

The Taxes and Duties (Special Exemptions) Ordinance 1987 (Section 3(1))

The Taxes (Various Companies) Exemptions Order 1988 (S.R. & O. No 8 of 1988)

IN EXERCISE of my powers under section 3(1) of the Taxes and Duties (Special Exemptions) Ordinance 1987 I make the following Order —

1. This Order may be cited as Taxes (Various Companies) Exemption Order 1988.

2. In this Order –

"joint venture fees" means any monies received or receivable by a relevant company in connection with the sponsorship by it of licences issued under the Fisheries (Conservation and Management) Ordinance 1986 to any person or body corporate where as a result of any arrangement made by any person with Stanley Fisheries Limited, such monies are to be received by the relevant company; and

"relevant company" means a company mentioned in the Schedule to this Order.

3. A relevant company is exempt from payment of all taxes and duties of any kind in respect of joint venture fees during the period commencing with its incorporation and expiring on 31st December 1988.

SCHEDULE

Australis Fisheries Limited Italstan Limited SWB Fishing Limited Falkconview Fisheries Company Limited Stanco Limited Stankor Limited SNZ Fisheries Limited Starfish Limited Stancross Limited AGS Fisheries Limited Stancal Limited SJ Fisheries Limited Clipper (Falklands) Limited SDS Fishing Limited Stanmarr Limited and Falkspan Limited.

Made this 8th day of June 1988.

G. W. Jewkes, Governor.

Ref: INC/10/6.

Interpretation.

Citation

Exemption from tax.

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

RESOLUTION AS TO RECONSTITUTION OF THE EDUCATION COMMITTEE

No. 1 of 1988

RESOLVED by the Legislative Council, on the 23rd day of May 1987, in accordance with Standing Order 40(a) of the Legislative Council Standing Rules and Orders, that the Education Committee be reconstituted and that the members shall be —

The Honourable J. E. Cheek (Chairman) The Honourable C. D. Keenleyside The Honourable R. M. Lee The Honourable E. M. Goss, M.B.E. The Honourable T. S. Betts;

and that the quorum for meetings of the Committee shall be three: provided that there be present a member of the Committee to represent the Camp Constituency; and provided further that the absence of a member representing the Camp does not delay the work of the Committee.

> P. T. KING, Clerk of Councils.

Ref: EDU/10/2. - LEGCO/12/3.

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

Customs Ordinance (Cap. 16)

(Section 5)

RESOLUTION OF THE LEGISLATIVE COUNCIL

No. 2 of 1988

RESOLVED by the Legislative Council, under section 5 of the Customs Ordinance (Cap. 16), on the 28th day of May 1988, as follows -

1. That the Customs Order No. 6 of 1948 be amended by the substitution for item 5 of paragragh 2 thereof of the following -

"5. Tobacco —

(a)	Cigars	Per Kilo	£30.32
(b)	Cigarettes	Per Kilo	£21.92
(c)	Tobacco	Per Kilo	£19.93"

2. This Resolution may be cited as the Customs (Amendment of Import Duties) Resolution 1988 and shall come into force on the 1st day of June 1988.

P. T. KING, Clerk of Councils.

Ref: CUS/10/2.

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

RESOLUTION OF THE LEGISLATIVE COUNCIL

No. 3 of 1988

RESOLVED by the Legislative Council, on the 28th day of May 1988, as follows -

"That this House wishes to record its thanks to the Financial Secretary at this his last Budget Session of Council for his timeless efforts on behalf of the Islands and his careful management of their finances"

> P. T. KING, Clerk of Councils.

Ref: LEGCO/J2/3.

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

RESOLUTION OF THE LEGISLATIVE COUNCIL

No. 4 of 1988

RESOLVED by the Legislative Council on the 28th day of May 1988, as follows -

"That this House -

- 1. Notes the content of the Report for the year 1987 of the Falkland Islands Development Corporation;
- 2. Accepts that the future funding of the Corporation will require the approriation of funds by it;
- 3. Wishes the work of F.I.D.C. to continue; and
- 4. Calls upon Government carefully to consider the future role of Stanley Fisheries Limited and whether it should be linked to F.I.D.C.".

P. T. KING, Clerk of Councils.

Ref: LEGCO/12/3.



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THE

FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVII

29th July 1988

No. 11

Appointments

Mrs. Jill Yolanda Harris, Teachers Assistant, Education Department, 4.2.88.

James Peck, Junior Customs Assistant, Customs and Harbour Department, 27.5.88.

Miss Geraldine Sylvia Anthony, Clerk, Public Service, 20.6.88.

Mark Timothy Bullock, Inspector, Falkland Islands Police Force, 19.7.88.

Miss Helen Margaret Innes, R.G.N., S.C.M., Nursing Sister, Medical Department, 22.7.88.

Acting Appointments

Mrs. Jacqueline Joyce Hemingway, S.C.M., S.R.N., H.V., Acting Nursing Officer, Medical Department, 6.4.88 - 8.7.88.

Colin Frank Redston, Acting Director Civil Aviation, Aviation Department, 18.6.88.

Derek Stanley Evans, Acting Chief Education Officer, Education Department, 2.7.88.

Mark Timothy Bullock, Acting Chief Police Officer, Falkland Islands Police Force, 27.7.88.

Transfer

Mrs. Lorraine Iris McGill, from Houseparent, Stanley School Hostel, Education Department, to Deputy Head of Hostel, Stanley School Hostel, Education Department, 1.7.88.

Resignation

Phillip John Middleton, Printer, Printing Office, Justice Department, 30.11.87.

NOTICE

No. 24

30th June 1988.

Application for Naturalisation

Notice is hereby given that Mr. Jose Segundo Seron of Stanley, Falkland Islands, is applying to His Excellency the Governor for naturalisation, and that any person who knows any reason why naturalisation should not be granted should send a written and signed statement of the facts to the Government Secretary at the Secretariat, Stanley.

Ref: LEG/10/19-P.

Printed by the Government Printer, Stanley, Falkland Islands. Price : Fifty Pence.





THE

ISLANDS GAZETTE FALKLAND

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Vol. XCVII

31st August 1988

No. 12

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Appointments

Mrs. Nicola Luxton, Teachers Assistant, Education Department, 3.3.86.

Robin George Jaffray, Gaoler/Handyman, Police and Prisons, Falkland Islands Police Force, 1.12.87.

Charles Robert Longley, Police Constable, Falkland Islands Police Force, 23.5.88.

Anton Livermore, Immigration Officer, 1.7.88.

Robert Mark Titterington, Crown Counsel, Justice Department, 29.7.88.

Miss Sarah Louise Dixon, Teacher, Education Department, 5.8.88.

Alan Smith Jones, Supplies Officer, Central Store, 16.8.88.

Neil Rowlands, Machine Operator, Printing Office, Justice Department, 17.8.88.

Acting Appointments

Richard Edwin John Fogerty, Acting Education Officer (Camp Education Supervisor), Education Department, 6.6.88 - 7.8.88.

Manfred Micheal Ian Keenleyside, Acting Director of Public Works, Public Works Department, 3.8.88.

Rex Browning, Acting Chief Executive, Secretariat 13.8.88.

Rex Browning, Acting Director of Civil Aviation, Aviation Department, 13.8.88.

Mrs. Danuta Valler, Acting Chief Clerk/Unit Accountant, Fisheries Department, 15.8.88.

Promotion

Robert John King, from Assistant Customs Officer Customs and Harbour Department to Customs Officer, Customs and Harbour Department, 1.7.88.

Richard Edwin John Fogerty, from Teacher,

Education Department, to Education Officer (Camp Education Supervisor), Education Department, 8.8.88.

Michael Luxton, from Executive Officer, Treasury, to Chief Accountant, Treasury, 8.8.88.

Miss Anna Constance Eve King, from Assistant Air Traffic Controller, Aviation Department, to Senior Clerk, Education Department, 18.7.88.

Mrs. Kathleen Gay Clarke, from Chief Accountant, Treasury, to Establishments Secretary, Secretariat, 8.8.88.

Completion of Contract

Miss Kate Martine Leonard, Teacher, Education Department, 17.8.88.

Resignations

Miss Nicola Buckett, Clerk, Public Service, 27.7.88. Miss Anne Elizabeth Morrison, Clerk, Public Service, 27.7.88.

Miss Stephanie Ann Coutts, Clerk, Public Service, 24.8.88.

Miss Leeann Eynon, Clerk, Public Service, 25.8.88.

NOTICE

16th August 1988.

The findings of the Cost of Living Committee for the quarter ended 30th June 1988 are published for general information -

Quarter Ended Percentage Increase over 1971 Prices 30th June 1988 495,81%

2. Hourly paid employees in Stanley coming within the scope of the Wages Agreement qualified for an increase of 21/2p per hour with effect from 1st July 1988.

Ref. INT/2/2.

No. 25

NOTICE

The following are published in this Gazette —

The Breath Alcohol Concentration Measurment (Device Approval) (No. 2) Order 1988 (S.R. & O. No. 10 of 1988);

The John Street and Villiers Street Waiting Regulations 1988 (S.R. & O. No. 11 of 1988);

Road Traffic Declaration and Designation of Roads (Mount Pleasant and Mare Harbour) Order 1988 (S.R. & O. No. 12 of 1988);

Resolution by the Legislative Council;

The Multilateral Investment Guarantee Agency (Overseas Territories) Order 1988;

Road Traffic Ordinance (Cap. 60)

The Breath Alcchol Measurement (Device Approval) (No. 2) Order 1988 (S.R. & O. No. 10 of 1988)

Arrangement of Provisions

Paragragh

- 1. Citation and Commencement.
- 2. Interpretation.
- 3. Approval of further preliminary breath test device.

Road Traffic Ordinance (Cap. 60)

The Breath Alcohol Concentration Measurement (Device Approval) (No. 2) Order 1988 (S.R. & O. No. 10 of 1988)

IN EXERCISE of my powers under sections 2, 91 and 18 of the Road Traffic Ordinance, I make the following Order -

1. This Order may be cited as the Breath Alcohol Concentration Measurement (Device Approval) (No. 2) Order 1988 and shall come into operation on the date of its first publication in the Gazette.

2. In this Order, "the Ordinance" means The Road Traffice Ordinance.

3. The device known as the Lion Alcolmeter S-L2A and manufactured by Lion Laboratories Limited or its successors or assigns is approved for use for the purposes of section 9H of the Ordinance (and in addition to the Lion Alcolmeter SD2 which was approved under The Breath Alcohol Measurement (Device Approval) Order 1988.

Citation and Commencement.

Interpretation. (Cap 60) Approval.

(S.R. & O. No. 2 of 1988).

Made this 15th day of August 1988.

G. W. JEWKES, Governor.

Road Traffic Ordinance (Cap. 60)

The John Street and Villiers Street Waiting Regulations 1988 (S.R. & O. No. 11 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation and Commencement.
- 2. Interpretation.
- 3. Prohibition of waiting.
- 4. Exceptions.
- 5. Signs.

Road Traffic Ordinance

(Cap. 60)

The John Street and Villiers Street Waiting Regulations 1988

(S.R. & O. No. 11 of 1988)

1. These Regulations may be cited as the John Street and Villiers Street Waiting Regula-Citation and tions 1988 and shall come into force on the date on which they are first published in the Commencement. Gazette.

2. In these Regulations —

"relevant lengths of road" means, insofar only as it is fronted by the Stanley Infant and Junior School -

(i) the whole of the carriageway of John Street; and

(ii) the western half of the carriageway of Villiers Street,

the said school being regarded as fronting the said carriageway or half carriageway notwithstanding that it may be divided therefrom by a footpath;

"school day" means the period between the hours of eight in the morning and five in the evening on every day not being a Saturday Sunday or public holiday and falling within school terms;

"school terms" means the terms declared in respect of Government schools in Stanley under the provisions of the Education Ordinance 1967;

"wait", in respect of a motor vehicle, means to cause it to stop, stand or park for any reason and for any period of time, however short.

3. (1) A person commits an offence who, other than as is permitted under regulation 4, causes a motor vehicle to wait in a relevant length of road.

(2) A person convicted of an offence under paragraph 1 of this regulation is liable to a fine of £100.

4. It is not an offence under regulation 3 (1) to cause a motor vehicle to wait in a relevant Exceptions. length of road -

(a) where the driver or other person in charge of the vehicle is -

Interpretation.

Prohibition of waiting.

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- (i) required by law to stop;
- (ii) obliged to do so in order to avoid an accident; or
- (iii) prevented from proceeding from circumstances beyond his control

and the driver or other person in charge of the vehicle as soon as is reasonably practicable thereafter drives it or causes it to move to a place not within a relevant length of road;

- (b) so long only as is reasonably necessary to enable it to be used to remove another vehicle or an obstruction;
- (c) with the permission or at the direction of a police officer in uniform; or
- (d) for fire service, ambulance or police purposes.

5. The Chief Officer of Police may cause such signs and notices to be erected as may, Signs. in his opinion, be convenient to draw attention to the effect of these Regulations or any provision thereof, but the absence of or removal of any such sign or notice shall not be a defence to an offence under regulation 3(1).

Made this 15th day of August 1988.

4

G. W. JEWKES, Governor.

Road Traffic Ordinance

Road Traffic Declaration and Designation of Roads (Mount Pleasant and Mare Harbour) Order 1988. (S.R. & O. No. 12 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

1. Citation and Commencement.

2. Interpretation.

3. Designation.

Road Traffic Ordinance

Road Traffic Declaration and Designation of Roads (Mount Pleasant and Mare Harbour) Order 1988.

(S.R. & O. No. 12 of 1988)

IN EXERCISE of my powers under section 2 and 9N of the Road Traffic Ordinance I make the following Order -

1. This Order may be cited as the Road Traffic Declaration and Designation (Mount Pleasant and Mare Harbour) Order 1988 and shall come into operation on its first publication in the Gazette.

2. In this Order "the Lease" means the Lease dated 29th April 1988 made between the Governor, acting on behalf of Her Majesty, and the Secretary of State for Defence and comprising various lands, including lands generally known as RAF Mount Pleasant and Mare Harbour.

3. Every road on land comprised in the Lease and which has not already been declared to be a road for the purpose of the Road Traffic Ordinance by the Declaration and Designation (Stanley - Darwin) Road Order 1986 or by the Road Traffic Declaration and Designation (Mount Pleasant) Roads Order 1987 is hereby declared to be a road for the purpose of that Ordinance and to be an urban road.

Made this 15th day of August 1988.

G. W. JEWKES, Governor.

EXPLANATORY NOTE

The effect of this Order is to render every road at Mount Pleasant and Mare Harbour which is not already a road for the purposes of the Road Traffic Ordinance a road for the purpose of that Ordinance, and to impose a speed limit of 25 miles per hour on it.

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Citation and Commencement.

Interpretation.

Designation.

LEGISLATIVE COUNCIL OF THE FALKLAND ISLANDS

RESOLUTION

Taxes and Duties Special Exemptions Ordinance 1983

(Section 2)

No. 2 of 1987

RESOLVED by the Legislative Council on the 25th day of November 1987, in accordance with Section 2 of the Taxes and Duties (Special Exemptions) Ordinance 1983 -

- (a) that, in relation to resolutions 10 of 1985 and 1 of 1986, their effect be extended so as to expire on the 31st day of December 1988;
- (b) that, in relation to Resolution 12 of 1985, its effect be extended to the expiration of Fairclough Miller's maintenance obligations under their contract for construction of the hospital; and
- (c) that this Resolution may be cited as the Taxes and Duties (Special Exemptions) Resolution 1987.

P. T. KING, Clerk of Councils.

STATUTORY INSTRUMENTS

1988 No. 791

OVERSEAS DEVELOPMENT AND CO-OPERATION

The Multilateral Investment Guarantee Agency (Overseas Territories) Order 1988

Made27th April 1988Coming into Force18th May 1988

At the Court of Saint James, the 27th day of April 1988 Present,

The Counsellors of State in Council

Whereas Her Majesty in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 28th day of March 1988, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Prince Charles, Prince of Wales, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by section 9(4) of the Multilateral Investment Guarantee Agency Act 1988(a) and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:

1. This Order may be cited as the Multilateral Investment Guarantee Agency (Overseas Territories) Order 1988 and shall come into force on 18th May 1988.

2. The provisions of sections 3, 4, 5, and 6 of the Multilateral Investment Guarantee Agency Act 1988, modified as in Schedule 1 hereto, shall extend to the Territories specified in Schedule 2 hereto.

3. For the purpose of construing the said Act as so extended as part of the law of any Territory to which it extends —

"the Agency" means the Multilateral Investment Guarantee Agency;

"the Convention" means the Convention establishing the Multilateral Investment Guarantee Agency, which was signed on behalf of the United Kingdom on 9th April 1986;

"the Governor" means the officer for the time being administering the government of that Territory or any person whom the Governor may by order designate to perform such of the Governor's functions under the Act as may be specified in such order;

"the Supreme Court" means the court (by whatever name styled) having unlimited original jurisdiction in that Territory in civil matters;

"the Territory" means that Territory, including its territorial waters.

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

×

SCHEDULE 1

SECTIONS 3, 4, 5 AND 6 OF THE MULTILATERAL INVESTMENT GUARANTEE AGENCY ACT 1988 AS MODIFIED

STATUS, PRIVILEGES AND IMMUNITIES OF THE AGENCY

3. (1) The Articles of the Convention specified in subsection (2) below shall have the force of the law in the Territory.

(2) The Articles referred to in subsection (1) above are Articles 1(b), 44, 45, 46(a), 47, 48 (i) and 50.

(3) Nothing in Article 47(a) shall be construed —

- (a) as entitling the Agency to import goods free of duty or tax without restriction on their subsequent sale in the country to which they were imported;
- (b) except as provided in subsection (4) below, as conferring on the Agency any exemption from duties or taxes which form part of the price of goods sold; or
- (c) as conferring on the Agency any exemption from duties or taxes which are no more than charges for services rendered.

(4) The Governor shall make arrangements for refunding to the Agency, subject to compliance with such conditions as may be imposed in accordance with the arrangements, car tax paid on new vehicles, and value added tax paid on the supply of goods or services, which are necessary for the excercise of the official activities of the Agency.

(5) 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 relevant to that question shall be conclusive evidence of that fact.

ARBITRATION PROCEEDINGS UNDER THE CONVENTION

4. (1) A party to a dispute which is the subject of an award rendered pursuant to Article 4 of Annex II to the Convention shall be entitled to have the award registered in the Supreme Court subject to proof of such matters as are prescribed by rules of court and to the other provisions of this section.

(2) In addition to any sum payable under the award, the award shall be registered for the reasonable costs of and incidental to registration.

(3) If at the date of the application for registration any sum payable under the award has been partly paid, the award shall be registered only in respect of the balance and accordingly if that sum has then been wholly paid the award shall not be registered.

(4) An award registered under this section shall be of the same force and effect for the purpose of execution as if it had been a judgement of the Supreme Court given when the award was rendered as mentioned in subsection (1) above and entered on the date of registration under this section and -

- (a) proceedings may be taken on the award;
- (b) any sum for which the award is registered shall carry interest; and
- (c) the Supreme Court shall have the same control over the execution of the award, as if the award had been such a judgement of the Supreme Court.

(5) This section shall bind the Crown but not so as to make an award enforceable against the Crown in a manner in which a judgment would not be enforceable against the Crown; and an award shall not be enforceable against any State in a manner in which a judgment would not be enforceable against that State.

(6) In this section "award" includes any decision interpreting an award; and for the purposes of this section an award shall be deemed to have been rendered pusuant to Article 4 of Annex II when a copy of it is transmitted to each party as provided in paragragh (h) of that Article.

5. Any power to make rules under any enactment forming part of the law of the Territory enabling rules of court to be made with respect to the practice and procedure of the Supreme Court of the Territory in civil proceedings shall include the power -

- (a) to prescribe the procedure for applying for registration under section 4 above and to require an applicant to give prior notice of his intention to other parties;
- (b) to prescribe the matters to be proved on the application and the manner of proof;
- (c) to provide for the service of notice of registration of the award by the applicant on other parties; and

article 2.

(d) to make provision requiring the court on proof of such matters as may be prescribed by the rules to stay execution of an award registered under section 4 above in cases where enforcement of the award has been stayed pursuant to Article 4 of Annex II to the Convention.

6. (1) The Governor may by order make provision, in relation to such arbitration proceedings pursuant to Annex II to the Convention as are specified in the order, for the attendance of witnesses, the hearing of evidence and the production of documents.

(2) Except as provided by any order made under subsection (1) of this section, no enactment relating to arbitration which forms part of the law of the Territory shall apply to proceedings pusuant to the Convention, but this subsection shall not be taken as affecting any provision of such an enactment relating to staying court proceedings where there is submission to arbitration.

SCHEDULE 2

Article 2

Anguilla Cayman Islands Falkland Islands Gibraltar Hong Kong Montserrat Pitcairn, Henderson, Ducie and Oeno Islands.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the provisions of sections 3, 4, 5 and 6 of the Multilateral Investment Guarantee Agency Act, subject to modifications and exceptions, to the Territories specified in Schedule 2 hereto.





THE

FALKLAND ISLANDS GAZETTE

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30th September 1988

No. 13

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Date of Publication

It is hereby notified that this issue of the Gazette, although dated 30th September 1988, was in fact published on 12th October 1988.

D. G. LANG, Attorney General.

Appointments	Mark Timothy Bullock, Acting Chief Police Officer,
Neil Alexander William Goodwin, Agricultural Assis- tant, Agricultural Research Centre, 5,5,88,	Falkland Islands Police Force, 27.7.88 - 13.9.88. Manfred Michael Ian Keenleyside, Acting Director of Public Works, Public Works Department, 3.8.88 - 15.9.88.
Peter Julian Basil Biggs, Second Lieutenant, Falkland Islands Defence Force, 4.7.88.	
Mrs. Corenne Norma May, Warden, Sheltered Hous- ing Complex, Medical Department, 13.7.87.	Mrs. Danuta Valler, Acting Chief Clerk/Unit Accoun- tant, Fisheries Department, 15.8.88 - 16.9.88.
Michael Anthony Pole-Evans, Foreman, Power Sup ply Section, Public Works Department, 1.8.88.	Mrs. Camilla Marie Clarke, Acting Senior Telephone Operator, Posts and Telecommunications Depart- ment, 1.6.88 - 28.9.88.
Mrs. Vilma Short, Laboratory Assistant, Medical Department, 1.8.88.	Promotion
Miss Susan Beatrice Kesbey, Nursing Sister, Medical Department, 26.8.88.	James Stephenson, from Supplies Officer, Central Store, Treasury Department, to Superintendent, Posts and Telecommunications Department, 1.6.88.
Kim Brian Peck, Tradesman Electrician, Power Sup ply Section, Public Works Department, 1.9.88.	Transfer
Dr. Robert K. Bain, Parasitologist, Agricultural Research Centre, 2.9.88.	Mrs. Danuta Valler, from Personal Assistant, Fisheries Department, to Senior Clerk, Agricultural Research Centre, 20.9.88.
Miss Amara Theresa Watts, Clerk, Public Service, 5.9.88.	Completion of Contract
Miss Diana Mary Berntsen, Clerk, Public Service, 12.9.88.	Mrs. Jacqueline Joyce Hemingway, Nursing Sister, Medical Department, 22.9.88.
Acting Appointments	Resignations
Derek Stanley Evans, Acting Chief Education Officer, Education Department, 2.7.88 - 1.9.88.	Miss Sheila Olga Butler, Clerk, Public Service, 30.6.88.
Rex Browning, Acting Chief Executive, Secretariat, 13.8.88 - 1.9.88.	Dr. Jeffrey Philip Goodman, Teacher, Education Department, 24.8.88.
Rex Browning, Acting Government Secretary, Secretariat, 2.9.88 - 26.9.88.	Mrs. Alison Kay Goodman, Teacher, Education Department, 24.8.88.
David Ford, Acting Fire Officer, Police, Fire and Rescue Service, 1.6.88 - 5.9.88.	Andrez Peter Short, Foreman, Power Supply Section, Public Works Department, 3.9.88.
Rex Browning, Acting Director of Civil Aviation, Aviation Department, 13.8.88 - 8.9.88.	Michael Griffith Hemingway, Police Constable, Falkland Islands Police Force, 26.9.88.

NOTICES

26th August 1988.

Currency Notes Rules

In exercise of the powers conferred by Rule 3 of the Currency Notes Rules, **His Excellency the Governor** has been pleased to approve the appointment of miss **Geraldine Sylvia Anthony** to be a Currency Officer with effect from 10 August 1988.

The appointment of Mrs. Vera Joan Bonner is hereby cancelled.

Ref: TRE/19/1.

No. 26.

No. 27.

7th September 1988.

On the 6th day of September 1988 the following persons were elected by the elected Members of the Legislative Council to be Members of Executive Council for a period of twelve months with effect from 7th October 1988 ---

The Honourable A. T. Blake,

The Honourable C. D. Keenleyside,

The Honourable R. M. Lee.

Ref: EXC/35/IG.

No. 28.

13th September 1988.

In accordance with Section 2 (2) of the Commissioners for Oaths Ordinance 1969, His Excellency the Governor has appointed Robert Mark Titterington a Commissioner for Oaths.

Ref: LEG/19/3.

No. 29.

13th September 1988.

In accordance with Section 43 of the Administration of Justice Ordinance, His Excellency the Governor has appointed Robert Mark Titterington to be a Notary Public.

Ref: LEG/19/3.

No. 30.

13th September 1988.

In accordance with Section 29 (2) of the Administration of Justice Ordinance (Cap. 3) His Excellency the Governor has appointed Robert Mark Titterington to be a Deputy Coroner with effect from the 2nd September 1988.

Ref: LEG/19/3.

No. 31.

16th September 1988.

In accordance with Section 7B of the Administration of Justice Ordinance (Cap. 3) His Excellency the Governor has appointed Robert Mark Titterington to act as the Senior Magistrate for the purpose of hearing the case of Robert Short v Teresa Ann Clifton with effect from 14th day of September 1988.

Ref: LEG/19/5.

The Electoral Bill 1988

The Electoral Bill 1988 is published, in full, in this issue of the Gazette. There is also published in this issue of the Gazette an alternative version of clause 53 which deals with qualifications for election as a member of the Legislative Council. The alternative version makes different provision from that contained in the Bill in relation to public officers being elected.

The Electoral Bill 1988 has not yet been considered by the Executive Council and it is possible that changes may be made in the Bill when it is considered by the Executive Council. It is being published in this issue of the Gazette so that all interested persons have full opportunity to consider the Bill and comment upon it.

It is hoped that the Explanatory Memorandum in relation to the Bill, which is also published in this issue of the Gazette, will assist persons in consideration of the Bill.

> D. G. LANG, Attorney General.

In the Supreme Court of the Falkland Islands

NOTICE UNDER THE ADMINISTRATION OF ESTATES ORDINANCE (Cap. 1)

IN THE MATTER OF DAVID GEORGE HEWITT, deceased of Stanley, Falkland Islands, who died at Stanley on the 31st day of August 1988, intestate.

WHEREAS Frances Agnes Hewitt has applied for letters of administration to administer the estate of the said deceased in the Falkland Islands.

NOTICE IS HEREBY GIVEN pursuant to section 4 of the Administration of Estates Ordinance to all persons resident in the Falkland Islands who may have prior claim to such grant that the prayer of the petitioner will be granted provided no caveat be entered in the Supreme Court within twenty-one days of the publication hereof.

> S. HALFORD, Registrar.

Stanley, Falkland Islands. 14th September 1988

PRO/16/88.

THE ELECTORAL BILL 1988

Introductory

This Bill is one of 211 clauses divided into 9 parts. It seeks to replace the Legislative Council (Elections) Ordinance (Cap. 37), which has been amended a number of times. It also would replace the Constitutional (Registration of Electors) Regulations 1985 which were in force in relation to the General Election in 1985, but which were of transitional effect and are not in force at the present day. The existing Ordinance does not entirely accord with the present Constitution, which came into force after it was enacted, and also it appears to be overdue for revision in any event.

The Bill is very much based upon the Representation of the People Act 1949 of the United Kingdom (many of the provisions of which are reflected, in any event, in the existing law (Cap. 37)) but with major modifications in a number of directions to cater for local circumstances.

The qualification to vote in the Falkland Islands is very different from that in the United Kingdom and here the Bill has to reflect and supplement the relevant provisions of the Constitution. A detailed explanation of clauses 3, 4 and 5 of the Bill (which deal with these matters) appears below. Those clauses and that explanation were published for comment in the March 1988 edition of the Gazette. Persons were invited to send comments on these proposed provisions. No comment or query has been received. These provisions are of course of focal importance.

The Bill does not make any provision for a young voter being able to vote so soon as he attains his eighteenth birthday. He cannot, under the provisions of the Bill, have his name entered on the Register before he attains his eighteenth birthday and vote so soon as he is eighteen. This is because the Constitution allows only those persons who are qualified to vote on the qualifying date to be entered on the Register.

The provisions as to postal voting and proxy voting differ greatly from those in the United Kingdom. The Bill proposes that any elector may if he chooses obtain a postal vote and any elector may appoint a proxy who, if he chooses, may apply to vote that proxy vote by post. On the other hand, no provision is made for postal voting by persons overseas. The reason for this is that the Falkland Islands maintains only one office overseas and it would be administratively very difficult to provide for voting by persons overseas.

The Bill differs from the United Kingdom situation in respect of the places where pcople may vote. In the United Kingdom, except in respect of a postal vote, a person can only vote at a polling station near to the address in respect of which he is registered as an elector. In respect of the Falkland Islands, the Bill provides that a person may vote —

- (a) at any polling station in the Falkland Islands or
- (b) with a mobile polling team visiting locations in Camp.

Thus a person who is registered in the Stanley constituency can vote at a polling station in Camp or with a mobile polling team visiting locations in Camp but, of course, only in respect of the election in the Stanley constituency and not the election in the Camp constituency. The reverse, of course, applies in respect of electors for the Camp constituency who happen to be in Stanley on Election Day.

The number of consituencies and the number of elected members to be returned by each is, of course, regulated by the Constitution and the Bill can make no alteration in those matters. However, the Bill can regulate, and must regulate, the boundaries of constituencies. It provides that the Stanley constituency shall be those parts of East Falkland which lie within two miles of the steeple of Christ Church Cathedral and that the Camp constituency is the rest of the Falkland Islands. This represents a slight change from the position previously existing. The present boundary is a distance of one and a half miles from the steeple of Christ Church Cathedral and the alteration has been made to provide for the current growth of Stanley. The Bill provides, as the Legislative Council (Elections) Ordinance does not, for the appointment et cetera of election agents, the control of an amount of election expenses, returns of election expenses and corrupt and illegal practices. The existing Ordinance provides for these matters to be dealt with by regulations, but no such regulations have been made. The Bill contains detailed provisions as to these matters which more appropriately appear in an Ordinance than in regulations, and follow very closely the corresponding provisions in the Representation of the People Act 1949.

Provisions of Part I of the Bill

The effect of clause 1 of the Bill would be that it will become law as soon as it is published in the Gazette after having been enacted. Clause 2 of the Bill is a lengthy interpretation clause.

An explanation of clauses 3 and 4 of the Bill was published, together with those clauses in the May 1988 Gazette. That explanation is repeated here.

<u>Clause 3</u> defines "resident" for the purpose of qualifying to be registered as an elector. It relates to the provisions of section 27(4)(b) of the Constitution ("Qualification of Electors") which permits and requires the meaning of "resident", for the purposes of that section, to be defined by Ordinance. The Clause is a complex Clause, partly because it seeks to make slightly different provision in respect of persons who were born in the Falkland Islands and those who were not.

Clause 4 defines "qualifying period" for the purpose of qualification of Electors.

<u>Clauses 3 and 4 together</u> are perhaps of focal importance because they would largely govern the "right of vote". They would change the law.

(a) LAW RELATING TO 1985 ELECTION

Under the Constitution and Constitutional (Registration of Electors) Regulations, the entitlement to be registered as an elector for the 1985 General Election was as follows --

(1) Persons born in the Falkland Islands

Entitled to be registered as an elector if:

- a Commonwealth citizen (for practical purposes, since the exceptions in the British Nationality Acts 1948 & 1981 do not appear to be of practical importance, everybody born in the islands before 1 January 1983 may be assumed to be a Commonwealth citizen (=citizen of a Commonwealth country, including United Kingdom).);
- (ii) of the age of eighteen years or over on the "qualifying date" (15th May 1985);
- (iii) "resident" in the Falkland Islands for twelve months immedately preceding the qualifying date (15th May 1985);
- (iv) not disqualified on the qualifying date (15 May 1985) under the provisions of the Constitution from being registered.

(Note: "resident in (iii) above means "ordinarily resident" as defined in the Falkland Islands (Legislative Council) Order in Council 1948 - 1977. The question is dealt with by the Schedule to the Order: that is not regarded as satisfactory to deal with the modern circumstances affecting persons living in the Falkland Islands for reasons which are explained below)

(2) Persons not born in the Falkland Islands

The same requirements as under (i) above applied with the additional requirement (additional to residence (i.e. "ordinary residence") for twelve months preceding the qualifying date (15 May 1984) that he had also been resident in the Falkland Islands for an aggregate period of five years or more (i.e. at any time)

(b) LAW APPLYING PRIOR TO THE 1985 REGULATIONS AND APPLYING NOW

(Because as the qualification for registration as an elector the 1985 Regulations only apply to the 1985 General Election, it is Cap. 37 to which one must turn to see what the law which presently applies is)

- (a) Persons born in the Falkland Islands, residence for twelve months ending on the "qualifying day" (15th July annually).
- (b) Persons not born in the Falkland Islands, residence for three years ending on the qualifying day (15 July annually).

(again, residence means "ordinary residence" as defined in the Falkland Islands (Legislative Council) Orders 1948 - 1977).

As will be seen, the 1985 Regulations increased the period of residence required of persons not born in the Falkland Islands for three years to five years.

Clauses 3 and 4 must be viewed against that background. First of all, they do not seek to change the period of required residence before the "qualifying date" (defined by Clause 4).

Clause 3, however, does not seek to change the meaning of "resident". The Schedule to the 1948 Order is not satisfactory because if it is desired that persons absent from the Falkland Islands should be qualified to be registered, it is not practical for the registration officer to ascertain their intentions. A form asking them to state this cannot be sent to all such persons. Instead, Clause 3 defines "resident" on the basis of the aggregate of "Physical presence" and "permitted absences" and makes some permitted absences conditional upon a specified length of physical presence being achieved. This appears to be the most practicable solution if persons who are temporarily absent from the Falkland Islands are to be allowed to go on to the Register of Electors.

- 1. Absences in Government Service.
 - (a) If the person was born in the Islands and provided that he was physically present in the Falkland Islands at some time during the five years immediately preceding the "qualifying date" <u>all</u> periods of absence occasioned by F.I.G. service will count as residence in F.I. (Clause 3(2)(a)(i) and (ii) and 3(9))
 - (b) If the person was not born in the Islands and provided
 - (i) that he has been physically present in the Falkland Islands at some time during the five years immediately preceding the qualifying date; and
 - (ii) that he has been physically present in the Falkland Islands for an aggregate period at least 12 months since he attained the age of eighteen years; and
 - (iii) he has been physically present in the Falkland Islands for at least three years in aggregate (Clause 3(6), (7) and (9)).

All periods of absence occasioned by F.I.G. Service will count as residence in F.I.

(N.B. He will still have to have accumulated five years' "residence" immediately preceding the qualifying date - see (Clause 4) but this could for example, include two years absence as a student or F.I.G. Officer during those five years.)

2. Absence on course of education or training overseas

- (a) This is counted as residence for a person born in the Falkland Islands if -
 - (i) he has been physically present in the Falkland Islands for 12 months in aggregate since attaining 18 years of age or
 - (ii) he has been physically present in the Falkland Islands for an aggregaate of three years; and
 - (iii) he has been physically present in the Falkland Islands at some time during the five years immediately preceding the qualifying date. (see Clause3(2)(b) and (9).
- (b) An educational or training absence overseas is allowable for a person not born in the Falkland Islands on exactly the same basis as it would be allowable for a person not born in the Falkland Islands.(see Clause 3(6), (7)(c) and (9)).
- 3. Military Service absence
 - (a) This is allowed for a person born in the Falkland Islands if -
 - he was physically present in the Falkland Islands at some time during the five years immediately preceding the qualifying date.
 - (ii) for at least three years of the five immediately preceding his enlistment or his absence, he was physically present in the Falkland Islands.
 - (b) A person not born in the Falkland Islands will be allowed military service absence only if he is regarded under Chapter 1 of the Constitution as belonging to the Falkland Islands. Subject to that his absence is allowed on the same basis as if he were born in the Islands (but he must have five years "residence" including permitted absences).

4. Miscellaneous absences

Miscellaneous absences of up to six months are allowed (subject to the over-riding "residence" requirements under Clause 4 - 12 months for persons born in the Falkland Islands and 5 years for those not born in the Falkland Islands) provided that for at least six months of that twelve months the person was physically present in the Falkland Islands.

CONSTITUTIONAL BACKGROUND TO CLAUSES 3 AND 4

Section 27 (4) of the Constitution allows a distinction in the qualifying period of residence to be made between persons born in the Island and those not born in the Falkland Islands and both Cap. 37 and the 1985 Regulations do so. The provisions of Clauses 3 and 4 in fact follow the underlying framework of the 1985 Regulations as to qualifying periods of residence and depart from the 1985 position only in defining "residence" in terms different than those used in 1948.

<u>Clause 5</u> prescribes the qualifying date as the 15th May in each year. It is a philosophy of the Bill that a new register should be prepared every year.

Part II of the Bill

<u>Clause 6</u> deals with the division of the Falkland Islands into two constituencies of Stanley and Camp and the boundaries of the two constituencies. Clause 7 requires the Governor to appoint a person to be the Electoral Registration Officer and provides that the same person may be appointed to be the Registration Officer in respect of both constitutencies. During any vacancy in the post of Registration Officer, the Registrat General is to be the Registration Officer. The Registration Officer is to be disqualified from being elected as a member of the elected council. Under clause 8 a person who is qualified to be registered as an elector must be registered in respect of the appropriate constituency. Detailed rules are laid down by clause 8(2) to determine which of the two constituencies is "the appropriate consituency".

Under clause 9 a preliminary list is to be prepared. The registration officer would be required to have a house to house or other sufficient inquiry to be made and to prepare a preliminary list including the names of persons who on the qualifying date (15th May) appeared to be entitled to be registered as electors in respect of the constituency. He is then to cause the preliminary list to be published in the Gazette. Clause 9 makes detailed provision enabling a person whose name has been omitted from the preliminary list to make a claim to have his name included. Similarly clause 10 makes provision for objections to the inclusion of a person's name in the preliminary list. Appeals from the registration officer's decisions and claims and objections are provided for by clause 11.

<u>Clause 12</u> makes it clear that generally the electoral register is to be prepared annually. Clause 12 (2) however provides that the Governor may direct that in any year a register shall not be prepared. <u>Clause 13</u> deals with the form of the preliminary list which is to be published and clause 14 deals with the contents and publication of the register. By <u>clause 15</u> it would be provided that the register when published would have effect from the following 1st September until 31st August in the next following year but where the Governor in respect of the following year as directed under clause 12(2) directs that no register be prepared, the register would remain in force until the next register comes into force.

<u>Clause 16</u> would deal with amendment and alteration of the register after publication and <u>clause 17</u> the inspection of the register and the obtaining of copies of the register. Under <u>clause 18</u> the registration officer would be obliged to publish in the Gazette at the same time as the preliminary list is published information telling people how to claim for the inclusion of names in the register and to object to persons names who are in the preliminary list as published. <u>Clause 19</u> enables the registration officer to engage assistance and <u>clause 20</u> requires the registration officer to maintain a list of persons who are disqualified from being registered as electors.

Under <u>clause 21</u> the registration officer would be given powers to require any householder to provide to him such information as he may specify as to the persons resident in the dwelling on the 15th May and which is relevant to the compilation of the preliminary list. It would be an offence unreasonably to refuse or fail to supply that information. Under <u>clause 22</u> the registration officer would be obliged to supply to any person at his request a form of application for registration as an elector. It would follow from <u>clause 21</u> and <u>clause 22</u> in combination that the registration officer would obtain information for mouseholders to compile a register but any person could if he wished himself file an application form for registration with the registration officer.

Part III of the Bill

This part of the Bill deals with postal votes, proxy votes and postal proxy votes. Clause 23 would enable any elector to make application for a postal vote either in respect of a specified election or all elections held within a period stated in the application or in respect of elections generally. Except during the "closed period" the registration officer is bound to grant every application for a postal vote which complies with the section. The "closed period" referred to is to be, it os proposed, the period between 12 noon on the day preceding the last day for nominations for an election and the return of the writ in respect of that election.

<u>Clause 24</u> would deal with the postal voters list which the registration officer is bound to maintain and clause 25 deals with the cancellation or variation of postal vote arrangements. Clause 26 would provide that generally a postal voter will only be entitled to vote by post (and not by attending at a polling station).

<u>Clause 27</u> would deal with applications for proxy votes. It provides that any elector may apply to vote by proxy but may appoint as a proxy only a person who is an elector in respect of the same constituency. The consent of the proposed proxy is required and a person may not be appointed as a proxy in respect of more than two other electors. An application for permission to vote by proxy could not be granted during the "closed period".

<u>Clause 28</u> would make it clear that a person who is a proxy is not bound to vote on behalf of the elector for whom he is a proxy and that, if he does vote, it is irrelevant as to whether he has voted in accordance with the electors wishes or intentions.

<u>Clause 28</u> also provides that a proxy cannot as such proxy nominate or second a candidate. <u>Clause 29</u> would render it an offence for any person to offer or pay a sum of money to induce somebody to appoint a proxy or not to cancel a proxy arrangement.

<u>Clause 30</u> would oblige the registration officer to maintain a proxy list and <u>clause 31</u> would deal with the cancellation of proxy voting arrangements. <u>Clause 32</u> states the situations in which a proxy voting arrangement automatically comes to an end. Clause 33 makes supplemental provision relating to cancellation of proxy voting arrangements.

<u>Clauses 34 to 38</u> deal with voting by post by proxy. Basically they make the same provision in relation to proxy's voting by post as are made in relation to electors voting on their own behalf by post.

<u>Clause 39</u> contains provisions as to how far a proxy voters list and postal proxy voters list are admissible in evidence and clause 40 deals with the inspection and copies of lists.

Part IV of the Bill

Part IV of the Bill contains provisions supplemental to Parts II and III of the Bill. Notably <u>clause 43</u> enables the registration officer to require a person to make and deliver to him a statutory declaration as to the date of his birth or to produce the original or a copy certified by the issuing authority of his birth certificate before including the name of that person in the preliminary list and further to require that person to produce such documents as may be necessary to prove that he or she was on the qualifying date (15th May) a Commonwealth Citizen or require a person to make a statutory declaration that he had not on or prior to the qualifying date taken an oath of allegiance to a foreign country or state (in which case he might be disqualified from being registered as an elector). Subsequent provisions of <u>clause 43</u> make supplemental provision in relation to this. <u>Clause 45</u> deals with the expenses of registration and <u>clause 46</u> deals with the correction of the register.

Part V of the Bill

<u>Clause 47</u> would require the Governor to appoint a returning officer in respect of each constituency and would provide that if there is a vacancy in the appointment of returning officer in respect of a constituency the returning officer would be the Registrar General. <u>Clause 48</u> deals with the issue of writs of election and <u>clause 49</u> the contents of such a writ. <u>Clause 50</u> deals with the statutory election timetable and clause 51 with the notice of election which is required to be published. Clause 51 contains detailed provision in relation to certain steps in an election. <u>Clause 52</u> deals with the deliver of nomination papers to the returning officer.

<u>Clause 53</u> deals with disqualifications from election as a member of the Legislative Council and reflects provisions of the Constitution. It provides (in subsection 2) that every public officer is to be disqualified from election as a member of the Legislative Council. If a public officer were to wish to stand as a member of the Legislative Council he would have to resign his office as a public officer before election day. In addition, subclause (3) would disqualify the Senior Magistrate and the Registrar General (both of whom are of course public officers) from being elected as a member of the Legislative Council during the currency of any register in which they performed functions in relation to the register.

In other words, the disqualification in respect of them might extend to cover a period after they ceased to be public officers. Subclause (4) would provide that the registration officer and and any former registration officer and the returning officer and any former returning officer are disqualified from election as a member of the Legislative Council at any election in which any of them performed any function as registration officer or returning officer. Subclause (6) provides that the offices of General Manager and Assistant General Manager of the Falkland Islands Development Corporation are to be deemed to be public offices (thus the persons holding them would be disqualified from election). This is because they are in a similar position to public officers.

<u>Clause 54</u> would make general provision in relation to proceedings at an election which would be followed by the subsequent provisions of the part making detailed provision. <u>Clause 55</u> would provide that the usual manner of voting would be by personal attendance at a polling place. <u>Clause 56</u> would provide that subject to any order of the Supreme Court alterations should not be made in the register or any of the lists during the closed period in respect of any election but subclause (2) would provide that that would not apply so as to prevent a misspelling of a person's name or a minor error or slip of a similar nature being corrected.

<u>Clause 57</u> deals with voting by postal voters and states that they are not to be required to attend at a polling place. They may, however, do so if they have not received a postal ballot paper in respect of the election. <u>Clause 58</u> enables an elector to vote at any polling place, whether in Camp or in Stanley and <u>clause 59</u> requires the Governor to appoint polling places in respect of each election.

Clause 60 makes provision for votes in Camp to be taken by mobile polling teams. For this to happen the Governor would have to make a direction. That direction would have to be published in the Gazette and specify the dates and approximate times of the visit of a mobile polling team to any place in the Camp constituency and the location at any place specified at which votes will be received by the mobile polling team. The date specified for receiving of votes by a mobile polling team might, the Clause provides, be any one or more days in the five business days ending with polling day. Provision is made by the clause for the team leader of a mobile polling team to vary the dates and times specified in a mobile polling direction if the exigencies of the weather, the non-availability of transport or the state of any aerodrome, civil disturbance or any other serious or weighty cause renders that necessary. If he varies the dates or times of a visit to any place, the team leader of the mobile polling team must give or cause to be given such notice of the variation as is reasonably possible. However, it has to be recognised that in certain circumstances it may not be possible for a mobile polling team to visit a place specified in a mobile polling direction at all and therefore clause 60 (9) would provide that the failure of the team to visit a place specified in a mobile polling direction at all or on the date or at the time specified therein shall not be a cause for declaring the election to be void. It is to be noted that the Ordinance provides that there must be a polling station in the Camp consituency both in East Falkland and in West Falkland and therefore, should the mobile polling team unavoidably fail to visit any place, the voters in that place could (admittedly with great difficulty in some cases) visit the polling station on polling day.

Clause 61 deals with publicity for election arrangements on public broadcasting stations.

Clauses 62 to 70 deal with the nomination of candidates and the following points may be noted -

- (a) a nomination would have to be on a nomination paper in a prescribed form and state the full names, place of residence and (if desired) description of the candidate not exceeding six words in length;
- (b) a nomination paper would have to be subscribed by two electors as nominators and four other electors as supporters of the nomination and give the electoral number of each person subscribing it;
- (c) a person is not validly nominated unless he has consented to nomination in the prescribed manner;
- (d) a deposit of £100 is required from each candidate;
- (e) the returning officer is to decide whether a nomination paper is valid but can only decide that a nomination paper is invalid if the particulars of the candidate or the persons subscribing the paper are not as required by law or the paper is not subscribed as required by law;
- (f) a candidate can withdraw his candidature by delivering a withdrawal of nomination paper in the subscribed manner before the close of nominations.

If the number of persons validly nominated do not exceed the number of vacancies, the returning officer is to declare those persons elected. Otherwise a poll is to be taken by ballot and <u>clauses 72 to 119</u> deal with the manner in which a poll shall be taken.

If for any reason there is an inequality of votes between any two candidates and the addition of a vote to, any of those candidates will entitle that candidate to be elected, the returning officer is to decide between those candidates by lot and proceed as if the candidate on whom the lot falls had received an additional vote (clause 72 (2)). The manner in which lots are to be taken is for the returning officer to decide. Drawing from a bag or cutting a pack of cards are methods which have been used.

<u>Clauses 73 and 74 contain provisions as to the form of ballot paper and requirement that every ballot paper</u> shall bear an official mark. <u>Clause 75</u> contains the important provision that no person who has voted at an election shall be required in any legal proceeding to question the election or return be required to state for whom he voted. <u>Clause 76</u> enables the returning officer to use free of charge for the purpose of taking the poll any building and the occupation of the government and any land in the occupation of the government.

It may happen that a candidate nominated at an election dies before completion of the poll. <u>Clause 77</u> provides what is to happen in such a case. If the returning officer hears of the death of a candidate at a contested election before the result of the election is declared he is to cancel the poll or if the polling has begun direct that it be abandoned. A new election is then to be called.

<u>Clauses 78 to 94</u> make detailed provision in relation to postal voting. Each postal voter is to be sent a ballot paper and a declaration of identity and an envelope for their return with a smaller envelope in which the ballot paper itself is to be placed within the covering envelope. The ballot paper envelope will bear the number of the ballot paper. The ballot paper is to be in the same form and indistinguishable from ballot papers of ordinary voters' except as far as the official mark is concerned. This is so that when votes are counted nobody can tell how postal voters have voted as against ordinary voters and, if there are very few postal voters, how those few have voted. In other words the object here is to preserve the secrecy of the poll. Candidates or agents of candidates are to be entitled to be present at the issue of ballot papers. This is so that they can assure themselves, if they wish to do so, that matters are fairly and properly done. They would be required under clause 80 (3) to swear a declaration of secrecy if they attend the issue of ballot papers. A postal voter may spoil his ballot paper and section 87 provides for the issue of a fresh ballot paper to him if he does this.

Postal ballot papers are to be returned with a ballot paper in the ballot paper envelope, the declaration of identity in the covering envelope with the ballot paper envelope. On receipt of a covering envelope before the close of the poll the returning officer is to place the covering envelope unopened in a postal voters ballot box which has been locked and sealed. The returning officer is to give each candidate at least 24 hours notice in writing of the time and place at which postal voters ballot boxes will be opened. When he opens the ballot box the returning officer is to count and note the number of covering envelopes. Having done this he is then to open each covering envelope separately. If a covering envelope does not contain both a declaration of identity and a ballot paper envelope or (if there is no ballot paper envelope within the covering envelope) a ballot paper, he is to mark the covering envelope rejected, attach the contents of the covering envelope to it and place it into a receptacle for votes rejected. If the covering envelope does not contain the declaration separately, the returning officer is to open the ballot paper envelope to see if the declaration has inadvertently been put inside that envelope. The returning officer on opening a covering envelope containing a declaration of identity is to check that the declaration of identity has been duly signed and dated. If it has not, he is to mark the declaration rejected, attach thereto the ballot paper envelope or if there is none inside the covering envelope, the ballot paper and place it in the receptacle for votes rejected. The number on the declaration of identity and the number on the ballot paper envelope should agree and if they do the returning officer is to place the declaration and the ballot paper envelope in separate receptacles. If the number on the declaration does not agree with the number on the ballot paper, the returning officer must mark the declaration rejected and attach the ballot paper to it and place it in the receptacle for votes rejected.

<u>Clauses 95 to 102</u> deal with preparations for the poll. They contain provision for the appointment of presiding officers and clerks, the appointment of polling and counting agents the equipment of polling places and mobile polling teams and require a declaration of secrecy in a prescribed form to be taken by each of these persons.

<u>Clauses 103 to 119</u> deal with the conduct of the poll. They reflect the provisions of the Representation of the People Act 1949 of the United Kingdom. <u>Clause 103</u> would regulate the persons who are entitled to admission to a polling station and <u>clause 104</u> deals with keeping of order at polling stations and also before mobile polling teams. <u>Clause 105</u> would provide that before the departure from Stanley of a mobile polling team, the team leader shall show the ballot box empty to such persons as are present at the returning officer's office so they can see that it is empty. The ballot box is then to be locked. The object of this provision is so that those concerned can see that the ballot box has not, before the commencement of the poll, been

stuffed with ballot papers. Similar provisions are made by clause 105 in relation to ballot boxes used at polling stations. Questions which may be asked of persons seeking to vote are limited by clause 107 and 108. Clause 109 deals with a challenge of voters.

The ordinary procedure of voting is dealt with by clause 112. Immediately before delivery to the voter the ballot paper is to be stamped with the official mark and the number, name and address of the elector as stated in the copy of the register held by the presiding officer are to be called out and the number of the elector is to be marked on the counterfoil. A mark is to be placed in a copy of the register against the number of the elector to show that a ballot paper has been received by that elector. No indication is to appear in the register of the number of the ballot paper issued to the elector.

<u>Clause 113</u> makes provision for presiding officers or team leaders to mark votes on behalf of person's incapable of voting by blindness, other physical cause or by illiteracy and clause 114 enables a companion of a blind voter, subject to strict conditions, to mark a ballot paper on behalf of a blind voter.

<u>Clause 118</u> deals with the procedure on the close of a poll at a polling station and clause 119 makes similar provision in relation to closure of poll before mobile polling teams with such adaptations as are necessary for the different circumstances. Clause 120 makes provision for the counting of the votes after the close of the poll. The general public are not entitled to attend at the count as of right, but may do so with the permission of the returning officer after consultation with the election agents. Otherwise the persons entitled to be present are the returning officer and his clerks; the candidates and their wives or husbands; the election agents and the counting agents. Counting agents may be appointed by candidates to ensure that the votes are correctly counted. <u>Clauses 121 to 127</u> deal with conduct of the count and the declaration of the result. <u>Clauses 128 to 131</u> deal with the disposal of documents. There are two objects which are aimed at by these provisions. The first is the safe custody of the documents pending any possible election petition and the second is maintaining the secrecy of the ballot. The clauses reflect the provisions of the United Kingdom. It should be noted that under clause 131 the documents would have to to be destroyed after six months from the election unless the Supreme Court otherwise orders.

<u>Clause 132</u> deals with the return or forfeiture of the deposit. It will be recalled that the Bill provides for a deposit of £100 to be paid by each candidate. This is to be returned to him if he obtains one eighth of the votes he could possibly have received.

PART V of the Bill - The election campaign and election expenses

This part of the Bill has no equivalent in the Legislative Council (Elections) Ordinance although that Ordinance made provision for these matters to be covered by regulations.

It may be that these provisions (which are largely the product of a party political system) were not previously of any particular relevance to the Falkland Islands but now that a political party exists such provisions become more appropriate although it is hoped that the full panoply of them may never in practice prove to be necessary. The provisions of Part VI exactly reflect the equivalent provisions of the Representation of the People Act 1949 in the United Kingdom. They are aimed at preventing the result of an election being affected by the expenditure of the candidate and his supporters and preventing bribery and treating and other corrupt legal practices in connection with elections. In the United Kingdom, unlike the situation in the United States and certain other countries, the expenditure of candidates is very limited indeed and while the United States system has much to commend it, it is believed that the Falkland Islands will wish to follow the United Kingdom rather than the United States example.

<u>Clause 133</u> deals with the appointment of an election agent. A candidate is not obliged to appoint an election agent but, if he does not, he is deemed to be his own election agent. An election agent has duties to ensure that the expenditure upon the election is lawful and in accordance with law. He is required to file solemnly verified returns with the returning officer after the close of the election. <u>Clause 134</u> would require the particulars of the appointment of the election agent should be published and clause 135 would provide for changes in election agents and the position when an election agent dies before he has completed his duties in respect of an election. By <u>clause 136</u> the amount of election expenses which might be incurred by a candidate at an election "whether before, during or after an election" on account of or in respect of the conduct or management of the election "would be limited, subject to the provisions of clause 137, to £300 together with an additional pound for every five electors in the case of a Camp constituency, and to £100 with an additional pound for every eight electors in the case of a Stanley constituency. The clause would provide that a greater amount may be prescribed by regulations. The difference between the two constituencies is, of course, because electors in the Camp Constituency are more scattered and a relatively higher amount per elector should be allowed. The same situation applies in the United Kingdom so as to differentiate between rural and urban constituencies. <u>Clause 137</u> would provide for a reduction in the amount of allowable expenses per candidate where two or more persons are standing in the same constituency as "joint candidates" (candidates for the same political party). <u>Clause 138</u> would provide that contracts in relation to an election must only be made by the election agent (it will be remembered that the candidate may be his own election agent). <u>Clause 139</u> contains similar provision in relation to the payment of expenses and <u>clause 140</u> would make special provision in relation to the personal expenses of candidates and petty expenses on stationery, postage, telegrams and the like. <u>Clause 141</u> would prohibit expenses not authorised by the election agent being incurred on behalf of a candidate. <u>Clause 142</u> would provide that every Bill to a candidate in respect of election expenses must be sent to the election agent within 14 days of the conclusion of the election otherwise it shall not be recoverable and that all election expenses must be paid within 28 days of the conclusion of the election. There is provision in <u>clause 142 (4)</u> for the claimant or the candidate or his election agent to apply for leave to pay a Bill sent in <u>after time</u>. Clause 143 makes special provision in relation to disputed claims.

By clause 145 of the Bill the election agent of every candidate would be required to transmit to the returning officer a true return in the prescribed form containing a statement of all payments made by the election agent together with all the bills and receipts. By clause 146 that return would have to be accompanied by a declaration in the prescribed form verifying the election expenses. In certain circumstances a candidate or his election agent may be able to apply under the provisions of clause 149 to the Supreme Court or Senior Magistrate for relief from failure to make the required return and declarations in accordance with the provision of the Ordinance. Clause 150 is a supplementary provision which enables the court in the case of an application under clause 149 to order certain steps to be taken. Clause 151 would provide that returns of declaration sent to the returning officer under clause 141, 145 or 146 should be kept at the office of the Goverment Secretary or some other place appointed by him and available for inspection during the two years after they have been delivered.

<u>Clause 152</u> would confer upon a candidate the important privilege of being able to send post free to each elector one postal communication containing election material not exceeding 50 grams in weight. This is a privilege enjoyed under the Representation of the People Act 1949 by candidates at elections in England but would represent a change in law as far as the Falkland Islands are concerned. Similarly clause 153 would give certain limited rights to candidates to use certain Government premises for public meetings. <u>Clause 154</u> deals with disturbances at election meetings. <u>Clause 155</u> prohibits returning officers and the like from acting for candidates and <u>clause 156</u> would prohibit police officers from canvassing. <u>Clauses 157 to 162</u> make provision in relation to other things which would be offences and follow like provisions in the United Kingdom. <u>Clause 163</u> would prohibit bribery at elections and <u>clause 164</u> would prohibit treating and undue influence.

Part VII of the Bill

Part VII of the Bill deals with legal proceedings. Clause 167 would provide that no election or return to the Legislative Council could be questioned except by petition to the Supreme Court. Under clause 168 such a petition might be presented by a voter, a candidate or by the the Attorney General and that if the Attorney General is not himself a petitioner he must be made a respondent to the petition. That is so that he becomes a party to the proceedings on behalf of the Government and so as to protect the public interest. An election petition would, under clause 169, be required to be in the prescribed form or a form for the like effect and, under clause 170 it would have to be presented within 28 days after the date of first publication of the result of the election to which the petition relates or within 28 days of an alleged corrupt payment. A slightly longer time limit would apply in respect of illegal payments. Clause 171 would deal with the power of the Supreme Court to order security to be given for the costs of an election petition and clause 172 would enable two or more election petitions relating to the same election to be consolidated (that is to say joined together). Clause 173 would provide that an election petition is to be tried in open court without a jury and clause 174 deals with witnesses. Clause 175 would provide that on the conclusion of the trial of an election petition the Supreme Court is to determine whether the member whose election or return is complained of or any and what other person was duly returned or elected or whether the election was void. It is to certify in writing its determination which is to be final and no appeal will lie from the determination of the Supreme Court. The Supreme Court would have a duty under clause 175 (2) to make a special report to the Governor as to matters arising in the course of the trial on account of which in the opinion of the court, ought to be submitted to the Legislative Council.

<u>Clause 176</u> would deal with the withdrawal of election petitions once filed and <u>clause 177</u> with the punishment of a corrupt withdrawal of an election petition. <u>Clause 178</u> deals with the situation when the Attorney General (who is automatically a party to the petition) changes or when another petitioner dies. <u>Clause 179</u> provides that any respondent to an election petition, other than the Attorney General, may give notice that he does not intend to oppose the petition. <u>Clause 180</u> deals with the award of costs on an election petition by the Supreme Court. Costs may not be awarded against the Attorney General personally (because he represents the public interest and the facts and circumstances giving rise to the petition will be by reason of the actions or lack of them of others).

<u>Clauses 181 to 183</u> are provisions dealing with corrupt or illegal practices. <u>Clause 181</u> provides that the support of the Supreme Court under clause 175 must state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election and the nature of the corrupt or illegal practice. Under clause 182 if the Supreme Court has reported that a candidate has been guilty personally or by his agents of any corrupt or illegal practice his election is void. A candidate who is personally guilty of a corrupt practice is debarred from being elected to or sitting in the Legislative Council for ten years; if reported guilty by his agents of a corrupt practice or personally guilty of an illegal practice, he is debarred from being elected to and sitting in the Legislative Council for seven years and if reported guilty by his agents of an illegal practice he is debarred from being elected to and sitting in the Legislative Council until the Legislative Council is next dissolved. Furthermore clause 183 (2) provides that he may, additionally, be prosecuted for an offence disclosed by the report.

Where it is shown on an election petition that corrupt or illegal practices or illegal payments, employments or hirings have been committed for the purpose of promoting or procuring the election of any person are so extensive that they may be reasonably supposed to have effected the result of the election, the election of the person concerned is void and he is incapable of being elected to fill the vacancy or any of the vacancies to which the election is held. Where anybody's vote has been effected by bribery, treaty or undue influence, proved on an election petition, one vote is to be deducted for each person shown to have been so effected.

<u>Clause 186 of the Bill would enable a person to make application to the Supreme Court or to the Senior</u> Magistrate for relief from the consequences of an illegal practice payment, employment or hiring if it arose from an accidental miscalculation or from some other reasonable cause of a like nature and in any case not from any want of good faith. <u>Clause 187</u> would provide that no prosecution for a corrupt or illegal practice could be commenced except by or with the written authority of the Attorney General and <u>clause</u> 188 would provide that a corrupt practice would only be triable on indictment before the Supreme Court. Under clause 189, however, an offence of an illegal practice would be triable summarily by the Senior Magistrate. <u>Clause 190</u> would provide that a person tried by the Supreme Court on an indictment alleging a corrupt practice may, if the circumstances warrant such finding, be convicted of an illegal practice may be convicted of that offence notwithstanding that the act or acts alleged amounted to a corrupt practice.

<u>Clause 194</u> would provide that a prosecution for any corrupt or illegal practice, any illegal payment, employment or hiring or of an offence under <u>Clause 155</u> (officer banking for a candidate) or <u>177</u> (corrupt withdrawal of election petition) must be commenced within one year after the offence was committed. <u>Clause 195</u> provides that any association or body of persons, corporate or incorporate is liable to any fine or punishment imposed on its members.

Part VIII of the Bill

Part VIII of the Bill deals with determinations by the Supreme Court as to whether a person has ceased to be a member of the Legislative Council. Under the Constitution (section 26) a member of the Legislative Council who vacates his seat in certain circumstances in other circumstances he is required under section 26 (1) of the Constitution to cease to perform his functions as a member of the Legislative Council. Clause 200 deals with petitions to the Supreme Court to determine whether a member of the Legislative Council has vacated his seat or is required to perform his functions as a member of the Legislative Council. Clauses 201 to 207 make supplemental provision to clause 200.

Part IX

Part IX of the Bill contains a number of miscellaneous provisions. Under clause 200 the existing registers would remain in force until the new electoral register, prepared under the Bill, if enacted, first comes into force. Clause 209 is a general regulation making power and clause 210 is a general penalty clause.

The Electoral Bill 1988 (No. of 1988)

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193. Illegal payments, employments or hirings.

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A Bill for

An Ordinance

to make fresh provision as to the election of persons to the Legislative Council, the preparation of registers of electors, corrupt and illegal practices and election petitions and for connected purposes.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

PART I

PRELIMINARY

1. This Ordinance may be cited as the Electoral Ordinance 1988.

2. (1) In this Ordinance, unless the context otherwise requires —

"application for a postal vote" has the meaning given by section 23(1) below;

"application for a postal proxy vote" has the meaning given by section 34 below;

"application for a proxy vote" has the meaning given by section 27 (2) below;

"appropriate constituency" has the meaning given by section 8 (2) below;

"business day" means any day other than a Saturday, Sunday or public holiday;

"by- election" means an election following upon the vacation of his seat by an elected member of the Legislative Council for any reason other than the dissolution of the Legislative Council;

"candidate" means a person in respect of whom the returning officer has accepted a nomination paper as being validly completed in accordance with the provisions of this Ordinance;

"claim" has the meaning given by section 9(2) below;

"closed period" has the meaning given by section 23(6) below;

"committee room" shall not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate there transacting business with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate addressing therein electors, committeemen or others;

Short title.

Interpretation.

"Commonwealth citizen" and "Commonwealth country" have the same meaning as they have in the Constitution;

"Conclusion of the election" means the time at which the result of the election is first published;

"Constitution" means Schedule 1 to the Falkland Islands Constitution Order 1985;

"constituency" means one or other of the Camp and Stanley constituencies as defined in section 6 below;

"the Corporation" means the Falkland Islands Development Corporation;

"delivered", with reference to the registration officer, means handed to him personally or personally received by him after transmission in the post or after having been left at his office but with reference to the returning officer a document is, unless otherwise provided, not delivered until it is actually received by him;

"declaration as to election expenses" in Part VI means a declaration made under section 146 below;

"dependant" means a person who is the spouse or child under eighteen years of age of another person in relation to whom his dependency is to be ascertained or who by reason of his own illness, infirmity or advancing years is substantially financially dependent on that other person;

"disputed claim", in Part VI of this Ordinance, has the meaning assigned to it by section 143(1) below as extended by section 144 below;

"dwelling" means a building, structure or vessel including, where appropriate, a moveable building, structure or vessel, in which a person usually sleeps,

"election" means a by-election or general election of a member or members of the Legislative Council;

"election expenses" in relation to an election means expenses incurred, whether before, during or after the election, on account of or in respect of the conduct or management by or on behalf of a candidate of the election and whether incurred by the candidate, his election agent or by any other person;

"elector" means a person whose name appears on the register;

"electoral number" means a person's number in the register;

"electoral offence" means an offence under Part III of this Ordinance;

"general election" means an election following upon a dissolution of the Legislative Council;

"mobile polling direction" has the meaning given by section 60 (2) below;

"objection" has the meaning ascribed by section 10(1) below, and "objector" has a corresponding meaning;

"official mark" means the mark referred to in section 74 (1) below;

"payment" includes any pecuniary or other reward and "pecuniary reward" and "money" shall, save in sections 163 and 164, below be deemed to include any office, place or employment, and any valuable security or other equivalent for money, and any valuable consideration, and expressions relating to money shall be constued accordingly;

"personal expenses" as used with respect to the expenditure of any candidate in relation to an election includes the reasonable travelling expenses of the candidate;

"polling day" means the date stated in the writ as that on which the election is to be held;

"postal ballot paper" means a ballot paper sent to a voter pursuant to section 78(1);

"postal proxy voters list" has the meaning given by section 35 below;

"postal voter" has the meaning given by section 24 (a) below;

"postal voters" list" has the meaning given by section 24 below;

"preliminary list" means the list required to be prepared under section 9(1)(b) below;

"proxy" means a person appointed to vote on behalf of another person;

"public officer" has the same meaning as it has in the Constitution;

"the qualifying date" has the meaning assigned to that phrase by section 5(1) below; "the qualifying period" has the meaning assigned to that phrase by section 4(1) below;

"the receptacle for ballot paper envelopes" has the meaning given by section 90 (4) below;

"the receptacle for declarations of identity" has the meaning given by section 90 (4) below;

"register" means the register of electors for a constituency for the time being in force under the provisions of section 15 below;

"the registration expenses" has the meaning given by section 45 (1) below;

"registration officer" means the person who, in respect of the constituency in question, is the person who for the time being is the registration officer for that constituency pursuant to section 7;

"relevant person" except in section below, has the meaning assigned by section 9(2)(a) below;

"resident" has the meaning given by section 3(1) below;

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"return as to election expenses" means a return (including the bills and receipts to be transmitted therewith) to be made under section 145(1) below;

"Schedule" means a schedule to this Ordinance and where in this Ordinance there appears a reference to a Schedule followed by a number it shall be construed as a reference to the Schedule of that number of this Ordinance; and

"writ" has the meaning given by section 48 (1) below.

3. (1) For the purpose of qualification to be registered as an elector, a person who is a Commonwealth citizen is resident in the Falkland Islands if -

Meaning of "resident".

- (a) subject to subsection (9) below he is physically present within the Falkland Islands; or
- (b) although not physically present within the Falkland Islands his absence therefrom is an absence which, under subsection (2) to (7) inclusive below, is a permitted absence.

(2) In respect of a person who was born in the Falkland Islands his absence therefrom is a permitted absence for the purposes of this section -

- (a) subject to subsection (a) below, to the extent that it is or was occasioned by -
 - (i) the performance of his duties as a public officer in the employment of the Falkland Islands Government;
 - the performance of his duties as a member of the Legislative Council, as a member of the Corporation or in any other office prescribed by regulations made under this Ordinance;
- (b) subject to subsection (3) below, it is or was occasioned by his undergoing a course of education or training overseas;
- (c) subject to subsection (3) below, it was occasioned by any other matter or thing not falling within paragraph (a) or (b) above, but to the extent only that such absence or the aggregate of such absences falling only within this paragraph
 (c) does not exceed six months in any period of twelve months, and only if he was physically present in the Falkland Islands for at least six months in that period of twelve months;
- (d) subject to subsection (4) below, it was occasioned by his service as a member of the Falkland Islands Defence Force or as a member the regular armed forces of Her Majesty.

(3) A period of absence falling within paragraph (a) of subsection (2) above shall be, subject to subsection (9) below, a permitted absence in every case but periods of absence falling within paragraph (b) and (c) of that subsection shall be a permitted absence only if

- (a) the person concerned has been physically present in the Falkland Islands for a period of, or a period aggregating at least twelve months subsequent to his attaining his eighteen years of age; or
- (b) the person concerned has been physically present in the Falkland Islands for a period of, or periods aggregating, three years.

(4) A period of absence falling within paragraph (d) of subsection (2) above shall only be permitted absence if for a period of, or periods aggregating, at least three yeers in the five years preceding -

- (a) the absence in question, or
- (b) the person concerned becoming a member of the Falkland Islands Defence Force or of the regular armed forces of Her Majesty,

he was physically present in the Falkland Islands.

(5) In respect of any person who is a Commonwealth citizen, ("the first-named person"), his absence therefrom is a permitted absence for the purposes of this section if —

- (a) at the time in question he was the spouse of or the dependant of another person ("the relevant person");
- (b) his absence was occasioned by his accompanying the relevant person while the relevant person was absent from the Falkland Islands;
- (c) the absence in question of the relevant person is in relation to the relevant person a permitted absence under such of the other provisions of this section as are relevant to the circumstances of the relevant person; and
- (d) the first-named person has been physically present in the Falkland Islands -
 - (i) for a period of or periods aggregating at least twelve months since he attained eighteen years of age; and
 - (ii) for a period of, or periods, aggregating at least five years.

(6) In respect of a person who was not born in the Falkland Islands but who is a Commonwealth citizen, his absence therefrom is, subject to subsection (7) below, a permitted absence for the purposes of this section if it falls within subsection (5) above or if -

- (a) he has been physically present in the Falkland Islands for a period of or periods aggregating at least twelve months since he attained the age of eighteen years; and
- (b) he has been physically present in the Falkland Islands for a period of, or for periods aggregating, at least three years; and
- (c) the absence in question is a permitted absence under subsection (7) below.

(7) For the purposes of paragraph (c) subsection (6) above the following periods of absence are specified as permitted absences -

- (a) absences to the extent that they are occasioned by
 - (i) the performance by the person of his duties as a public officer in the employment of the Falkland Islands Government;
 - the performance of his duties as a member of the Legislative Council, as a member of the Corporation or in any office prescribed by regulations made under this Ordinance; or
- (b) if the person concerned belongs to the Falkland Islands, periods of absence occasioned by his service as a member of the Falkland Islands Defence Force or as a member of the regular armed forces of Her Majesty, and for a period

of, or for periods aggregating, at least three years in the five years preceding the absence in question or his becoming a member of the force in question the person concerned was physically present in the Falkland Islands;

- (c) periods of absence occasioned by a course of education or training of the person overseas;
- (d) any other absence, but to the extent only that such absence or the aggregate of such absences do not exceed six months in any period of twelve months, and only if the person was physically present in the Falkland Islands for at least six months in that period of twelve months.

(8) A person who does not belong to the Falkland Islands shall not be regarded as being physically present in the Falkland Islands at any time during which he is a member of the regular armed forces of Her Majesty.

(9) Notwithstanding any previous provision of this section, no period of absence of a person shall be a permitted period of absence for the purposes of this section if that person has not been physically present in the Falkland Islands at any time during the five years immediately preceding the qualifying date.

4. (1) For the purpose of all provisions of this Ordinance as to the qualification of a person to be registered as an elector "qualifying period" means -- Meaning of "qualifying period".

- (a) in relation to a person who was born in the Falkland Islands, that he was resident (within the meaning ascribed by section 3 above) in the Falkland Islands for a period of at least twelve months immediately preceding the qualifying date; and
- (b) in relation to a person who was not born in the Falkland Islands, that he was resident (within the meaning ascribed by section 3 above) in the Falkland Islands for a period of at least five years immediately preceding the qualifying date.

(2) This section shall have effect for the purpose of prescribing the qualifying period in accordance with section 27 (4) (a) of the Constitution.

5. (1) For the purpose of all provisions of this Ordinance as to the qualification of a person to be registered as an elector and any disqualification by law from being so registered "the qualifying date" means the 15th May preceding the publication of the register.

(2) This section shall have effect for the purpose of prescribing the qualifying date in accordance with section 27 (4) of the Constitution.

PART II ELECTORAL REGISTRATION

Preliminary

6. (1) For the purposes of this Ordinance, and except as provided by subsection (3) below, the Stanley constituency consists of all those parts of the Falkland Islands as lie within a distance of two miles from the spire of Christ Church cathedral, Stanley.

(2) For the purposes of this Ordinance, and except as provided by subsection (3) below, the Camp constituency consists of all those parts of the Falkland Islands as lie further than two miles from the spire of Christ Church cathedral, Stanley.

(3) Where a dwelling would otherwise lie partly within the Stanley constituency and partly within the Camp constituency, it shall be deemed to lie wholly within the Stanley constituency.

7. (1) The Governor shall, in respect of each constituency, appoint a person to be the Electoral Registration Officer ("the registration officer"), but the same person may be appointed to be the registration officer in respect of both constituencies.

(2) The registration officer shall hold office as such until -

- (a) another person is appointed to be the registration officer;
- (b) he is convicted of an offence under this Ordinance; or

Meaning of "qualifying date".

Constituencies.

Appointment of registration officer. (c) he resigns his office as such by notice under his hand delivered to the Governor.

(3) During any vacancy in the office of registration officer in respect of a constituency the Registrar General shall be the registration officer in respect of that constituency.

(4) A registration officer shall not, by virtue of his appointment as such, be disqualified from being registered as an elector or from voting at any election but, so long as he holds office as registration officer, he is disqualified from being elected as a member of the Legislative Council.

8. (1) A person who is qualified to be registered as an elector shall be so registered in respect of the appropriate constituency.

(2) In this section, "the appropriate constituency" means that one of the two constituencies, having regard to the following rules, which is the one in which he usually lives which he usually lives which he usually lives.

Rule 1 In general, a person usually lives in that place to which, when away therefrom, he intends to return.

<u>Rule 2</u> When a person usually sleeps in one place and has his meals or is employed at another place, he usually lives at the place at or in which he usually sleeps.

<u>Rule 3</u> When a person is not physically present in the Falkland Islands on the qualifying date, he is for the purposes of this section to be regarded as usually living at that place at or in which, having regard to rules 1 and 2 above, he usually lived immediately prior to his departure from the Falkland Islands.

<u>Rule 4</u> Where, after application of Rules 1 to 3 inclusive above, it is not, in the opinion of the registration officer, clear in which constituency a particular person usually lives, the registration officer shall accept the statement of that person as to the constituency in which he usually lives.

(3) If, by inadvertence, a person is registered as an elector in both constituencies, the registration officer shall apply Rules 1 to 4 in subsection (2) above so as to determine in respect of which constituency that person shall remain registered as an elector and shall notify the elector of that determination and the register of the other constituency shall be amended by the deletion of that person's name.

Preliminary list, claims and objections

9. (1) With a view to the preparation of the electoral register in respect of a constituency, the registration officer shall

- (a) have a house to house or other sufficient inquiry made as to the persons apparently entitled to be registered as elector on the register for that constituency;
- (b) prepare a preliminary list including the names of persons who, on the qualifying date, were apparently entitled to be registered as electors in respect of that constituency;
- (c) cause the preliminary list to be published in the Gazette and further in such manner as may be prescribed by regulations;
- (d) determine all claims for registration as an elector duly made by any claimant and all objections to a person's registration made by another person appearing from the preliminary list or otherwise to be entitled to be so registered.
- (2) Any person who -
 - (a) is a person ("the relevant person") whose name does not appear in the preliminary list published in accordance with subsection (1) above;
 - (b) is the agent of the relevant person; or
 - (c) is a person whose name appears in the preliminary list or upon the register last published prepared in respect of the constituency,

may by notice in writing ("a claim") delivered to the registration officer within twenty-eight days of the publication of the preliminary list in the Gazette pursuant to paragraph (c) of subsection (1) above claim that his name or, if he is not himself the relevant person, the name of the relevant person should be added to the preliminary list.

Preparation of preliminary list: claims for inclusion.

- (3) A claim shall -
 - (a) contain such information as the claimant relies on to demonstrate that the relevant person was on the qualifying date qualified to be registered as an elector in respect of the constituency in question;
 - (b) be signed and dated by the claimant, whose signature thereon shall be witnessed by another person whose name appears in the preliminary list or by a justice of the peace,

but is otherwise not required to be in any particular form.

(4) The registration officer on receipt of a claim shall proceed to determine it as soon as possible and, in any case within twenty-one days.

(5) If, on consideration of a claim, the registration officer is satisfied that the relevant person was on the qualifying date qualified to be registered as an elector, the registration offier shall add the name of the relevant person to the preliminary list and shall notify the claimant in writing, and if the claimant is not himself the relevant person, the relevant person, that he has done so but in respect of a relevant person who is not presently within the Falkland Islands it is sufficient compliance with this subsection if the registration officer causes the notification to be sent by ordinary post addressed to the relevant person at the dwelling in the constituency in respect of which he is to be registered as an elector.

(6) If on consideration of a claim the registration officer is not satisfied that the relevant person was on the qualifying date qualified to be registered as an elector in respect of the constituency in question, he shall not add the name of the relevant person to the preliminary list and shall notify in writing the claimant that he has rejected the claim.

(7) The registration officer shall not be obliged to afford to a claimant or the relevant person an opportunity to appear before him in support of a claim but may, if he thinks fit, do so, and if he does so, may determine the claim on the basis of information then given to him in addition to or instead of information contained in the claim.

(8) The registration officer shall not afford an opportunity to any person other than the claimant or the relevant person to make representations to him, written or oral, in respect of a claim but this subsection shall not preclude him from seeking, obtaining or acting upon legal advice in connection therewith.

10. (1) A person who is -

(a) a person whose name appears in the preliminary list;

Objections to inclusion of person's name in the preliminary list.

(b) a person who is a relevant person by or in respect of whom a claim has been made under section 9(2) above,

may by notice in writing ("an objection") delivered to the registration officer within twentyeight days of the publication of the preliminary list in the Gazette pursuant to paragraph (c) of section 9(1) above, object to the inclusion in the preliminary list as so published, of the name of any other person.

- (2) An objection shall -
 - (a) contain such information as the claimant relies on to demonstrate that the relevant person was on the qualifying date not qualified to be registered as an elector in respect of the constituency in question;
 - (b) be signed and dated by the objector whose signature theron shall be witnessed by another person whose name appears in the preliminary list or by a justice of the peace,

but is otherwise not required to be in any particular form.

(3) The registration officer on receipt of an objection shall proceed to consider whether it discloses any arguable basis for not including the name of the person to which the objection relates in the register, when published, and unless he determines that no such arguable basis is disclosed by the objection shall then proceed in accordance with subsection (5) below. (4) If the registration officer considers that an objection discloses no arguable basis for not including the name of the person to which the objection relates in the register, when published, he shall forthwith dismiss the objection and notify the objector in writing accordingly.

(5) Unless the registration officer rejects an objection pursuant to subsection (4) above, he shall send a copy of that objection to the person in respect of whom it is made and shall at the same time notify that person in writing that if he wishes to respond to the objection he must do so by notice in writing ("a response") delivered to the registration officer within fourteen days of the receipt of the copy of the objection.

(6) A copy of an objection transmitted to a person pursuant to subsection (3) above shall be transmitted by ordinary post and shall be deemed to have been delivered not later than the seventh day following the day on which it was put in the post.

(7) On the receipt of a response to an objection or, if no response thereto is received within twenty-one days of the transmission of a copy of it pursuant to subsections (5) and (6) above, on the expiry of such period of twenty-one days the registration officer shall decide whether to uphold or dismiss the objection and shall in writing notify the objector and the person in respect of whom it was made of his decision.

(8) The registration officer shall not be obliged to afford to any person an opportunity to appear before him to make oral representations in connection with any objection but may afford such an opportunity and may determine the objection on the basis of information then given to him, provided that he first affords to the objector (or, as may be appropriate, the person to whom the objection relates) a full and fair opportunity to respond to any such information as has not previously been disclosed to him in accordance with the foregoing provisions of this section.

(9) Subsection (8) above shall not preclude the registration officer from seeking obtaining or acting upon legal advice in connection with an objection provided that the registration officer shall disclose the substance of that advice in the notification of his decision required under subsection (10) below.

(10) So soon as the registration officer decides to uphold or dismiss an objection, he shall in writing notify the objector and the person affected thereby of such decision.

(11) No action shall lie in defamation in respect of anything alleged in support of an objection to which this subsection relates.

11. (1) An appeal shall lie to the Senior Magistrate at the instance of any person aggriev- Appeals. ed by the decision of the registration officer -

(a) upon a claim to which section 9 above relates; and

(b) upon an objection to which section 10 relates,

and such an appeal shall be made by notice in writing lodged in the court office within twenty-one days after the notification of the decision.

(2) The registration officer shall be a respondent to any appeal under subsection (1) above and, on receipt of any notice of appeal, the Senior Magistrate shall cause a copy of it to be transmitted to him.

(3) The procedure on appeals under this section may be prescribed by regulations but unless it is so prescribed shall be such as the Senior Magistrate may determine.

(4) On the determination of an appeal under subsection (1) above, the Senior Magistrate shall confirm or reverse the decision of the registration officer and shall transmit a copy of an order embodying his decision to each of the parties to the appeal.

(5) On receipt of a copy of the Senior Magistrate's order transmitted to him under subsection (4) above the registration officer shall, if the Senior Magistrate has reversed the registration officer's decision appealed against, amend in such manner as is appropriate the preliminary list or, if it has been published under section 12 below, the register, but he shall not amend the register during the closed period. (6) The registration officer shall cause notice of the effect of any amendment of the register pursuant to subsection (5) above to be published in the Gazette. (7) The Senior Magistrate may on the application of any person extend, before or after its expiry, the time limited by subsection (1) above.

(8) Subject to the Constitution, no appeal shall lie from a decision of the Senior Magistrate under this section, except that an appeal shall lie as of right to the Supreme Court against any order for the payment of costs.

Provisions relating to the register

12. (1) Subject to subsection (2) below, the registration officer shall prepare the register annually.

Intervals at which register to be prepared etc.

(2) The Governor may by writing under his hand addressed to the registration officer, direct that in any year a register shall not be prepared and the registration officer shall comply with any such direction.

- (3) Subject to subsection (2) above, the registration officer shall -
 - (a) commence to prepare the preliminary list on or about 15th day of May in each year;
 - (b) cause the preliminary list to be published in accordance with section 9(1)(c) above not later than the 15th day of June in each year;
 - (c) cause the register to be published in the Gazette not later than the 15th day of August in each year but not earlier than fifty days after the publication therein of the preliminary list.

13. The preliminary list shall contain, in alphabetical order, the names of all those persons who, in the opinion of the registration officer, were on the qualifying date qualified to be registered as electors in respect of the constituency in question and shall not contain any other names.

14. (1) The register shall, subject to such alterations or amendments or additions to the preliminary list as have been made by the registration officer pursuant to this section, contain in alphabetical order the names of persons whose names appeared in the preliminary list published in accordance with section 12 above and their electoral numbers. Every elector shall be assigned an electoral number in the register in accordance with the order in which his name appears therein.

(2) Before publication of the register as required by section above, but subject to subsection (3) below, the registration officer shall -

- (a) delete from the preliminary list
 - (i) the names of all persons in respect of whom the registration officer has allowed an objection under section 10 above;
 - (ii) the names of all persons whose death has been registered in the Falkland Islands in accordance with law;
- (b) add to the preliminary list the names of all persons in respect of whom a claim has been allowed by the registration officer under section 9 above.
- (3) The registration officer, notwithstanding subsection (2) above -
 - (a) shall not delete the name of a person from the preliminary list if the Senior Magistrate has allowed an an appeal under section 11 above from the decision of the registration officer under section 10 above to uphold an objection to the inclusion in the register of the name of the relevant person; and
 - (b) shall add the name of a person to the preliminary list if the Senior Magistrate has allowed an appeal under section 11 above from the decision of the registration officer under section 9 above to disallow a claim for the inclusion in the register of the name of the relevant person.

(4) The registration officer may, before publication of the register, of his own motion or upon the application of the person affected, correct any error in the name by which that person is described in the preliminary list.

Form of preliminary list.

Contents of register and publication.

15. (1) Subject to subsection (2) below and to section 16 below, the register shall be the register of electors for the constituency concerned from the 1st day of September following its publication in the Gazette pursuant to section 12(3)(c) above until and including the 31st day of August in the next following year.

(2) Notwithstanding subsection (1) above, when the Governor has given a direction pursuant to section 12(2) above, the register of electors for the constituency then in force under subsection (1) above shall remain in force until such date as the register next prepared comes into force under the provisions of that subsection.

16. (1) Subject to subsection (2)below, the registration officer may alter or amend the register after its publication insofar as may be necessary to give effect to an order of the Senior Magistrate on an appeal under section 11 above or so as to comply with an order of the Supreme Court or of the Court of Appeal.

(2) The register may not be amended during the closed period.

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(3) Whenever any alteration or amendment is made to the register pursuant to subsection (1) above, the registration officer shall, as soon as conveniently may be thereafter, cause notice to be published in the Gazette setting out the effect of such amendment or alteration.

17. (1) The registration officer shall permit any person who wishes to do so to inspect a copy of the register, altered or amended in accordance with section 16 above up to the date of such inspection, at all reasonable times on the days and during the hours between which Government offices are open to the public.

(2) The registration officer shall, at the request of any person and on the payment of such fee as may be prescribed by regulations made under this Ordinance, and if none, on payment of the sum of 22, supply to that person a copy of the register, altered or amended in accordance with section 16 above up to the date of such supply.

18. The registration officer shall cause there to be published in the Gazette at the same time as the preliminary list is published in the Gazette pursuant to section 9(1) (c) above, a notice setting forth the provisions of sections 9(2) to 9(8) inclusive above and of sections 10 and 11 above.

19. (1) The registration officer may, with the prior approval of the Governor engage such A persons as may be necessary to assist him in the compilation of the preliminary list.

(2) The registration officer may pay to any person engaged by him under subsection (1) above such honorarium, fee or allowance as the Governor may approve.

20. (1) The registration officer shall on or after the 15th day of May in each year compile a list of such persons appearing to him to be otherwise qualified to be registered as electors for the relevant constituency and who, in his opinion, are by virtue of any provision of section 27(2) of the Constitution disqualified from being so registered, ("the disqualification list").

(2) The disqualification list shall not be open to inspection by the public, but the registration officer shall upon the application of any person inform him, and if so requested, in writing, whether his name appears on the disqualification list.

(3) The registration officer may require the Chief Medical Officer, the Chief Police Officer or any other person who, in the registration officer's opinion, may have information relevant to the preparation of the disqualification list to provide such information to him and any person shall, on being required to do so, provide that information to the registration officer.

(4) For the sake of avoidance of doubt it is declared that a claim to which section 9(2) above refers may be made in respect of the omission of a person's name from the preliminary list because his name appears on the disqualification list and that an appeal to the Senior Magistrate under section 11 above lies in respect of the rejection by the registration officer of any claim to which this subsection relates.

21. (1) The registration officer may require any householder of any dwelling within the relevant constituency to provide to him such information as he may specify as to persons resident in such dwelling on the qualifying date, being information relevant to the compilation of the preliminary list.

(2) The registration officer may require any information to which subsection (1) above relates to be provided orally or in writing, and if he requires such information to be provided in writing, may additionally require that it be signed by the householder and witnessed by another householder or by a justice of the peace.

Period of effectiveness of register.

Amendment, alteration of register after publication.

Inspection of and copies of register.

Information as to right to claim and object.

Assistance.

Disqualification list.

Returns by householders.

(3) Any person who, having been required under this section to provide any information to the registration officer -

- (a) unreasonably refuses or fails to do so within a period of fourteen days after knowledge of the requirement;
- (b) states in response to such a requirement anything he knows or believes to be false; or
- (c) knowingly omits any information he is required to give,

commits an offence under this Ordinance.

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(4) The registration officer's powers under this section may be exercised on his behalf by a person engaged by him pursuant to section 19(1) above, and information provided by a householder to such a person shall for all the purposes of this section be deemed to have been provided to the registration officer.

22. (1) The registration officer shall at the request of any person supply to him a form of application for registration as an elector ("application form").

Application forms.

Application for

postal votes.

(2) The registration officer, in preparing the preliminary list may have regard to any information contained in any completed application form received by him.

PART III

POSTAL VOTES, PROXY VOTES AND POSTAL PROXY VOTES

Postal votes

23. (1) Any elector may by making application delivered to the registration officer apply to be allowed to vote at an election by post ("an application for a postal vote").

(2) An application for a postal vote may be made -

- (a) in respect of a specified election or in respect of elections held within a period stated in the application; or
- (b) in respect of elections generally.

(3) An application for a postal vote shall be invalid unless -

- (a) it is signed by the elector personally;
- (b) the applicant's signature is witnessed by another elector or by a justice of the peace; and
- (c) it specifies an address in the Falkland Islands to which postal ballot papers for completion by the elector may be sent.
- (4) Where an application for a postal vote does not specify whether it is made -
 - (a) in respect of a specified election or all elections held within a period specified in the application; or
 - (b) in respect of elections generally,

it shall be deemed to have been made in respect of elections generally.

(5) Subject to subsection (6) below, the registration officer shall without delay grant every valid application for a postal vote.

(6) The registration officer shall not grant an application for a postal vote between 12 noon on the day preceding the last day for nominations for an election and the return of the writ in respect of that election ("the closed period") but nothing in this subsection shall operate so as to prevent an application for a postal vote made before or during the closed period being granted after the expiry of the closed period.

(7) If the registration officer grants an application for a postal vote, he shall notify the applicant in writing that he has done so and if the registration officer rejects an application for a postal vote he shall notify the applicant in writing of his reasons for so doing.

(8) A notification to an applicant that his application for a postal vote has been granted

shall contain a statement to the effect that so long as the applicant is registered as an postal voter he will not be allowed to vote an an election by completing a ballot paper at a polling place unless he satisfies the presiding officer at that polling place that he has not received a postal ballot paper in respect of that election.

24. The registration officer shall maintain a list ("the postal voters' list") in which he shall record -

- (a) the name of every person in respect of whom an application for a postal vote has been granted ("a postal vote").
- (b) in respect of every postal voter -

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- (i) the address or location and description of the dwelling in respect of which he is registered as an elector;
- (ii) the address in the Falkland Islands specified in the postal application for a postal vote or substituted in accordance with section 25 below to which postal ballot papers for that person are to be sent;
- (iii) the election or elections in respect of which the application for a postal vote was granted or, atematively, that the person is a postal voter generally, that is to say for all elections.

25. (1) A postal voter may by notice in writing delivered to the registration officer cancel the arrangement whereby he is a postal voter.

Cancellation or variation of postal vote arrangement.

Postal Voters' list.

(2) A notice under subsection (1) shall be signed by the postal voter and his signature thereon shall be witnessed by an elector or by a justice of the peace.

(3) The registration officer shall give effect to a notice complying with subsections (1) and (2) above forthwith, except that he shall not do so in the closed period, and on giving effect to it he shall notify the former postal voter in writing that he has done so.

(4) On giving effect to a notice complying with subsections (1) and (2) above, the registration officer shall remove the entries relating to the former postal voter in the postal voters' list.

(5) A postal voter may by notice in writing, signed by him and witnessed by an elector or by a justice of the peace, specify an address in the Falkland Islands, different from that presently appearing in the postal voters' list, as that to which postal ballot papers for him are to be sent, and the registration officer shall give effect to such notice and notify the postal voter in writing that he has done so, except that the registration officer shall not give effect to such a notice during the closed period.

(6) On giving effect to a notice under subsection (5), the registration officer shall in the postal voters's list substitute the address specified in that notice for the address previously appearing in the postal voters's list under section 24(b)(ii) above.

26. (1) A person who has become a postal voter in accordance with the foregoing provisions of this Part shall be entitled to vote only by completing a postal ballot paper unless -

- Duration of postal voting arrangements.
- (a) it would be inconsistent with his application for a postal vote for him to be entitled to vote at that election only by completing a postal ballot paper;
- (b) the registration officer has given effect to a notice by him under section 25(1) above; or
- (c) he has ceased to be an elector since he became a postal voter.

(2) The postal voters' list shall be admissible in evidence in any proceedings and if produced by the registration officer or by any other person appearing to the court to have authority to produce it on his behalf shall be conclusive evidence as to --

- (a) whether or not a person is a postal voter;
- (b) the address in the Falkland Islands to which postal ballot papers for any person named therein are to be sent;
- (c) the elections for which any person mentioned therein is a postal voter.

Proxy votes

27. (1) Any elector may apply to the registration officer to be permitted to vote by proxy.

(2) An application to be permitted to vote by proxy ("an application for a proxy vote") shall —

- (a) state whether the application is made in respect of a particular election or elections specified therein or in respect of all elections;
- (b) state the full name and address of the person whom the applicant wishes to appoint as proxy;
- (c) be signed by the applicant whose signature shall be witnessed by an elector or by a justice of the peace.

(2) Only a person who is an elector in respect of the same constituency may be named as a proxy under paragraph (b) of subsection (1) above.

(3) An application under subsection (1) above shall be accompanied by the consent in writing of the peron named under paragraph (b) thereof as the person to be appointed as proxy, to act as such proxy.

(4) A person may not be appointed the proxy of more than two other electors.

(5) An application for permission to vote by proxy shall not be granted during the closed period.

(6) The registration officer shall forthwith consider an application to vote by proxy received by him and, subject to subsection (5), if he is satisfied that the requirements of subsection (1) to (3) inclusive above are satisfied in relation to it and that the person named under paragraph (b) of subsection (1) above is not already the proxy of two other electors, he shall grant it.

(7) If the registration officer rejects an aplication to be permitted to vote by proxy, he shall forthwith notify the applicant in writing that he has rejected the application and of his reasons for so doing.

(8) If the registration officer grants an application for a proxy vote, he shall forthwith notify the applicant and the proxy in writing of that fact, and shall also notify the applicant in writing of the effect of section 28 below.

28. (1) A person who is the proxy of an elector is entitled to complete a ballot paper at an election on behalf of that elector but -

Position of proxy.

- (a) he is not bound so to do;
- (b) if he completes a ballot paper on behalf of that elector, it is not relevant for any purpose of this Ordinance as to whether he has done so in accordance with that elector's wishes or intentions.

(2) A person who is the proxy of an elector cannot as such proxy nominate or second a candidate.

(3) A person who is or was the proxy of an elector commits an offence under this Ordinance if, knowing the person whose proxy he was to be dead, he applies for a ballot paper to be issued to him as proxy for that person or he completes such a ballot paper as proxy for that person.

29. (1) A person commits an offence under this Ordinance who -

- (a) offers or pays a sum of money or other valuable consideration to an elector or any other person with the intention of inducing that elector to apply to the registration officer to be permitted to vote by proxy;
- (b) offers or pays a sum of money or other valuable consideration to an elector or any other person with the intention of inducing that elector not to give notice under section 30 below to cancel an arrangement whereby he is permitted to vote by proxy.

(2) A person commits an offence under this Ordinance who makes any threat to an elector or any other person with either of the intentions mentioned in subsection (1) above.

Inducement or intimidation as to appointment of proxy.

Application for

proxy vote.

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30. (1) The registration officer shall maintain a list (" the proxy list") in which he shall Proxy list. record -

- (a) the names and addresses of every person who has been appointed as a proxy for an elector, and in relation to every such person, the names and addresses of the electors in respect of whom he is the proxy;
- (b) the names and addresses of every elector who has appointed a proxy to vote on his behalf, and in relation to every such elector, the name and address of the person who is his proxy,

and the particulars required to be recorded by paragraph (a) above shall constitute Part 1 of the proxy list and the particulars required to be recorded by paragraph (b) above shall constitute Part 2 of the proxy list.

(2) In addition to the particulars required to be recorded by subsection (1) above, the registration officer shall record -

- (a) in Part 1 of the proxy list, in relation to the elector in respect of whom a person has been appointed a proxy, the elections in respect of which he has been so appointed;
- (b) in Part 2 of the proxy list, whether or not a postal proxy vote has been granted to the proxy under section 34 below and, if it has, a reference to the entry in the postal proxy list relating thereto.

31. (1) An elector whose application to be permitted to vote by proxy has been granted may by notice in writing delivered to the registration officer and complying with subsection (2) below cancel that arrangement.

(2) A notice to which subsection (1) relates shall be signed by the elector concerned whose signature shall be witnessed by another elector or by a justice of the peace.

(3) The registration officer shall give immediate effect to a notice complying with the above subsections except that he shall not do so during the closed period.

(4) When the registration officer gives effect to a notice complying with subsection (1) and (2) he shall forthwith notify the elector and former proxy in writing of that fact.

(5) Whenever a proxy voting arrangement is cancelled under the above provisions of this section, the registration officer shall delete all entries relating thereto in Part 1 and Part 2 of the proxy list.

32. (1) A proxy voting arrangement is ended —

- (a) by the death of the elector who appointed the proxy;
- (b) if the elector or the proxy ceases to be an elector in respect of the same constituency as that of which he was an elector at the time of the making of the arrangement;
- (c) by the death of the proxy.

(2) If the registration officer becomes aware of circumstances in which a proxy voting arrangement has come to an end by virtue of the provisions of subsection (1) he shall —

- delete in Part 1 and Part 2 of the proxy list all entries relating to that proxy voting arrangement;
- (b) notify in writing the elector (if he remains an elector for the same or another constituency) and the proxy (if he remains an elector for the same or another constituency) that the proxy voting arrangement has come to an end and the reason for that.

33. (1) It is declared for the sake of avoidance of doubt that when an elector gives notice to the registration officer of cancellation of a proxy voting arrangement he may at the same time apply pursuant to section 27 above to be permitted to vote by proxy through a different proxy.

Supplemental provisions relating to cancellation of proxy voting arrangements.

Automatic cesser of proxy voting arrangement.

Cancellation of proxy voting arrangements.

(2) Whenever, pursuant to section 31(3) above, the registration officer gives effect to a notice cancelling a proxy voting arrangement he shall delete in Part 1 and Part 2 of the proxy list all entries relating to that proxy voting arrangement.

Postal proxy votes

34. (1) A person who is the proxy of an elector may by notice in writing delivered to the registration officer apply to be allowed to vote as proxy by post ("a postal proxy vote").

Application for a postal proxy vote.

- (2) An application for a postal proxy vote shall be disallowed unless
 - it complies with the provisions of subsection (3) below; and (a)
 - the proxy is already a postal voter in respect of his right to vote otherwise (b) than as a proxy for another, or an application made by him under section 23 above is allowed at the same time;
- (3) An application for a postal proxy vote shall be invalid unless
 - it is signed by the proxy personally; (a)
 - (b) the applicant's signature is witnessed by another elector or by a justice of the peace; and
 - (c) it specifies an addresss in the Falkland Islands to which postal ballot papers for completion by him as proxy for the elector of whom he is the proxy.

(4) Section 23(4) (5), (6) and (7) above shall apply to an application for a postal proxy vote as it does to an application for a postal vote with the substitution of the words "postal proxy vote" for the words "postal vote" wherever they appear in those provisions.

35. The registrar shall maintain a list ("the postal proxy voters' list") in which he shall Postal proxy list. record -

- (a) the names of every person in respect of whom an application for a postal proxy vote has been granted ("a postal proxy voter");
- (b) in respect of every postal proxy voter
 - (i) the name of the elector in respect of whom the postal proxy voter is the proxy;
 - (ii) the address in the Falkland Islands specified in the postal proxy voter's application for a postal proxy vote or substituted in accordance with section 36 below to which postal ballot papers are to be sent;
 - (iii) the election or elections in respect of which the application for a postal proxy vote was granted or, alternatively that the person is a postal proxy voter generally, that is to say for all elections while he remains a proxy for the elector in question having regard to the provisions of this Part.

36. Section 25 above shall apply in relation to the cancellation or variation of postal proxy vote arrangements as it does to postal vote arrangements but with the following substitutions -

Cancellation or variation of postal proxy vote arrangements.

- for the words "postal voter" wherever they appear therein there shall be (a) substituted the words "postal proxy voter";
- (b) for the words "postal voters' list" wherever they appear therein shall be substituted the words "postal proxy voters' list"; and
- (c) for the reference to section 24(b)(ii) above appearing in subsection (6) of section 25 above there shall be substituted a reference to section 35(b)(ii) above.

37. (1) A person who is a proxy and who has become a postal proxy voter in accordance with the foregoing provisions of this Part shall be entitled to vote as proxy for an elector in respect of whom he has obtained a postal proxy vote only by completing a postal ballot paper on behalf of that elector unless -

Duration of postal proxy arrangements.

it would be inconsistent with his application for a postal proxy vote for him (a) to be entitled to vote as proxy of that election only by completing a postal

ballot paper on behalf of the elector for whom he is the proxy; or

(b) the registration officer has given effect to a notice by him under section 25(1) above, as modified in relation to postal proxy voters by section 36 above.

38. Whenever by reason of -

- (a) the cancellation of the proxy voting arrangement in question under section
 31 above; or
- (b) the proxy voting arrangement in question coming to an end under section 32 above,

the right of the former proxy to complete a postal ballot paper on behalf of another elector is ended, the registration officer shall cancel all entries in the postal proxy voters' list relating to the postal proxy vote arrangements.

39. (1) The proxy voters' list shall, subject to this subsection, be admissible in evidence in any proceedings, and saving any inconsistency with the register shall, if produced by the registration officer or any other person appearing to the court to have authority to produce if on his behalf, be conclusive evidence as to -

Admission of proxy voters' list and postal proxy voters' list in evidence.

Cancellation of entries in postal

proxy list.

- (a) whether or not a person has been duly appointed a proxy for an elector;
- (b) the elector in respect of whom that person has been appointed to be the proxy;
- (c) the elections in respect of which the person has been appointed the proxy of that elector;

but shall not be admissible in evidence to prove -

- that the person in respect of whom the proxy has been appointed as such is an elector; or
- (ii) that the proxy is himself an elector in his own right.

(2) The postal proxy voters' list shall, subject to this subsection, be admissible in evidence, and saving any inconsistency with the register and the proxy voters' list, shall if produced by the registration officer or any other person appearing to the court to have authority to produce it on his behalf, be conclusive evidence as to

- (a) whether or not arrangements have been made under this Part to enable the proxy to complete a postal ballot paper on behalf of another person;
- (b) the election or elections in respect of which such arrangements have been made,

but shall not be admissible in evidence to prove -

- anything which, under subsection (1) above the proxy voters' list is not admissible in evidence to prove;
- anything of which the proxy voters' list is, under subsection (1) above, conclusive evidence.

40. (1) The registration officer shall permit any person who wishes to do so to inspect a copy of -

Inspection of and copies of lists.

- (a) the postal voters' list;
- (b) the proxy voters' list; and
- (c) the postal proxy voters' list, altered or amended in accordance with this Part or any other provision of this Ordinance up to the date of such inspection at all reasonable times during the hours between which Government offices are open to the public.

(2) The registration officer shall, at the request of any person and on the payment of such fee as may be prescribed by regulations made under this Ordinance (or if none on payment of the sum of \pounds). in respect of every copy of a list supplied, supply to that person a copy of any list mentioned in subsection (1) above, altered or amended in accordance with this Part or any other provision of this Ordinance up to the date of such supply.

41. (1) The names of persons included in the preliminary list and the names of persons included in the register shall be numbered so far as reasonably practicable consecutively.

(2) The name of every person included in the preliminary list and the name of every person included in the register shall be immediately followed by the address of the dwelling in the constituency in respect of which he is included therein.

42. (1) The registration officer shall from time to time cause such publicity as the Governor may direct, and in the absence of such direction or additionally to the requirements of any such direction, such publicity as the registration officer shall think fit -

- (a) as to the provisions of this Ordinance relating to postal voting, the appointment of a proxy for an elector and postal voting by proxy;
- (b) as to the manner in which, by whom and the time within which claims may be made for the inclusion of a person's name in the register;
- (c) as to the manner in which, by whom, and the time within which objections to the inclusion of a person's name in the preliminary list may be made; and
- (d) as to the right of appeal from the decision of the registration officer on a claim or objection and by whom, the manner in which, and the time within which such right of appeal may be exercised.

(2) Publicity as to all the matters referred to in paragraphs (a) to (d) inclusive of subsection (1) above shall additionally be given in the period intervening between the 15th day of May in the year in question and the publication of the preliminary list in that year.

(3) Publicity as to the matters referred to in paragraph (a) of subsection (1) above shall ordinarily be given in the period between the publication of the writ and the commencement of the closed period. (4) No failure to comply with the preceding provisions of this subsection shall in any way invalidate -

- (a) the register; or
- (b) any election.

43. (1) The registration officer before including the name of any person in the preliminary list or in the register may, if he considers it necessary -

- (a) require that person either to make and deliver to him a statutory declaration as to the date of his birth or to produce the original or a copy certified by the isssuing authority of his birth certificate;
- (b) require that person to produce such documents as may be necessary to prove that the person was on the qualifying date a Commonwealth citizen; or
- (c) require that person to make and deliver to him a statutory declaration that he had not on or prior to the qualifying date taken an oath of allegiance to a foreign country or state.

(2) The registration officer's powers under subsection (1) above may be exercised in connection with an objection or claim or otherwise.

(3) Where any statutory declaration is made pursuant to a requirement under subsection (1) above, any fee proved to have been paid in connection therewith shall be repaid by the registration officer as part of his registration expenses.

(4) Any statutory declaration made pursuant to a requirement under subsection (1) above and a copy of any document produced in response to any such requirement shall be maintained at the registration officer's office and produced at any reasonable time before the time for disposal of claims and objection has expired, for inspection by any person requiring to see the same.

(5) Any person who -

Supplemental provisions as to register and lists.

Publicity for certain matters.

- (a) in any statutory declaration made in pusuance to a requirement under subsection (1) above, makes any statement he knows to be false or does not believe to be true; or
- (b) in response to any such requirement produces or causes another to produce, a document which he knows or believes to be false or misleading in any material respect,

commits, in addition to any other offence he may have committed, an offence under this Ordinance.

(6) If a person who has been required by the registration officer pursuant to subsection (1) above -

- (a) to produce to him any document; or
- (b) to make and deliver to him a statutory declaration as to any matter,

fails within such time as, in all the circumstances, is reasonable to produce such document or to make or deliver to the registration officer suchstatutory declaration, the registration officer may draw such inference as he thinks fit from such failure and may act in accordance with that inference.

44. The Governor, acting in his discretion, may give any general or special directions to the registration officer with respect to the arrangements to be made by the registration officer for carrying out his registration duties, and the registration officer shall comply with any such direction.

45. (1) Any expenses properly incurred by a registration officer in the performance of his duties under this Ordinance ("the registration expenses") shall be paid out of moneys provided by the Legislature.

(2) Any fees or other sums received by the registration officer in respect of his registration duties other than sums paid to him in respect of his registration expenses, shall be paid into the Consolidated Fund, and shall be accounted for accordingly.

(3) The registration expenses payable to the registration officer shall include -

- (a) any honorarium or allowance payable to him in respect of his services;
- (b) any out-of-pockets actually and reasonably incurred in the performance of his duties, including without limitation of the generality of the foregoing
 - (i) any travelling or accomodation expenses incurred by him or any other person appointed by him to assist him under section 19(1) above;
 - (ii) any sum paid by him pursuant to section 19(2) above.

(4) The Financial Secretary may advance to the registration officer out of the Consolidated Fund such sum or sums as the Financial Secretary thinks fit on account of registration expenses and the registration officer shall account to the Financial Secretary when required so to do for any such advance and shall repay to him on demand any balance for the time being unexpended thereof.

46. Where the register as published does not carry out the intention of the registration officer -

Correction of register.

- (a) to include the name of any person whose name appeared in the preliminary list;
- (b) to give effect to a decision on a claim or objection; or
- (c) to give effect to a decision on an appeal from a decision on a claim or objection,

then (subject to any decision or a claim or objection and to any decision on an appeal from a decision on a claim or objection) the registration officer on becoming aware of the fact shall make the necessary correction in the register; but no such correction shall be made during the closed period.

Governor's

directions.

Registration expenses.

Part V

ELECTIONS AND VOTING Preliminary

47. (1) The Governor, acting in his discretion, shall in respect of each constituency appoint a person to be the returning officer, but the same person may be appointed to be of the returning officer in respect of both constituencies.

(2) Whenever there would otherwise be a vacancy in the appointment of returning officer in respect of a constituency, the Registrar General shall be returning officer in respect of that constituency until an appointment of another person is made in respect of that constituency under subsection (1) above.

(3) No person shall be subject to any incapacity to vote at an election by reason of his being returning officer thereat.

(4) No person shall be appointed to be the returning officer in respect of a constituency who -

- has at any time during the preceding five years been an elected member of the Legislative Council;
- (b) has at any time been convicted of an electoral offence;
- holds or has an any time during the preceding five years held any office in any political party;
- (d) is not a Commonwealth citizen of the age of twenty-one years or more;
- has at anytime been sentenced to a term of imprisonment by a court in a Commonwealth country; or
- (f) is a member of the Legislative Council.

(5) A person appointed to be the returning officer in respect of a constituency under subsection (1) above shall cease to be such returning officer-

- (a) when notice in writing signed by him resigning his appointment is received by the Governor;
- (b) when any event occurs which, if it had occurred before he was appointed would, under subsection (4) above, have disqualified him from appointment as such returning officer.

48. (1) Whenever the Governor in accordance with the provisions of section 27 of the Constitution by proclamation appoints a date for the election of a member or members of the Legislative Council, the Governor shall also issue a writ of election ("the writ") over his signature and the Public Seal addressed to the returning officer for the constituency or constituencies in respect of which the election is to be held.

(2) The Governor shall cause a copy of the writ to be transmitted to the returning officer for every constituency affected thereby and to the Government Secretary.

(3) It is not necessary for the name of the returning officer to appear in the writ.

(4) On receipt of the copy of the writ transmitted to him pursuant to subsection (2), the Government Secretary shall cause it to be published immediately in the Gazette.

49. The writ shall —

- (a) specify the constituency or constituencies to which it relates;
- (b) state the date on which the election is to be held ("polling day")(which shall be the same date as is specified in the proclamation);
- (c) require the returning officer to cause an election to be made according to law of such number of members of the Legislative Council as is requisite;
- (d) require the returning officer to certify by writing over his signature the name of the person or the names of the persons elected at the election required by the writ.

Returning officer.

Contents of writ.

Writs of

election.

Election timetable.

50. The proceedings at an election subsequent to the issue of the writ shall be conducted in accordance with the following timetable -

- (a) notice of the election ("the notice") shall be published in the Gazette as required by section 51 below not later than the third business day from the day on which the returning officer received the writ;
- (b) nomination papers shall be obtainable from the returning officer during a period beginning not later than the third business day after the day on which the returning officer received the writ and ending with such day as is specified in the notice and being not earlier than 14 days from the date of publication of the notice nor later than 21 days from such date,
- (c) the last day for delivery to the returning officer of completed nomination papers shall be the last day on which nomination papers may be obtained from him;
- (d) the last day for withdrawal of nominations shall be the last day on which completed nomination papers may be delivered to the returning officer;
- (e) a list of candidates, if there is to be a poll, shall be published not later than the fourth business day following the last day for delivery to the returning officer of completed nomination papers; and
- (f) the day on which a poll is to be taken ("polling day") shall (if the elction is contested) be not earlier than thirty-five days following the publication of the notice and not later than forty-two days following such publication.

51. (1) The returning officer shall cause notice of the election to be published in the Gazette and the notice shall comply with the provisions of this section.

Notice of election.

- (2) The notice shall state -
 - (a) the number of persons to be elected as members of the Legislative Council in respect of the constituency at the election;
 - (b) the days between and including which nomination papers may be obtained from the office of the returning officer;
 - (c) the hours between which nomination papers may be so obtained;
 - (d) the address or location of the office of the returning officer (which shall be within the Falkland Islands, but need not be within the constituency);
 - (e) the last day on which completed nomination papers may be handed to the returning officer and the latest hour on such day by which they must be so handed;
 - (f) the hours between which on the last day for delivery of completed nomination papers to him the returning officer will be in attendance at his office for the purpose of receiving the same; and
 - (g) polling day and the hours between which the poll will be conducted ("the polling hours").

(3) The days specified under paragraph (b) of subsection (2) above shall be deemed to exclude Saturdays, Sundays and public holidays.

(4) The day specified under paragraph (e) of subsection (2) above and polling day may not be a Saturday, Sunday or public holiday.

(5) The hours specified under paragraph (f) of subsection (2) above must aggregate at least six hours falling between eight in the morning and six in the evening.

(6) The hours specified under paragraph (g) of subsection (2) above must constitute a period of at least six consecutive hours falling between eight in the morning and eight in the evening. 52. (1) Every nomination paper shall be delivered or sent by or on behalf of the candidate so as to be received by the returning officer personally and shall be deemed not to have been received by the returning officer until it is received by him personally except that whenever a nomination paper is left at his office in an envelope addressed to him it shall (unless it is actually received by him at an earlier time) be deemed to have been received by him personally not later than half past four in the afternoon of the second business day following the day on which it was so left.

(2) No election shall be invalidated by the fact that the returning officer is absent from his office on any day provided that he is in personal attendance thereat on the last day for delivery of nomination papers between the hours specified pursuant to paragraph (f) of section 51 (2) above.

Disgualification

53. (1) A person is not qualified to be elected as a member of the Legislative Council -

- (a) unless he is qualified to be so elected under section 23 of the Constitution (which requires the person to be --
 - (i) a Commonwealth citizen of the age of twenty-one years or upwards;
 - (ii) registered as a voter in the constituency in which he is seeking election;
 - (iii) not prohibited by any law from so voting);
- (b) if he is by or pursuant to section 24(1) of the Constitution declared not to be qualified to be so elected.

(2) Every public officer and person acting in a public office, shall be disqualified from being elected as a member of the egislative Council.

(3) The Senior Magistrate and the Registrar General are disqualified from being elected as a member of the Legislative Council during the currency of any register ---

- (a) which he, being the Registrar General, prepared or in relation to which he performed any function as registration officer; or
- (b) in relation to which he, being the Senior Magistrate, determined any appeal from a decision of the registration officer;

(4) The registration officer and any former registration officer and the returning officer and any former returning officer are disqualified from election as a member of the Legislative Council at any election -

- so far as concerns the registration officer and any former registration officer, during the currency of any register which he prepared or in relation to which he performed any function as registration officer;
- (b) so far as relates to the returning officer, at which he was at any time returning officer.

(5) Any person who has previously held a public office is not diqualified from election by virtue of subsection (2) above as a member of the Legislative Council if prior to the close of nominations he ceased to hold that office.

(6) The offices of General Manager and Assistant General Manager of the Falkland Islands Development Corporation are deemed to be a public offices.

(7) Membership of the Legislative Council and membership of a statutory board are not public offices for the purpose of this section.

54. (1) The proceedings at an election shall be conducted in accordance with the subsequent provisions of this Part.

Conduct of elections.

(2) It is the duty of the returning officer to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by subsequent provisions of this Part.

Delivery of nomination papers.

Disgualification.

(3) Notwithstanding subsection (2) above, no election shall be declared invalid by reason of any act or omission by the returning officer or by any other person in breach of his duty in connection with the election if it appears to the court that the election was so conducted as to be substantially in accord with the law as to elections, and that the act or omission did not affect its result.

Manner of voting and closing of register etc

55. Except as otherwise provided by this Part, every elector desiring to vote at an election shall personally attend at a polling place.

56. (1) Subject to any order of the Supreme Court and subject to subsection (2) below, no alteration shall be made, so far as it concerns that election, during the closed period in respect of any election in -

- (a) the register;
- (b) the postal voters' list;
- (c) the proxy voters' list; or
- (d) the postal proxy voters' list.

(2) Subsection (1) above does not prevent a mis-spelling of a person's name or a minor error or slip of a similar nature being corrected, provided that such correction does not confer upon a person or take away from a person -

- (a) an ability to vote at the election; or
- (b) an ability or requirement to vote in a manner different from that in which, but for the correction, he could have voted.

57. (1) A postal voter and a postal proxy voter shall not be required to attend at a polling place in order to vote at an election, and except as provided by subsection (2) below shall not be permitted to vote at a polling place but shall vote (if at all) in the manner provided by this Part in relation to voting by post.

(2) The presiding officer shall permit a postal voter or a postal proxy voter who attends at a polling place to vote at that polling place subject to the same conditions as apply to every person seeking to vote thereat and subject also to the postal voter or postal proxy voter completing and swearing before him an oath in the prescribed form (Oath that he has not received a postal ballot paper).

(3) A postal voter commits an offence under this Ordinance who, having received a postal ballot paper for completion by him, at the same election votes at a polling place (and whether or not he completes and sends to the returning officer a postal ballot paper).

(4) Nothing in the above provisions of this section shall apply so as to prevent or in any way render unlawful a person voting by post on his own behalf and by attendance at a polling place as proxy for another elector or so as to prevent a person voting on his own behalf by attendance at a polling place and voting by post as proxy for another elector.

(5) For the purposes of all the above provisions of this section, a place at which a mobile polling team attends for the purpose of receiving ballot papers completed by electors is a polling place.

58. (1) At a general election and at every by-election when voting takes place in both constituencies on the same day, an elector who is permitted to vote at a polling place may do so at any polling place in the Falkland Islands and whether or not that polling place is within the constituency in respect of which he is an elector.

(2) At every election to which subsection (1) above applies, every polling place in the Falkland Islands shall be a polling place for both constituencies.

(3) At every election to which subsection (1) above applies, the ballot papers for each sonstituency shall be differently coloured from that used in the election on the same day in respect of the other constituency.

Postal voters and postal proxy voters voting at polling place.

Electors to be

able to vote at any polling

place.

Manner of voting.

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Closing of register and lists. (4) Nothing in subsection (1) shall enable an elector to vote in respect of a constituency in respect of which he is no an elector or require a polling place to be provided in a consituency in respect of which no poll is being taken.

Polling places and mobile polling.

59. (1) The Governor, acting in his discretion, shall appoint polling places in respect of Appointment of which a poll is to be taken in any election and shall do so not later than ten days before polling places. polling day.

(2) When a poll is to be taken at an election in the Stanley Constituency, at least one polling place within that constituency shall be appointed.

- (3) When a poll is to be taken in an election in the Camp Constituency
 - (a) at least one polling place in the island of West Falkland shall be appointed; and
 - (b) at least one polling place in the island of East Falkland outside the Stanley Constituency shall be appointed,

(4) The returning officer shall cause notice of polling places appointed in accordance with this section to be published in the Gazette not later than seven clear days before polling day.

60. (1) Whenever polling is to take place in the Camp Constituency, the Governor, acting in his discretion, may direct that electors of that constituency may vote during the visit of a mobile polling team to any place in that constituency.

Mobile polling teams in the camp constituency.

(2) A direction pursuant to subsection (1) above ("a mobile polling direction") shall be published in the Gazette and shall specify —

- (a) the dates and approximate times of the visit of a mobile polling team to any place in the Camp Constituency for the purpose of receiving the votes of electors in accordance with the provisions of this Part;
- (b) the location at any place specified under paragraph (a) above at which votes will be received by the mobile polling team.

(3) The dates specified in a mobile polling direction may be any one or more days in the five business days ending with polling day.

(4) A mobile polling team shall consist of a presiding officer (who shall be the team leader) and, if the returning officer so decides, additionally one or more other persons who shall be poll clerks, but the identity and number of the persons comprising the mobile polling team need not be the same in respect of all places visited by a mobile polling team pursuant to this section.

(5) The team leader shall use his best endeavours to ensure that the mobile polling team visits every place specified in a mobile polling direction on the date and at approximately the time therein specified.

(6) The dates and times specified in a mobile polling direction may be varied by the team leader if, in his discretion -

- (a) the exigencies of the weather;
- (b) the non-availability of transport;
- (c) the state of any aerodrome;
- (d) civil disturbance, war, threat of war or hostilities, civil emergency; or
- (e) any other serious and weighty cause,

render that necessary.

(7) Whenever the team leader varies the date or time of a visit to any place he shall give or cause to be given such notice to affected persons of the variation as is reasonably possible, and shall so soon as reasonably practicable inform the returning officer of the variation and the notice of it given in accordance with this subsection.

(8) A direction under subsection (1) shall be published in the Gazette.

(9) The failure of a mobile polling team to visit a place specified in a mobile polling direction -

- (a) at all; or
- (b) on the date or at the time specified therein;

shall not constitute a ground on which an election may be declared to be void by a court.

61. (1) The returning officer may require every public broadcasting station controlled by the Government to broadcast during the period beginning with the date on which the names of candidates are published in the Gazette and ending with polling day such announcements relating to the conduct of the election as he may require, provided that he shall not require any public broadcasting station to broadcast any announcement exceeding five minutes in length and that he shall not require any such public broadcasting station to broadcast any such public broadcast any such announcement on more than one occasion on any day.

(2) The person in charge of any public broadcasting station controlled by the Government shall cause any requirement made in accordance with subsection (1) to be complied with.

Nomination of candidates.

62. (1) Each candidate shall be nominated by a separate nomination paper, in the prescribed form, delivered by the candidate himself or by one of the electors signing the same as nominator or supporter to the returning officer at the returning officer's office.

(2) The nomination paper shall state the full names, place of residence and (if desired) description of the candidate and the surname shall be placed first in the list of names.

(3) The description (if any) shall not exceed six words in length, and need not refer to his rank, profession or calling so long as, with the other particulars of the candidate, it is sufficient to identify him.

63. (1) The nomination paper shall be subscribed by two electors as nominators and by four other electors as supporters of the nomination.

(2) Where a nomination paper bears the signatures of more than the required number of persons as nominators or supporters, the signature or signatures (up to the required number) appearing on the paper in each category shall be taken into account to the exclusion of all others in that category.

(3) The nomination paper shall give the electoral number of each person subscribing it.

(4) The returning officer shall supply any elector with a form of nomination paper at the place and during the time for delivery of nomination papers and shall at the request of any elector prepare a nomination paper for signature; but it shall not be necessary for a nomination paper to be on a form supplied by the returning officer.

(5) No person shall subscribe more nomination papers at any election than there are persons to be elected at that election and, if he does, his signature shall be inoperative on any nomination paper delivered to the returning officer after the number of nomination papers permitted to be subscribed by that person has been delivered to the returning officer; but a person shall not be prevented from validly subscribing a nomination paper by reason only of his having subscribed that or those of a candidate or candidates who has or have died or withdrawn before delivery of the first mentioned paper.

64. (1) A person shall not be validly nominated unless his consent to nomination and attested by one witness, given not more than six weeks before the day on which the nomination paper is delivered to the returning officer at his office within the time limited for delivery of nomination papers; but if the returning officer is satisfied that owing to the absence of the person from the Falkland Islands or his presence in a remote part of the Falkland Islands it has not been reasonably practicable for a consent in writing to be signed by the person to be delivered he shall accept —

 (a) a document appearing him to be a facsimile copy telegraphically transmitted of an original document so signed; or Consent to nomination.

Subscription of nomination

naper.

Nomination of candidates.

Publicity for election arrangements. (b) a telegram consenting to his nomination and purporting to be signed by him,

(and in the case of a telegram, whether or not the signature is witnessed) as sufficient compliance with this subsection and provided that the document also contains the statement required by subsection (2) below.

(2) A candidate's consent under subsection (1) above shall also contain a statement that he is aware of the provisions of section 24 of the Constitution and that, to the best of his knowledge and belief, he is not disqualified from being elected as a member of the Legislative Council.

65. (1) A person shall not be validly nominated unless the sum of £100 is deposited by him or on his behalf with the returning officer at his office and during the time for delivery of nominations.

(2) The deposit may be made either by the deposit of any legal tender, or by means of a banker's draft, or with the consent of the returning officer, in any other manner; but the returning officer may refuse to accept a deposit made by means of a banker's draft drawn on any bank which does not, to his knowledge, maintain a branch in the Falkland Islands.

66. (1) Except for the purpose of delivering a nomination paper or of assisting the returning officer, no person shall be entitled to attend the proceedings during the time for the delivery of nomination papers or making objections thereto unless he is a person standing nominated as a candidate or is the election agent, or a person who has subscribed the nomination paper of a candidate standing nominated; but where a candidate acts as his own election agent, he may name one other person who shall be entitled to attend in place of his agent.

(2) Where a person stands nominated by more than one nomination paper only the persons subscribing such one of those papers as he may select or, in default of any such selection, that one of the papers which is first delivered, shall be entitled to attend as a person who has subscribed his nomination paper.

(3) The right to attend conferred by this section shall include the right to inspect, and to object to the validity of, any nomination paper.

67. (1) Where a nomination paper and the candidate's consent thereto are delivered and a deposit is made in accordance with section 65 above, the candidate shall be deemed to stand nominated unless and until the returning officer decides that the nomination paper is invalid, or proof is given to the satisfaction of the returning officer of the candidate's death, or the candidate withdraws.

(2) The returning officer shall be entitled to hold a nomination paper invalid only on one of the following grounds, that is to say, -

- (a) that the particulars of the candidate or the persons subscribing the paper are not as required by law; and
- (b) that the paper is not subscribed as so required.

(3) The returning officer shall give his decision on any objection to nomination paper as soon as practicable after it is made.

(4) Where the returning officer decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(5) The decision of the returning officer that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(6) Subject to subsection (5) above, nothing in this section shall prevent the validity of a nomination being questioned on an election petition.

68. (1) A candidate may withdraw his candidature by notice of withdrawal signed by him and attested by one witness and delivered to the returning officer at the office of the returning officer before the close of nominations.

Withdrawal of candidates.

Decisions as to validity of nomination papers.

Deposit.

Right to attend nomination.

(2) In the case of a candidate who is outside the Falkland Islands, a notice of withdrawal signed by one of his nominators and accompanied by a written declaration also so signed of the candidate's absence from the Falkland Islands shall be of the same effect as a notice of withdrawal signed by the candidate:

Provided that where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this paragraph shall be effective if, but only if, -

- (a) it and the accompanying declaration are signed by a nominator in relation to every such paper except any who is, and is stated in the said declaration to be, outside the Falkland Islands; or
- (b) it is accompanied, in addition to the said declaration, by a written statement signed by the candidate that the nominator giving the notice is authorised to do so on the candidate's behalf during his absence from the Falkland Islands.

69. (1) The returning officer shall prepare and cause to be published in the Gazette a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.

(2) The statement shall show the names, addresses, and descriptions of the persons nominated as given in their nomination papers, together with the names of the persons subscribing those papers.

(3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) In the case of a person nominated by more than one nomination paper, the returning officer shall take the particulars required by the foregoing provisions of this section from such one of the papers as the candidate or the returning officer in default of the candidate may select, but if the election is contested a candidate standing nominated may require the returning officer to include in the statement the names of the persons subscribing a second and third nomination paper.

70. Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence, the proceedings shall be abandoned for that day, and if that day is the last day for the delivery of nomination papers, the proceedings shall be continued on the next day as if that were the last day for the delivery thereof, and that day shall be treated for the purposes of this Part as being the said last day (subject however to any further application of this section in the event of interruption or obstruction on that day); but where proceedings are abandoned by virtue of this section nothing may be done after they are continued, if the time for doing it had passed at the time of the abandonement, nor shall anything done before the abandonment be invalidated by reason thereof.

71. (1) If the statement of persons nominated prepared in accordance with section 69 above discloses that no greater number of persons stand nominated than there are vacancies to be filled at the election, the persons whose names appear in that statement shall be declared to be elected in accordance with subsequent provisions of this Part.

(2) If the statement of persons nominated prepared in accordance with section 69 above discloses that a greater number of persons stand nominated than there are vacancies, a poll shall be taken in accordance with the subsequent provisions of this Part.

72. The votes at the poll shall be given by ballot and the result shall be ascertained and by counting the votes given to each candidate, and the candidate or candidates to whom the greatest number of votes have been given shall be declared to have been elected.

73. (1) The ballot of every voter shall consist of a ballot paper, and the persons shown in the statement of persons nominated as standing nominated, and no others shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the prescribed form and shall be printed in accordance with the directions therein, and -

Publications of nominations and withdrawals etc.

Abandonment of nomination proceedings.

Method of election.

Poils to be taken by ballot.

The ballot papers.

- (a) shall contain the names and other particulars of the candidates as shown in the statement of persons nominated;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back;
- (d) shall have attached a counterfoil with the same number printed on the face.

(3) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

74. (1) Every ballot paper shall be marked with an official mark, which shall be either embossed or perforated.

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same constituency.

(3) The official mark used for postal ballot papers at an election shall differ from that used for other ballot papers at that election.

75. No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state for whom he voted.

76. (1) The returning officer may use free of charge, for the purpose of taking the poll, any building in the occupation of the Government and any land in the occupation of the Government.

(2) The returning officer shall make good any damage done to any such building or land occasioned by its being used for the purpose of taking the poll, and the cost of doing so shall constitute part of the expenses of the election.

77. (1) If at a contested election proof is given to the satisfaction of the returning officer before the result of the election is declared that one of the persons named or to be named as candidate in the ballot papers has died, then the returning officer shall countermand notice of the poll or, if polling has begun, direct that the poll be abandoned, and all proceedings with reference to the election shall be commenced afresh in all respects as if the writ had been received twenty-eight days after the day on which proof was given to the returning officer of the death except that -

- (a) no fresh nomination shall be necessary in the case of a person shown in the statement of persons nominated as standing nominated; and
- (b) in the case of a general election, as in the case of a by-election, the time for delivery of nomination papers and the time for polling shall be determined in accordance with this Part (with the necessary modification on any reference to the date on which notice of the elections is published).

(2) Where the poll is abandoned by reason of the death of a candidate, the proceedings at or consequent on that poll shall be interrupted and the presiding officer at any polling place and team leader of any mobile polling team shall take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and of ballot papers and other documents as he is required to take on the close of the poll in due course, and the returning officer shall dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of votes; but —

- (a) it shall not be necessary for any ballot paper account to be prepared or verified; and
- (b) the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes, shall seal up all the ballot papers, whether the votes on them have been counted or not, and it shall not be necessary to seal up counted and rejected ballot papers in separate packets.

Countermand or abandonment of poll on death of a candidate.

The official mark.

Prohibition of disclosure of

Use of public buildings.

vote

(3) The subsequent provisions of this Ordinance as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election shall apply to any such documents relating to a poll abandoned by reason of the death of a candidate, with the following modifications -

- (a) ballot papers on which the votes were neither counted nor rejected shall be treated as counted ballot papers; and
- (b) no order shall be made for the production or inspection of any ballot papers or for the opening of a sealed packet of counterfoils or certificates as to employment on duty on the day of the poll unless the order is made by a court with reference to a prosecution.

Postal voting

78. (1) The returning officer shall as soon as practicable send to those entitled to vote by post, at the address furnished by them for the purpose, a ballot paper and a declaration of identity in the prescribed form together with an envelope for their return ("the covering envelope") and a smaller envelope marked "ballot paper envelope" bearing the number of the ballot paper.

(2) Except as provided by section 74 (3) above with respect to the official mark, the ballot papers to be sent to postal voters shall be in the same form as, and indistinguishable from, the ballot papers delivered to other voters.

(3) At the same time as the returning officer sends to an elector entitled to vote by post the documents referred to in subsection (1) above he shall send to him a form of guidance as to the manner of voting by post in the prescribed form.

79. (1) No person other than --

- (a) the returning officer and his clerks,
- (b) a candidate,
- (c) an election agent or any person appointed by a candidate to attend in the election agent's place, and
- (d) any agents appointed under subsection (2) below,

may be present at the proceedings on the issue or receipt of postal ballot papers.

(2) Where postal ballot papers are to be issued, or the envelopes contained in the postal voters' ballot boxes are to be opened, simultaneously in two or more batches, each candidate may appoint one or more agents up to the number he may be authorised by the returning officer to appoint not exceeding the number of such batches so, however, that the number authorised shall be the same in the case of each candidate.

(3) Notice of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer before the time fixed for the issue of the postal ballot papers of the opening of the said postal voters's ballot boxes, as the case may be.

(4) If an agent dies or becomes incapable of acting, the candidate may appoint another agent in his place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(5) Agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate.

(6) A candidate may himself do any act or thing which any agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(7) Where in this section or in sections any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such person or persons at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

80. (1) Every person attending the proceedings on the issue or receipt of postal ballot papers shall make declaration of secrecy in the form in subsection (3) of this section, or in a form as near thereto as circumstances admit, before the issue of postal ballot papers:

Declaration of secrecy in relation to postal ballot papers.

Persons entitled to be present at issue and receipt of postal ballot papers.

Postal ballot papers. Provided that if any person attends only the proceedings on the receipt of postal ballot papers, he need not make the declaration before the issue but shall make it before he is permitted to attend the proceedings on the receipt of postal ballot papers.

(2) The returning officer shall make the declaration in the presence of the Attorney General, the Senior Magistrate or of a justice of the peace and any other person shall make the declaration in the presence either of the Attorney General, the Senior Magistrate or a justice of the peace or of the returning officer, and subsections (4) and (6) of section 97 below shall be read to the declarant in the presence of that person.

(3) The declaration shall be as follows —

"I solemnly promise and declare that I will not do anything forbidden by subsections (4) and (6) of section 97 of the Electoral Ordinance 1988, which have been read to me".

(4) Any person before whom a declaration is authorised to be made under this section may take the declaration.

81. (1) The returning officer shall give each candidate not less than two day's notice in writing of the time and place at which he will issue postal ballot papers and of the number of agents he may appoint under section 79(2) above to attend the said issue.

(2) Where any subsequent issue of postal ballot papers is made, the returning officer shall notify each candidate as soon as practicable of the time and place at which he will make such subsequent issue and of the number of agents he may appoint under section 79(2) above to attend such issue.

82. (1) Each postal ballot paper issued shall be stamped with the official mark, and the name and the number in the register of the elector shall be called out, and such number shall be marked on the counterfoil, and a mark shall be placed in the postal voters list or the postal proxies list against the number of the elector to denote that a ballot paper has been issued.

(2) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

83. Where a returning officer is satisfied that two or more entries in the postal voters list or the list of postal proxies relate to the same elector or that a postal proxy has been appointed for a person entered in the postal voters list, he shall not issue more than one ballot paper in respect of the same elector.

84. (1) Envelopes addressed to postal voters shall be counted and forthwith delivered by the returning officer to the post office in Stanley, and the postmaster shall stamp with the post office date stamp a form of receipt to be presented by the returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes for delivery to the persons to whom they are addressed.

(2) All such envelopes shall be marked "certified official" and all covering envelopes shall also be marked.

85. (1) The returning officer shall, at the proceedings on the original issue of postal ballot papers, provide a ballot box or ballot boxes for the reception of the covering envelopes when returned by the postal voters.

(2) Every such ballot box shall be shown open and empty to the agents present and shall then be locked by the returning officer and sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals in such manner as to prevent its being opened without breaking the seal.

(3) Every such ballot box shall be marked "postal voters' ballot box" and with the name of the constituency for which the election is held.

(4) The returning officer shall make provision for the safe custody of every such ballot box.

86. (1) The returning officer, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents, shall make up in separate packets -

Sealing up of special lists and counterfoils.

Notice of issue of postal ballot papers.

Marking of postal paper.

Refusal to issue postal ballot paper.

Posting of postal ballot papers.

Provision of

postal voters' ballot box. (a) the marked copies of the postal voters list and of the list of postal proxies, and

(b) the counterfoils of those ballot papers which were issued,

and shall seal such packets.

(2) The sealed packet containing the marked copies of the postal voters list and of the list of postal proxies may be opened by the returning officer for the purposes of a subsequent issue, and on completion of that issue the copies shall be again made up and sealed in accordance with subsection (1) above.

87. (1) If a postal voter has inadvertently dealt with his postal ballot paper in such manner that it cannot be conveniently used as a ballot paper ("a spoilt postal ballot paper") he may return (either by hand or by post) to the returning officer the spoilt postal ballot paper, the declaration of identity, the ballot paper envelope and the covering envelope.

(2) The returning officer, on receipt of the said documents, shall unless the documents are received too late for another postal ballot paper to be returned before the close of the poll, issue another postal ballot paper and the provisions of this Part, but not section 90 or section 92 below shall apply accordingly.

88. The returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope before the close of the poll, place it unopened in a postal voters' ballot box locked and sealed in accordance with section 85 above.

59. (1) Each postal voters' ballot box shall be opened by the returning officer in the presence of the agents.

(2) So long as the returning officer secures that there is at least one postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him.

(3) The returning officer shall give each candidate at least twenty-four hours' notice in writing of the time and place of his opening of each postal voters ballot box and the envelopes contained therein and of the number of agents the candidate may appoint under section 79(2) above to be present at each opening.

90. (1) When a postal voters' ballot box has been opened, the returning officer shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

(2) Where a covering envelope does not contain both a declaration of identity and a ballot paper envelope or, there being no ballot paper envelope, a ballot paper, he shall mark the covering envelope "rejected", attach thereto the contents (if any) of the covering envelope and place it in a separate receptacle (hereinafter referred to as "the receptacle for votes rejected"); and if the covering envelope does not contain the declaration separately, the returning officer shall open the ballot paper envelope to ascertain if the declaration is inside that envelope.

(3) On opening a covering envelope, other than one to which subsection (2) above applies, he shall first satisfy himself that the declaration of identity has been duly signed and dated and, if he is not so satisfied he shall mark the declaration "rejected", attach thereto the ballot paper envelope or, if there is no such envelope, the ballot paper, and place it in the receptacle for votes rejected: Provided that before so doing he shall show the declaration to the agents and, if any objection is made by any agent to his decision, he shall add the words "rejection objected to".

(4) Where the number on the declaration of identity duly signed and authenticated agrees with the number on the ballot paper envelope, he shall place the declaration in a separate receptacle (hereinafter referred to as "the receptacle for declarations of identity") and the ballot paper envelope in another separate receptacle (hereinafter referred to as "the receptacle for ballot paper envelopes").

Spoilt postal ballot papers.

Receipt of covering envelope.

Opening of postal voters' ballot box.

Opening of covering envelopes. (5) Where there is no ballot paper envelope or the ballot paper envelope has been opened under subsection (2) above, he shall —

- (a) where the number on the declaration of identity duly signed and authenticated agrees with the number on the ballot paper, place the declaration in the receptacle for declarations of identity and the ballot paper in a ballot box previously shown open and empty to the agents present and locked by the returning officer and sealed with the seal of the returning officer and the seals of such of the agents as desire to affix their seals in such manner as to prevent its being opened without breaking the seal;
- (b) where the number on the said declaration does not agree with the number on the ballot paper, mark the declaration "rejected", attach thereto the ballot paper and place it in the receptacle for votes rejected.

(6) Where the number on the declaration of identity duly signed and authenticated does not agree with the number on the ballot paper envelope or that envelope has not number on it, he shall open the envelope and shall -

- (a) where the number on the declaration agrees with the number on the ballot paper, place the declaration in the receptacle for declarations of identity and the ballot paper in the ballot box referred to in subsection (5) above;
- (b) where the number on the declaration does not agree with the number on the ballot paper or there is no ballot paper, mark the declaration "rejected", attach thereto the ballot paper (if any) and place it in the receptacle for votes rejected.

(7) Except for the purposes of ascertaining under subsection (2) above whether a ballot paper envelope contains a declaration of identity or under subsection (6) above whether the number on the declaration agrees with the number on the ballot paper, the returning officer shall not open the ballot paper envelopes before they are opened under section 92 below.

91. On the conclusion of the proceedings under section 90 the returning officer shall put the contents of the receptacle for votes rejected and the contents of the receptacle for declarations of identity into two separate packets and shall seal such packets.

92. (1) After sealing up the packets referred to in section 91 above the returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) Where a ballot paper envelope does not contain a ballot paper, the returning officer shall mark the envelope "rejected".

(3) Where the number on the ballot paper envelope agrees with the number on the ballot paper contained therein, the returning officer shall place the ballot paper in the ballot box referred to in section 90(5) above.

(4) Where the number on the ballot paper envelope does not agree with the number on the ballot paper contained therein, the returning officer shall mark the ballot paper "rejected", and attach the ballot paper envelope thereto.

(5) The returning officer shall put into a separate packet the envelopes and the ballot papers marked "rejected" under the provisions of this section and shall seal up such packet.

93. Where a poll is abandoned, or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the returning officer -

- (a) shall not take any step further to open covering envelopes or deal with their contents,
- (b) shall, notwithstanding sections 91 and 92 above, treat all unopened covering envelopes and the contents of those which have been opened as if they were counted ballot papers.

94. (1) The returning officer shall forward to the Government Secretary at the same time as he forwards the documents mentioned in section 129 below —

Forwarding documents and

packets related to postal ballot papers.

Abandoned poll: postal ballot

papers.

Sealing up of re-

Opening of ballot paper

envelopes.

jected votes.

- (a) any packets referred to in section 86, 87, 91 or 92 above, subject to the provisions of section 93 above, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency for which the election was held;
- (b) a statement of the number of postal ballot papers issued in such form and giving such other particulars as the Attorney General may require.

(2) Where any covering envelopes are received by the returning officer after the close of the poll or any papers addressed to postal voters are returned as undelivered too late to be re-addressed. or any spoilt ballot papers are returned too late to enable other postal ballot papers to be issued, he shall put them unopened into a separate packet, seal up such packet and forward it at a subsequent date in the manner described in subsection (1) above.

Preparation for Poll

95. (1) During the afternoon of the business day preceding the last day for delivery of nominations, the registration officer shall certify six copies of each of -

Certified copies of register and of lists.

- (a) the register;
- (b) the postal voters' list;
- (c) the proxy list; and
- (d) the postal proxy list,

over his hand as being true correct and complete copies of the documents of which they purport to be a copy made up to noon on the business day in question.

(2) The registration officer shall deliver the certified copies referred to in subsection (1) above to the returning officer forthwith.

96. (1) Subject to subsection (5) below, the certified copy of the register delivered to the returning officer under section 95(2) above shall for the purposes of this Part (but only in relation to the election in respect of which it was delivered) be conclusive as to the following matters -

Effect of registers etc.

- (a) that every person registered therein was on the qualifying date resident at the address shown;
- (b) that address is in the constituency to which the register relates;
- (c) that every person whose name appears therein, is an elector;
- (d) that no person whose name does not appear is an elector.

(2) Subject to subsection (5) below, the certified copy of the postal voters' list delivered to the returning officer under section (2) above shall for the purposes of this Part (but only in relation to the election in respect of which it was delivered) be conclusive as to whether or not a person's right to vote at the election is exercisable by post.

(3) Subject to subsection (5) below, the certified copy of the proxy list delivered to the returning officer under section 95(2) above shall for the purposes of this Part (but only in relation to the election in respect of which it is delivered) be conclusive as to whether or not there is force on appointment of a proxy to vote for any person and (if so) who is appointed.

(4) The certified copy of the postal proxy voters' list delivered to the returning officer under section 95(2) above shall for the purposes of this Part (but only in relation to the election in respect of which it is delivered) be conclusive as to whether or not a proxy voter's right to vote as proxy is exercisable by post.

(5) A person registered as an elector or entered in the proxy list shall not be excluded from voting on the ground that he is not a Commonwealth citizen or is not of voting age or that on the qualifying date he was not qualified to be registered as an elector or that he was disqualified on that date from being so registered; but this provision shall not prevent the rejection of the vote on a scrutiny or alter his liability to any penalty for voting. (6) No misnomer or inaccurate description of any person or place named in the register or in any list, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Part shall affect the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

97. (1) The following persons -

(a) every returning officer;

(b) every presiding officer or clerk attending a polling place;

(c) every member of a mobile polling team;

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed —

- the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling place or with a mobile polling team;
- (ii) the number on the register of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling place or with a mobile polling team; or
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not -

- (a) ascertain or attempt to ascertain at the counting of votes the number on the back of any ballot paper; or
- (b) communicate any information obtained at the counting of votes as to the candidate or candidates for whom any vote is given on any particular ballot paper.
- (3) No person whosoever shall -
 - (a) interfere with or attempt to interfere with a voter when recording his vote;
 - (b) otherwise obtain or attempt to obtain in a polling place or with a mobile polling team information as to the candidate or candidates for whom a voter is about to vote or has voted;
 - (c) communicate at any time to any person any information obtained in a polling place or with a mobile polling team as to the candidate or candidates for whom a voter is about to vote or has voted, or as to the number on the back of the ballot paper given to that voter.

(4) Every person attending the proceedings in connection with the issue or receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of voting and shall not -

- (a) except for some purpose authorised by law, communicate before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (b) except for some purpose authorised by law, communicate to any person at any time information obtained at those proceedings as to the number on the back of the ballot paper sent to any person;
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper;
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate or candidates for whom any vote or votes is or are given in any particular ballot paper or communicate any information with respect thereto obtained at the proceedings.

Requirement of secrecy.

(5) No person having undertaken to assist a blind voter to vote shall communicate at any time to any person any information as to the candidate or candidates for whom that voter intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter.

(6) A person who contravenes any provision of this section commits an offence and is liable on conviction to a fine of $\pounds 500$ or to imprisonment for six months, or both.

98. (1) The returning officer shall as soon as practicable after receipt of the certified copies of the register delivered to him under section 95(2) above mark them in accordance with this section.

(2) The returning officer shall mark the copies of the register as follows —

- (a) where an elector is a postal voter, he shall mark the entry in the register relating to that elector with the letter "M", immediately following the address given in that respect of that elector in the register;
- (b) where an elector has appointed a proxy, he shall mark the entry in the register relating to that elector with the letters "PXY" immediately following the address given in respect of that elector in the register.

(3) The returning officer shall mark the proxy list in Part 1 thereof with the letters "PM" immediately following the entry therein where the proxy's name, in relation to that elector, also appears in the postal proxy list.

99. (1) The returning officer shall appoint and pay in respect of each polling place a presiding officer to attend thereat and a person to be the team leader of any mobile polling team and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of the candidate in or about the election.

(2) The returning officer may, if he thinks fit, preside at a polling place or be the team leader of a mobile polling team, and the provisions of this Part relating to a presiding officer or team leader shall apply to a returning officer so presiding or being a team leader with the necessary modifications as to things to be done by the returning officer to the presiding officer or team leader or by the presiding officer or team leader to the returning officer.

(3) A presiding officer or team leader may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised by this Part to do at a polling place or with a mobile polling team except order the arrest, exclusion or removal of any person from the polling station or from the vicinity of the mobile polling team.

(4) The returning officer shall pursuant to subsection (1) above pay to the presiding officers, team leaders and clerks such fees as may be prescribed by regulations or, if no such regulations have been made, as are approved from time to time by the Governor; and all such fees paid shall constitute part of the expenses of the election.

100. (1) The returning officer shall provide each presiding officer and team leader with such number of ballot boxes and ballot papers as, in the opinion of the returning officer, may be necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be put therein, but cannot be withdrawn therefrom, without the box being unlocked.

(3) The returning officer shall provide each polling place and mobile polling team with --

- (a) materials to enable voters to mark the ballot papers;
- (b) instruments for stamping thereon the official mark; and
- (c) copies of the certified copy of the register and lists marked by the returning officer in accordance with section 98 above.

ficers and clerks.

Appointment of presiding of-

Equipment of polling places and mobile polling team.

Marking of register and lists.

(4) A notice in the prescribed form, giving directions for the guidance of the voters in voting, shall be printed in conspicious characters and exhibited at every polling place and by any mobile polling team.

101. (1) Each candidate may, before the commencement of the poll, appoint polling agents to attend at polling stations or with mobile polling teams for the purpose of detecting personation and counting agents to attend at the counting of the votes; but the returning officer may limit the number of counting agents, so however that the number shall be the same in the case of each candidate and the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

(2) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate to the returning officer and, shall be given by the candidate to the returning officer and, shall be so given not later than the second business day before the day of the poll.

(3) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in his place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(4) Subsections (1) to (3) shove shall be without prejudice to the requirements of subsection (1) of section 102 below as to the appointment of paid polling agents, and any appointment authorised by this rule may be made and the notice of appointment given to the returning officer by the candidate' election agent, instead of by the candidate.

(5) In subsequent provisions of this Part references to polling and counting agents shall be taken as references to agents whose appointments above been duly made and notified and, where the number of agents is restricted, who are within the permitted number.

(6) Any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice of appointment.

(7) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(8) Where by any prevision of this Part any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place apointed for the purpose, shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

102. (1) Before the opening of the poll a declaration of secrecy in the form in subsection (4) below, or in a form as near thereto as circumstances admit, shall be made by —

Declaration of secrecy.

- (a) every candidate attending at a polling station or at the counting of the votes and every election agent so attending;
- (b) every clerk authorised to attend at a polling station or the counting of the votes;
- (c) every candidate attending at a polling station or at the counting of the votes and every election agent so attending;
- (d) every candidate's wife or husband attending at the counting of the votes;
- (e) every polling agent and counting agent;
- (f) every person permitted by the returning officer to attend at the counting of the votes, though not entitled to do so.

(2) Notwithstanding anything in the foregoing paragraph, the following persons attending at the counting of the votes, that is to say, -

(a) any candidate;

Appointment of polling and counting agents.

- (b) any election agent, or any candidate's wife, or husband attending by virtue of the rule authorising election agents and candidate's wives or husbands to attend as such;
- (c) any person permitted by the returning officer to attend, though not entitled to do so; and
- (d) any clerk making the declaration in order to attend at the counting of the votes need not make the declaration before the opening of the poll but shall make it before he or she is permitted to attend the counting, and a polling or counting agent appointed after the opening of the poll shall make the declaration before acting as such agent.

(3) The returning officer shall make the declaration in the presence of the Attorney General, justice of the peace, and any other person shall make the declaration in the presence either of a justice of the peace or of the returning officer, and subsections (1), (2), (3) and (6) of section 97 above shall be read to the declarant by the person taking the declaration or shall be read by the declarant in the presence of that person.

(4) The declaration shall be as follows -

"I solemnly promise and declare that I will not do anything forbidden by subsection (1), (2) and (3) of section 97 of the Electoral Ordinance 1988 which have been read to me?"

Conduct of Poll

103. (1) The presiding officer and a team leader regulate the number of voters to be Admission to admitted to a polling place or as the case may be, before a mobile polling team, at the polling place etc. same time, and shall exclude all other persons except -

- (a) the candidates and their election agents;
- (b) the polling agents appointed to attend thereat;
- (c) the clerks appointed to attend thereat;
- (d) the police officers on duty;
- (e) the companions of blind voters.

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same candidate.

104. (1) It shall be the duty of the presiding officer to keep order at his polling place and the duty of the team leader to keep order before the mobile polling team.

(2) If a person misconducts himself at a polling place or before a mobile polling team, or fails to obey the lawful orders of the presiding officer or team leader, as the case may be, he may immediately, by order of the presiding officer be removed from the polling place or the vicinity of the mobile polling team by a police officer or by any other person authorised in writing by the presiding officer or team leader to remove him.

(3) Any person so removed may, if charged with the commission at the polling place or before the mobile polling team of an offence, be dealt with as a person taken into custody by a police officer for an offence without a warrant.

(4) The powers conferred by this section shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling place or with a mobile polling team from having an opportunity of so voting.

105. (1) Immediately before the departure from Stanley of a mobile polling team, the team leader shall show the ballot box empty to such persons as are present at the returning officer's office (including the candidates and their polling agents if they desire to be present) so that they may see that it is empty and shall then lock it up and place his seal on it in such manner as to prevent it from being opened without breaking the seal, and shall at all times until it is returned to the returning officer keep it in his custody, and while it is being used for the reception of votes, in his view, and keep it so locked and sealed.

(2) Immediately before the commencement of the poll the presiding officer shall show the ballot box to such persons, if any, as are present at the polling place, so that they may see that it is empty, and shall then lock it up and place his seal on it in such a manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Keeping of order at polling place etc.

Sealing of ballot

boxes.

106. For the purposes of this Ordinance, a person who votes with a mobile polling team shall be deemed to have voted at the commencement of the poll on polling day.

107. The presiding officer or team leader may, and if required by a candidate or his election agent or polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions or any of them —

- (a) in the case of a person applying as an elector
 - are you the person registered in th electoral register now in force for this constituency as follows (read the whole entry from the register)?
 - (ii) have you already voted, here or elsewhere, at this by-election (general election), otherwise than as a proxy for some other person?
- (b) in the case of a person applying as proxy at any election
 - (i) are you the person whose name appears as A.B. in the proxy voters list as entitled to vote as proxy for C.D.?
 - (ii) have you already voted here or elsewhere at the present election as proxy for C.D.?

103. (1) If a person whose name appears in the register marked in accordance with section 98(2)(a) above as that of a postal voter attends at a polling place or before a mobile polling team and applies for a bailot paper, the presiding officer or team leader (as the case may be) shall ask him the following questions --

- (a) have you received a postal ballot paper for completion in this election?
- (b) have you returned that postal ballot paper to the returning officer?

but he need not ask the second of those questions if the first is answered in the negative.

(2) If both the questions set out in subsection (1) are answered in the negative, the presiding officer shall proceed in accordance with section 115 below (tendered ballot papers) but otherwise the presiding officer shall refuse to issue a ballot paper to that person.

(3) If the second of the questions is answered in the negative, the first being answered in the affirmative, the presiding officer or team leader shall offer to receive that ballot paper in the covering envelope and if the same is delivered to the presiding officer or team leader before the close of the poll, it shall be deemed to have been so delivered to the returning officer and shall be dealt with in accordance with subsection (4) below.

(4) A covering envelope received under subsection (3) shall forthwith be placed by the presiding officer in the ballot box in his charge and, on the opening of that ballot box, shall, forthwith be placed in a postal voters' ballot box and dealt with hereafter in accordance with sections 89 to 93 above.

109. (1) If at the time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling place or the vicinity of the mobile polling team, a candidate or his election or polling agent declares to the presiding officer or team leader that he has reasonable cause to believe that the applicant had committed an offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer or team leader may ask a police officer to arrest the applicant and the request of the presiding officer or team leader shall be sufficient authority for the police officer so to do.

(2) A person against whom a declaration has been made under this section shall not by reason thereof be prevented from voting.

(3) A person arrested under the provisions of subsection (1) above shall be dealt with as a person taken into custody by a police officer without a warrant.

110. (1) If a person whose name appears in the register marked in accordance with section 98(2)(b) above as that of a person who has appointed a proxy attends at a polling place or before a mobile polling team and applies for a ballot paper the presiding officer or team leader (as the case may be) shall put to him the questions mentioned in paragraph (a) of section 107 above. (2) The presiding officer or team leader shall then proceed in accordance with section 115 below (tendered ballot papers).

Person in respect of whom a proxy has been appointed.

Challenge of voter.

Person whose name appears on postal voters' list.

Voting with mobile polling team. Ouestions to be

put to voters.

111. Section 108 above shall apply with all necessary modifications to a person whose name appears in the postal proxy voters' list as it does to a person whose name appears in the postal voters' list.

112. (1) Subject to sections 108, 110 and 111 above, a ballot paper shall be delivered to a voter who applies therfor, and immediataely before delivery -

- (a) the ballot paper shall be stamped with the official mark;
- (b) the number, name and address of the elector as stated in the copy of the register shall be called out;
- (c) the number of the elector shall be marked on the counterfoil;
- (d) a mark shall be placed in the copy of the register against the number of the elector to denote that a ballot paper has been received, but without showing the particular ballot paper which has been received; and
- (e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the proxy voters' list.

(2) The voter, on receiving the ballot paper shall forthwith proceed into one of the compartments in the polling place (or, if he is voting with a mobile polling team, to a place assigned for the purpose) and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer or team leader the back of the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up into the ballot box in the presence of the presiding officer or team leader.

(3) The voter shall vote without undue delay, and shall leave the polling place or the vicinity of the mobile polling team as soon as he has put his ballot paper into the ballot box.

113. (1) The presiding officer or team leader on the application of -

- (a) a voter who is incapacitated by blindness or other physical cause from voting in manner directed by these rules; or
- (b) a voter who declares orally that he is unable to read; shall in the presence of the polling agents (if any) cause the vote of the voter to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this section, and the reason why it is so marked, shall be entered on a list (in this Part called "the list of votes marked by the presiding officer"). In the case of a person voting as proxy for an elector, the number to be entered together with the name of the voter shall be the number of the elector.

114. (1) If a voter makes an application to the presiding officer or team leader to be allowed on the ground of blindness to vote with the assistance of another person by whom he is accompanied (in this part rules referred to as "the companion"), the presiding officer or team leader shall require the voter to declare orally whether he is so incapacitated by his blindness as to be unable to vote without assistance.

(2) If the presiding officer or team leader is satisfied that the voter is so incapacitated and is also satisfied by a written declaration made by the companion (in this Part referred to as "the declaration made by the companion of a blind voter") that the companion is a qualified person within the meaning of this section and has not previously assisted more than one blind person to vote at the election, the presiding officer shall grant the application, and there upon anything which is by this Part required to be done to, or with the assistance of, the companion.

(3) For the purposes of this section, a person shall be qualified to assist a blind voter to vote, if that person is either -

- (a) a person who is entitled to vote as an elector at the election; or
- (b) the father, mother, brother, sister, husband, wife, son or daughter of the blind voter and has attained the age of eighteen years.

Person whose name appears on postal proxy voters' list. Voting procedure.

Vote as marked by presiding officer.

Voting by blind persons.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this section and the the name and address of the companion shall be entered on a list (in this Part referred to as "the list of blind voters assisted by companions"). In the case of a person voting as proxy for an elector, the number to be entered together with the name of the voter shall be the number of the elector.

(5) The declaration made by the companion

- (a) shall be in the prescribed form;
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.
- (6) No fee or other payment shall be charged in respect of the declaration.
- 115. (1) If a person appears to the presiding officer or team leader -

Tendered ballot papers.

- (a) to be a person to whom section 108(2) above applies (a postal voter or postal proxy voter who has not received a postal ballot paper,
- (b) to be a person to whom section 110 above applies (a person applying to vote in person who has appointed a proxy); or
- (c) a person to whom subsection (2) below applies,

he shall be treated for the purposes of this section as a provisional voter.

- (2) The persons referred to in paragraph (c) of subseaction (1) above are -
 - (a) a person representing himself to be a particular elector named in the register and not named in the postal voter's list and not to have appointed a proxy; or
 - (b) a particular person named in the proxy voters' list as proxy for an elector and not named in the postal proxy voters' list.

and who applies for a ballot paper.

(3) The presiding officer or team leader shall put to the provisional voter such of the questions mentioned in paragraphs (a) and (b) of section 107 above as are appropriate in the circumstances of the case and the provisional voter shall, on satisfactorily answering those questions, be entitled, subject to the following provisions of this section to mark a ballot paper ("a tendered ballot paper") in the same manner as any other voter.

- (4) A tendered ballot paper shall --
 - (a) be of a colour differing from the other ballot papers;
 - (b) instead of being put into the ballot box, be given to the presiding officer or team leader and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

(5) The name of the voter and his number on the register shall be entered in a list (in this Part referred to as the "tendered voters' list").

(6) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the name of the voter shall be the number of that elector.

116. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may on delivering it to the presiding officer or team leader and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in this Part referred to as "a spoilt ballot paper") and the spoilt ballot paper shall be immediately cancelled.

117. (1) Where the proceedings at any polling place of before any mobile polling team are interrupted by riot or open violence, the presiding officer or team leader shall adjourn the proceedings and shall forthwith give notice to the returning officer.

- (2) Where the poll is adjourned at a polling place
 - (a) the adjournment shall be the next following business day;
 - (b) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
 - (c) any reference in this Part to the close of the poll shall be construed accordingly

(3) Where the poll is adjourned at a location visited by a mobile polling team the adjournment shall be such day and time as may be notified.

Spoilt ballot papers.

Adjournment of poll in case of riot. (4) In any case to which subsection (3) applies, the team leader and the returning officer shall use their best endeavours to arrange a further visit by the mobile polling team before the close of the polls on polling day but if no such visit takes place the election is not thereby void, nor shall it thereby be subject to question.

118. (1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, (if any) make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals -

- (a) each ballot box in use at the polling place, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot paper;

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- (d) the marked copies of the register of electors and of the list of proxies;
- (e) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll;
- (f) the tendered votes list, the list of blind voters assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads "physical incapacity", and "unable to read", and the declarations made by the companions of blind voters,

separately in respect of each constituency and shall deliver the packets or cause them to be delivered to the returning officer to be taken charge of by him: Provided that if the packets are not delivered by the presiding officer personally to the returning officer, the arrangements for their delivery shall require the approval of the returning officer.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the counterfoils of the used ballot papers.

(3) The packets shall be accompanied by a statement (in this Part referred to as "the ballot paper account") made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot paper issued and not otherwise accounted for, unused, spoilt and tendered ballot papers.

119. (1) The provisions of section 118 above shall apply to a mobile polling team as it does to a polling place with the following substitutions

- section 118 to mobile polling teams.
- (a) the words "after completion of the itinerary of the mobile polling team" shall be substituted for the words "after the close of the poll"; and
- (b) the words "team leader" shall be substituted for the words "presiding officer" wherever they appear.

(2) The returning officer, if the things referred to in section 118(1) are delivered to him by or on behalf of a team leader before the close of the poll on polling day shall cause them to be kept in safe custody until that time and shall not until that time otherwise deal with them.

120. (1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

- (2) No person other than
 - (a) the returning officer and his clerks;
 - (b) the candidates and their wives or husbands;
 - (c) the election agents;
 - (d) the counting agents,

may be present at the counting of the votes, unless permitted by the returning officer to attend.

(3) A person not entitled as of right to attend at the counting of the votes shall not be permitted to do so by the returning officer unless the returning officer is satisfied that the efficient counting of votes will not be impeded, and the returning officer has either consulted the election agents or is satisfied that it is impracticable to consult them.

Procedure on

close of the poll.

Attendance at counting of votes.

Application of

(4) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with reference thereto, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection therewith.

(5) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

121. (1) Before the returning officer proceeds to count the votes, he shall —

The count.

- (a) in the presence of the counting agents open each ballot box and, taking out the ballot papers therein separate the ballot papers relating to one constituency from ballot papers relating to the other constituency and count and record the numbers relating to each election;
- (b) in the presence of the election agents who are present verify each ballot paper account;
- (c) count such of the postal ballot papers as have been duly returned and record the number counted; and
- (d) then mix together the whole of the ballot papers relating to the election in the constituency.

(2) Subject to section 108, a postal ballot paper shall not be deemed to be duly returned unless it is returned in the proper envelope so as to reach the returning officer before the close of the poll and in any case unless it is accompanied by the declaration of identity duly signed and authenticated.

(3) The returning officer shall not count any tendered ballot paper.

(4) The returning officer, while separating, counting, counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

(5) The returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and if necessary or if so required by a candidate or his election agent the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing he packets containing the unusead and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification which any election agent may copy.

(6) The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment: Provided that he may, in so far as he and the agents agree, exclude the hours between nine o'clock in the evening and nine o'clock on the following morning. For the purposes of this proviso the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents.

(7) During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting aagents as desire to affix their seals and shall otherwise take proper precautions for the security of the papers and documents.

122. (1) A candidate or his election agent may, if present when the counting or any recount of the votes is completed, rquire thereturning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-counting of votes until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this section.

123. (1) Any ballot paper —

- (a) which does not bear the official mark; or
- (b) on which votes are given for more candidates than the voter is entitled to vote for; or
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the back; or

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Re-count.

Rejected ballot papers.

(d) which is unmarked or void for uncertainty,

shall, subject to the provisions of this section be void and not counted.

(2) Where the voter is entitled to vote for more than one candidate, a ballot paper shall not be deemed to be void for uncertainty as respects any vote as to which no uncertainty arises and that vote shall be counted.

(3) A ballot paper on which a vote is marked —

- elsewhere than in the proper place; or (a)
- (b) otherwise than by means of a cross; or
- by more than one mark. (c)

shall not by reason thereof be deemed to be void (either wholly or as respects that vote), if an intention that the vote shall be for one or other of the candidates clearly appears and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified thereby.

- (4) The returning officer shall endorse --
 - the word "rejected" on any ballot paper which under this rele is nota to be (a)counted: and
 - (b) in the case of a ballot paper on which any vote is counted under paragraph (2) of this rule, the words "rejected in part" and a memorandum specifying the votes counted,

and shall add to the endorsement the words "rejection objected to" if an objection is made by a counting agent to his decision.

(5) The returning officer shall draw up a statement showing the number of ballot papers rejected, including those rejected in parat, under the several heads of -

- (a) want of official mark;
- (b) voting for more candidates than voter is entitled to;
- writing or mark by which voter could be identified; (c)
- (d) unmarked or wholly void for uncertainty;
- rejected in part. (e)

124. The decision of the returning officer on any question arising on a ballot paper shall be final, but shall be subject to review on an election petition.

125. Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

126. (1) In a contested election, when the result of the poll has been ascertained the returning officer shall forthwith declare to be elected the candidate or candidates to whom the majority of votes have been given, and shall as soon as possible publish the name or names of the candidate or candidates elected and the total number of votes given to each candidate, whether elected or not, together with the number of rejected ballot papers under each head shown in the statement of rejected ballot paper.

(2) In an uncontested election, the returning officer shall, not later than eleven o'clock in the morning on the day of the election, publish the name or names of the person or persons elected.

127. The returning officer shall forthwith upon declaration of the result of the election The return. return the name of each person elected to the Governor.

Decisions on ballot papers.

Equality of votes.

Declaration of result.

Disposal of documents

128. (1) On the completion of the counting at a contested election the returning officer shall seal up in separate packets the counted and rejected ballot papers, including ballot paper rejected in part.

(2) The returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils or of marked copies of the register of electors and lists of proxies.

129. The returning officer shall forward to the Government Secretary the following documents, that is to say -

- (a) the packets of ballot papers in his possession;
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts;
- (c) the tendered votes lists, the lists of blind voters assisted by companions, the lists of votes marked by the presiding officer and the statements relating thereto, and the declarations made by the companions of blind voters;
- (d) the packets of counterfoils and certificates as to employment on duty on the day of the poll;
- (e) the packets containing marked copies of registers and of lists of proxies,

endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the electoral area for which the election was held.

130. (1) An order for -

Orders for production.

- (a) the inspection or production of any rejected ballot papers, including ballot papers rejected in part; or
- (b) for the opening of a sealed packet of counterfoils and certificates as to employment on duty on the day of the poll or for the inspection of counted ballot papers,

may be made by the Supreme Court, if the court is satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers. or for the purpose of an election petition.

(2) The order may be made subject to such conditions as to persons, time, place and mode of inspection, production or opening as the Supreme Court may think expedient and may direct the Government Secretary or any other person having custody of the ballot papers and the sealed packets of counterfoils and certificates to retain them intact for such period as may be specified in the order; Provided that in making and carrying into effect the order, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the Supreme Court to be invalid.

(3) No appeal shall lie from any order of the Supreme Court made under this section.

(4) Any power given under this section to the Supreme Court may be exercised by any judge of the court otherwise than in open court.

(5) Where an order is made for the production by the Goverment Secretary or any other person of any document in his possession relating to any specified election, the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

(6) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.

Sealing of ballot papers.

Forwarding of documents.

(7) Save as by this section provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of any person or to open any sealed packets of counterfoils.

131. (1) The Government Secretary shall retain for six months among the records of the Government all documents relating to an election which are, in pursuance of these rules, forwarded to him by a returning officer or held by him and then, unless otherwise directed by an order under section 130 above, shall cause them to be destroyed.

(2) The said documents, except ballot papers and counterfoils, shall during a period of six months from the day of the election be open to public inspection at such times as Government offices generally are open for business.

Return or forfeiture of deposit

132. (1) The deposit made under section 65 above shall either be returned to the person making it or his personal representatives or be forfeited to Her Majesty.

(2) Except as provided by subsection (4) below, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown as standing nominated in the statement of the persons nominated, or the poll is countermanded or abandoned by reason of the death of any candidate, the deposit shall be returned as soon as practicable after the publication or the death as the case may be.

(4) Subject to subsection (3) above, a candidate's deposit shall be forfeited if a poll is taken and, after the counting of the votes by the returning officer, including any recount, the candidate is found not to have polled more than one eighth of the relevant total.

(5) For the purposes of subsection (4) above, the relevant total is the total number of votes polled by all the candidates divided by the number of seats in the Legislative Council to be filled by the election in the constituency.

PART VI THE ELECTION CAMPAIGN AND ELECTION EXPENSES

Apointment, death, removal etc. of election agent

133. (1) Not later than the latest time for delivery of notices of withdrawals for an election, a person may be named by on behalf of each candidate as the candidate's election agent, and the name and address of the candidate's election agent shall be declared in writing or some other person on his behalf not later than that time; but if no person is named in accordance with the foregoing provisions opf this subsection, the candidate shall be deemed to have appointed himself as his own election agent.

(2) A candidate who is his own election agent shall, so far as the circumstances admit, be subject to the provisions of this Ordinance both as a candidate and as an election agent and, except where the context otherwise requires, any reference in this Ordinance to an election agent shall be contrued to refer to the candidate acting in his capacity as election agent.

(3) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed or deemed to be appointed be the candidate himself or not, may be revoked.

(4) If whether before, during, or after the election the appointment of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the returning officer.

134. (1) Every election agent shall have an office to which all claims, notices, writs, of particulars of summons and documents may be sent, and the address of the office shall be declared at the same time as the appointment of the agent to the returning officer.

(2) If the candidate has appointed himself as his own election agent or is under section 133(1) above deemed to have done so, and he has not declared an address pursuant to subsection (1) above, he shall be deemed to have declared for the purposes of that subsection the address for him appearing in his nomination paper.

Appointment of election agent.

Retention and public inspection of documents.

Return or forfeiture of deposit.

Office of election agent: publication of particulars of agent. (3) The returning officer shall cause to be published in the Gazette the name of the election agent for each candidate and the address of that election declared or deemed to have been declared under this section.

135. (1) If a person who has been appointed as the election agent of a candidate (not being the candidate himself) dies and a new appointment is not made on the day of the death or the following day, the candidate shall be deemed to have appointed himself as his own election agent, in place of the deceased former election agent, as from the time of the death.

(2) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate shall be deemed to have appointed (or re-appointed) himself as his own election agent in the place of the election agent whose appointment has been revoked.

(3) Where the identity of the election agent of a candidate changes, the provisions of section 134(3) above shall apply, with such modifications only as are required in the circumstances of the case.

136. (1) Subject to subsection (4) below, no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, whether before, during or after an election on account of or in respect of the conduct on management of the election, in excess of the maximum amount specified by or under this section, and a candidate or election agent knowingly acting in contravention of this subsection commits an offence and is guilty of an illegal practice.

(2) For the purposes of subsection (1) above and to section 137 below, the said maximum amount is subject to section 137(4) below —

- (a) in case of the Camp Constituency, £300 together with an additional £1 for every five electors;
- (b) in case of the Stanley Constituency £100 with an additional £1 for every eight electors,

or such greater amount as may be prescribed by regulations.

(3) The said maximum amount shall not be required to cover the candidate's personal expenses.

(4) In the Camp Constituency, where an election or a proxy for an elector is unable to reach a polling place without crossing the sea or a branch or an arm of the sea, nothing in the preceding subsections of this section or in section 137 below shall apply to the provision by or on behalf of a candidate of means for conveying such an elector or proxy to any polling place within the Camp Constituency at which he may vote.

137. (1) Where two or more candidates are candidates for election in the same constituency and -

Expenses of joint candidates.

- (a) appoint the same election agent;
- (b) by themselves or by any agent or agents -
 - (i) employ or use the services of the same clerks or messengers;
 - (ii) hire or use the same committee rooms for the election;
 - (iii) publish a joint address or a joint circular or notice at the election;

those candidate shall subject to subsection (2) below, for the purposes of this section be joint candidates.

(2) The employment and use of the same clerk or messenger or committee room, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates.

- (3) Where -
 - (a) any excess of expenses above the maximum allowed for one or two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate;

Death of election agent: revocation of appointment of election agent.

Limitation of election expenses.

- (b) the change was made in good faith;
- (c) the excess is not more than under the circumstances is reasonable; and
- (d) the total expenses of the candidate do not exceed the maximum allowed by section 136 above for a separate candidate,

the excess shall be deemed to have arisen from a reasonable cause.

(4) Where there are two or more joint candidates, and subject to subsection (3) above, the maximum amount under section 136 above shall, for each of those joint candidates, be reduced by a quarter or, if there are more than two joint candidates, by one third.

138. (1) The election agent of a candidate shall appoint every polling agent, clerk and messenger employed for payment on behalf of a candidate at an election and hire every committee room hired on behalf of a candidate.

(2) A contract whereby any election expenses are incurred shall not be enforceable against a candidate at the election unless made by the candidate himself or by his election agent, but this subsection shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

139. (1) Except as permitted by sections 140, 142(5) or 143(2) below, no payment or advance or deposit shall be made by a candidate or by any agent on behalf of the candidate or by any other person at any time in respect of the election expenses otherwise than by or through the election agent of the candidate.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £10, be vouched for by a bill stating the particulars or by a receipt.

(3) All money provided by any person other than the candidate for any election expenses, whether as a gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise.

(4) The above subsections shall be deemed not to apply to any sum disbursed by any person out of his own money for any expense not exceeding £5 legally incurred by him if the sum is not repaid to him.

(5) A person who makes any payment advance or deposit in contravention of subsection (1) above, or pays in contravention of subsection (3) of this section any money so provided as aforesaid shall be guilty of an illegal practice.

140. (1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to an election, but the amount which a candidate may pay shall not exceed £100 and any further personal expenses so incurred by him shall be paid by his election agent.

(2) The candidate shall send to his election agent within fourteen days of the conclusion of the election a written statement of the amount of personal expenses paid by the candidate.

(3) Any person may, if so authorised in writing by the election agent of the candidate, pay any necessary expenses for stationery postage, telegrams and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(4) A statement of the particulars of payments made by any person authorised pursuant to subsection (3) above shall be sent to the election agent within fourteen days of the conclusion of the election.

141. (1) No expenses shall, with a view to promoting or procuring the election of a candidate at an election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account -

Prohibition of expenses not authorised by election agent.

- (a) of holding public meetings or organising any public display;
- (b) of issuing advertisements, circulars or publications,

Making of contracts through an election agent.

Payment of expenses through election agent.

Personal expenses of candidates and petty expenses.

- (c) or otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate (but this paragraph shall not
 - restrict the publication of any matter relating to the election in a newspaper or other periodical or in a broadcast made by the Falkland Islands Broadcasting Station; or
 - (ii) apply to any expenses not exceeding in the aggregate the sum of £5 which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others, or to expenses incurred by any person in travelling to or living away from home or similar personal expenses.

(2) Where a person incurs any expenses required by this section to be authorised by the election agent, that person shall within fourteen days after the date of the conclusion of the election send to the returning officer a return of the amount of those expenses, stating the candidate in whose support they were incurred, and the return shall be accompanied by a declaration made by the said person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer thereof) verifying the return and giving particulars of the matters for which the expenses were incurred, but this subsection shall not apply to any person engaged or employed by the candidate or his election agent.

(3) The returning officer may require that the return and declaration under the above subsections of this section be in a form approved by him, and, in any case, the authority received from the election agent shall be annexed to and deemed to form part of the return.

(4) Any person who —

- (a) incurs or aids abets, counsels or procures any other person to incur, any expenses in contravention of this section;
- (b) knowingly makes the declaration required by subsection (2) above falsely,

he shall be guilty of a corrupt practice.

(5) Any person who fails to send any declaration or return required by subsection (2) above shall be guilty of an illegal practice.

142. (1) Every claim against a candidate or his election agent in respect of election expenses which is not sent to the election agent within fourteen days of the conclusion of the election is barred and shall not be paid.

(2) All election expenses shall be paid within twenty-eight days of the conclusion of the election.

(3) An election agent who pays a claim in contravention of subsection (1) above is guilty of an illegal practice.

(4) The claimant or the candidate or his election agent may apply to the Attorney General for leave to pay a claim for any election expenses, although sent in after the period of fourteen days mentioned in subsection (1) above or although sent in to the candidate and not to the election agent, and the Attorney General shall grant such leave if he is satisfied that it is just and proper in all the circumstances of the case so to do.

(5) Any sum specified in any leave granted under subsection (4) above may be paid by the candidate or his election agent and when paid in pursuance of such leave shall be deemed not to be in contravention of subsection (2) above.

143. (1) If the election agent disputes any claim sent to him within the period mentioned in section 142(1) above or refuses or fails to pay the same within the period mentioned in section 142(2) above, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court, and any sum paid by the candidate or his agent pursuance of the judgement or order of the court shall be not be deemed to be paid in contravention of section 139 above or section 142 above.

Time for sending in and paying claims.

Disputed claims.

(3) If the defendant in the action admits his liability but disputes the amount of the claim, the amount of the liability shall be determined by the court.

(4) Subsections (4) and (5) of section 142 above apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after the period mentioned in section 142(1) above.

144. So far as circumstances admit, this Part applies to a claim for his remuneration by an election agent and to the payment thereof as if he were any other creditor, and if any difference arises respecting the amount of the claim, the claim shall be a disputed claim within the meaning of section 143 above and shall be dealt with accordingly.

145. (1) Within thirty-five days of the conclusion of the election, the election agent of every candidate shall transmit to the returning officer a true return in the prescribed form ("the return") containing as respects that candidate a statement of all payments made by the election agent together with all the bills and receipts.

(2) The return shall deal under a separate heading or sub-heading with any expenses included therein --

- (a) as respects which a return is required to be made under section 141(2) above; or
- (b) which are on account of the remuneration or expenses of speakers at public meetings.
- (3) The return shall also contain as respects that candidate -
 - (a) a statement of the amount of personal expenses, if any, paid by the candidate;
 - (b) a statement of all disputed claims of which the election agent is aware;
 - (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the Attorney General;
 - (d) a statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purposes of election expenses incurred or to be incurred with a statement of the name of every person from whom they may have been received.

(4) Where the candidate is his own election agent, a statement of all money securities and equivalent of money paid by the candidate shall be substituted in the return as to election expenses for the statement of money, securities and equivalent of money received by the election agent from the candidate.

(5) Where after the date on which the return as to election expenses is transmitted, leave is given under section 142(4) above for any claims to be paid, the candidate or his election agent shall, within seven days after the payment thereof, transmit to the returning officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order giving the leave; and in default he shall be deemed to have failed to comply with the requirements of this section without such authorised excuse as is mentioned in section 149 below.

146. (1) The return submitted under section 145(1) above shall be accompanied by a declaration made by the election agent which shall be in the prescribed form, but this subsection shall not apply where the candidate is his own election agent and subsection (2) below shall then apply.

(2) Where a candidate is his own election agent the return submitted under section 145(1) above shall be accompanied by a declaration by the candidate in the prescribed form.

(3) When subsection (1) above and subsection (2) above do not apply, the candidate shall within seven days of the submission by the election agent of the return required by section 145(1) above transmit or cause to be transmitted to the returning officer a declaration in the prescribed form verifying the declaration by the election agent —

Provided that where the candidate is out of the Falkland Islands when the return under section 145(1) above is transmitted, the declaration required by this subsection may be made within fourteen days of his return to the Falkland Islands, but the election agent is not

Declaration as to election expenses.

Claim by election agent.

Return as to election expenses. by such absence of the candidate excused from complying with section 145(1) above or subsection (1) of this section.

(4) Every declaration required by this section shall be made before and subscribed by a justice of the peace.

(5) A candidate or election agent who knowingly makes a declaration required by this section falsely is guilty of a corrupt practice.

147. Nothwithstanding sections 145 and 146 above, no return as to election expenses shall be required of a person -

Cases where return and declarations are not needed.

(b) who has not consented to the declaration or taken any part as a candidate in the election.

who is a candidate at an election, but is so only because he has been declared

148. Subject to the provisions of section 149 below, if an election agent or candidate fails to comply with the requirements of section 145 or 146 above he is guilty of an illegal practice.

149. (1) A candidate or his election agent may apply for relief under this section to the Supreme Court or to the Senior Magistrate.

(2) Relief under this section may be granted -

by others to be a candidate; and

(a)

- (a) to a candidate, in respect of any failure to transmit the return and declarations as to election expenses, or any part of them, or in respect of any error false statement therein; or
- (b) to an election agent, in respect of the failure to transmit the return and declarations which he was required to transmit, or any part of them, or in respect of any error or false statement therein.

(3) The application for relief may be made on the ground that the failure, error or false statement arose —

- (a) by reason of the illness of the applicant; or
- (b) where the applicant is the candidate, by reason of the absence, death, illness or misconduct of his election agent or any clerk or officer of such agent;
- (c) where the applicant is the election agent, by reason of the death or illness of any prior election agent of the candidate, or of the absence, death, illness of any clerk or officer of any election agent or the candidate.

(4) The court may after such notice as it shall think fit to order of the application, if any and on production of such evidence of the grounds stated in the application and of the good faith of the application and otherwise as to the court seems fit, make such order for allowing an authorised excuse for the failure, error or false statement as to the court seems just.

(5) Where it is proved to the court by the candidate that any act or omission of the election agent in relation to the return and declarations was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing the act or omission, the court shall relieve the candidate from the consequences of the act or omission of his election agent.

(6) An order under subsection (4) above may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon compliance with such other term as to the court seem best calculated for carrying into effect the objects of this Part.

(7) An order under subsection (4) above shall relieve the applicant for the order from any liability or consequences under this Ordinance in respect of the matter excused by the Order.

(8) The date of the order if conditions and terms are to be complied with, the date at which the applicant fully complies with it, is referred to in this Ordinance as the date of allowance with the excuse.

failure to comply with sections 145 and 146.

Punishment for

Authorised excuses for failures as respects return and declarations. (9) The jurisdiction rested by this section in the Supreme Court may be exercised by any judge, sitting in court or in chambers, but shall not be exercisable by the Registrar or a master.

(10) An appeal shall lie to the Supreme Court from any order of the Senior Magistrate made under this section.

150. (1) Where on application under section 149 above it appears to the court that any person who is or has been an election agent has refused or failed to make such return, or to supply such particulars, as will enable the candidate and his election agent respectively to comply with the provisions of this Ordinance as to the return or declarations as to election espenses, the court before making an order under the said section, shall order that person to attend before the court.

(2) The court shall on the attendance of that person, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seems just, within such time, to such person and in such manner as the court may direct, or may order him to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this section, the court may order him to pay a fine not exceeding £1000.

151. (1) Any returns or declarations sent to the returning officer under sections 141, 145 or 146 of this Ordinance shall be kept at the office of the Government Secretary or some other convenient place appointed by him and shall at all reasonable times during two years next after they are received by him be open to inspection by any person, and the Government Secretary shall on demand furnish copies thereof or any part thereof at a charge not exceeding 20 pence per sheet.

(2) After expiration of the period of two years mentioned in subsection (1) above, the Government Secretary may cause the return or declarations so mentioned to be destroyed.

152. (1) A candidate shall be entitled to send free of any charge for postage to each elector one postal communication containing matter relating to the election only and not exceeding 50 grammes in weight.

(2) He shall also, subject as aforesaid, be entitled to send free of any charge for postage to each person entered in the list of proxies for the election one such communication as aforesaid for each appointment in respect of which that person is so entered.

(3) A person shall not be deemed to be candidate for the purposes of this section unless he is shown as standing nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be a candidate shall be entitled to exercise the right of free postage conferred by this section if he gives such security as may be required by the Financial Secretary for the payment of postage should he not be shown as standing nominated as aforesaid.

(4) For the purposes of this section the expression "elector" means a person who is registered as an elector in the constituency in the register to be used at the election

153. (1) Subject to the provisions of this section a candidate at an election shall be entitled for the purpose of holding public meetings in furtherance of his candidature to the use at reasonable times between the receipt of the writ and the date of the poll of -

(a) a suitable room in the premises of any school to which this section applies;

(b) any meeting room to which this section applies.

(2) This section applies to schools owned by the Government, and does not apply to schools which are not so owned.

(3) Where a room is used for a meeting in pursuance of the rights conferred by this section, the person by whom or on whose behalf the meeting is convened -

(a) may be required to pay for the use of the room a charge not exceeding the amount of any actual and necessary expenses incurred in preparing, warming, lighting and cleaning the room to its usual condition after the meeting; and

Power of court to require information from election agent.

Inspections of returns and declarations.

Candidate's right to send election address post free.

Right to use certain schools and halls for meetings at elections. (b) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A candidate shall not be entitled to exercise the rights conferred by this section except on reasonable notice; and this section shall not authorise any interference with the hours during which a room in school premises used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

154. (1) Any person who at a lawful public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This section applies to a political meeting held in the Falkland Islands between the date of the issue of a writ for the return of a member of the Legislative Council for the constituency and the date at which a return to the writ is made.

(3) If any police officer reasonably suspects any person of committing an offence under subsection (1) above, he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and if that person refuses or fails so to declare his name and address or gives a false name and address he shall be liable on summary conviction to a fine not exceeding £50, and if he refuses or fails so to declare his name and address or if the police officer reasonably suspects him of giving a false name and address, the police officer may without warrant arrest him.

155. If any returning officer at an election or any officer or clerk appointed under Part V of this Ordinance as the case may be, or any partner or clerk of any such person acts as an agent of a candidate in the conduct or management of the election, he shall be guilty of an offence under this Ordinance: Provided that nothing in this subsection shall be taken as preventing a candidate from acting as his own agent.

156. No member of the Falkland Islands Police Force shall by word, message writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote whether as an elector or as proxy, at any election and a person acting in contravention of this subsection shall be liable on summary conviction to a fine not exceeding £1000: Provided that nothing in this subsection shall subject a member of the police force to any penalty for anything done in the discharge of his duty as a member of the force.

157. (1) Any person, who or any director of any body or association corporate which before or during an election, shall, for the purpose of affecting the return of any candidate at the election, make or publish any false statement of fact in relation to the personal character or conduct of the candidate shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true; but a candidate shall not be liable nor shall his election be avoided for any illegal practice under this subsection committed by his agent other than his election agent unless —

- (a) it can be shown that the candidate or his election agent has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or
- (b) the Supreme Court find and report that the election of the candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

(2) A person making or publishing any false statement of fact as aforesaid may be restrained by interim or perpetual injunction by the Supreme Court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

Disturbance at election meetings.

Officials not to act for candidates.

Police officers not to canvass.

False statements as to candidates. (3) Any person who, before or during an election, knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice; but a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this subsection committed by his agent other than his election agent.

(4) The jurisdiction vested by subsection (2) above in the Supreme Court shall be exercised by a judge, sitting either in Court or at chambers.

158. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

159. (1) If a person hires or uses any premises to which this section applies or any part thereof for a committee room for the purpose of promoting or procuring the election of a candidate, or lets any premises to which this section applies or any part thereof knowing that it was intended to use them or that part as a committee room, he shall be guilty of an illegal hiring.

(2) This section applies to any premises --

- (a) which are licensed for the sale of any intoxicating liquor for consumption on or off the premises or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on or off the premises;
- (b) where any intoxicating liquor is supplied to members of a club, society or association, other than a permanent political club; and
- (c) to all schools owned by the Government.

160. (1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a candidate at an election be made to an elector or proxy for an elector on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements and the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of subsection (1) above either before, during or after an election, the person making the payment or contract, and if he knew it to be in contravention of this Ordinance, any person receiving the payment shall be guilty of an illegal practice.

161. If a person is, either before, during or after an election, for the purpose of promoting or procuring the election of a candidate, engaged or employed for payment or promise of payment as a canvasser, the person so engaging or employing him and the person so engaged or employed shall be guilty of illegal employment.

162. Where a person knowingly provides money for any payment which is contrary to the provisions of this Ordinance, or for any expenses incurred in excess of the maximum allowed by this Ordinance, or for replacing any money expended in any such payment or expenses, except where the payment or the incurring of the expenses may have been previously allowed in pursuance of this Ordinance to be an exception, that person shall be guilty of an illegal payment.

Bribery, treating and undue influence

163. (1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any person on his behalf -

- (a) gives any money or procures any office to or for any voter or to or for any other other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting;
- (b) corruptly does any such act as aforesaid on account of any voter having voted or having refrained from voting;

Corrupt withdrawal from candidature.

Premises not to be used as committee rooms.

Payment for exhibition of election notices.

Prohibition of paid canvassers.

Providing money for illegal purpose.

Bribery.

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- (c) makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election or the vote of any voter, or it upon or in consequence of any such gift or procurement as aforesaid he procures or engages, promises or endeavours to procure the return of any person at an election or the vote of any voter.
- (3) For the purposes of subsection (2) above -
 - (a) references to giving money shall include references to giving, tendering, agreeing to give or lend, offering, promising, or promising to procure any money or valuable consideration; and
 - (b) references to procuring any office shall include references to giving procuring, agreeing to give or procure, offering, promising, or promising to procure or endeavour to procure any office, place or employment.

(4) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or to the use of any other person with the intent that money or any part thereof shall be expended in bribery at any election.

(5) Subsections (1) to (4) inclusive above shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.

(6) A voter shall be guilty of bribery if before or during an election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) A person shall be guilty of bribery if after an election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(8) In this section "voter" includes any person who has or claims to have the right to vote.

164. (1) A person shall be guilty of a corrupt practice of he is guilty of treating.

Treating and undue influence.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink or entertainment or provision to or for any person -

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or proxy for an elector who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

- (4) A person shall be guilty of a corrupt practice if he is guilty of undue influence.
- (5) A person shall be guilty of undue influence
 - (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or
 - (b) if by abduction, duress or any fraudulent device or contrivance, he impedes or prevents the free exercise of the franchise of an elector or proxy for an elector, or thereby compels, induces or prevails upon an elector or a proxy for an elector either to vote or to refrain from voting.

Supplementary

165. (1) Where a person has been declared by others to be a candidate at an election without Saw his consent, nothing in this Part shall be construed to impose any liability on that person, unless he has afterwards given his assent to the declaration or has been nominated.

(2) Nothing in this Part shall make it illegal for an employer to permit electors or proxies for electors to absent themselves from his employment for a reasonable time for the purpose of voting at the election without having any deduction from their salaries or wages on account of their absence, if the permission is, so far as practicable without injury to the business of the employer, given equally to all persons alike who are in his employment and if the permission is not given with a view to inducing any person to record his vote for any particular candidate at the election, and is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate at the election; but this subsection shall not be construed as making illegal any act which would not be illegal apart from this subsection.

166. The provisions of this Part prohibiting -

(a) payments and contracts for payments;

- (b) the payment or incurring of election expenses in excess of the maximum amount permitted by this Ordinance; or
- (c) the incurring of expenses not authorised by the election agent,

shall not affect the right of any creditor, who, when the contract was made or the expense incurred, was ignorant of that contract or expense being in contravention of this Ordinance.

PART VII LEGAL PROCEEDINGS Questioning of election

167. (1) No election and no return to the Legislative Council shall be questioned except M by a petition complaining of an undue election or undue return ("an election petition") the presented in accordance with this Part.

(2) An election petition shall ask the Supreme Court to determine whether a person or persons has or have been validly elected as a member or members of the Legislative Council.

168. (1) An election petition may be presented by —

- (a) any person entitled to vote in the election to which it relates;
- (b) any person who was a candidate at that election; or
- (c) the Attorney General.

(2) If the Attorney General is not himself a petitioner, the Attorney General shall be a respondent to an election petition.

- (3) There shall be as respondents to an election petition -
 - (a) all persons who were candidates at the election save any candidate presenting the petition;
 - (b) the returning officer, if the election petition complains of the conduct of the returning officer; and
 - (c) any other person whom the Supreme Court may order to be a respondent to the election petition.

169. (1) An election petition shall be in the prescribed form or a form to the like effect with such variations as the circumstances may require, and shall state -

- (a) in which of the capacities mentioned in section 168(1) above the petitioner or each of the petitioners presents the petition.
- (b) the date and result of the election to which the petition relates;

Method of questioning election.

Presentation and service of election petition.

Form of election

petition.

Savings.

Rights of creditors.

(c) the grounds on which relief is sought, setting out with sufficient particul arity the facts relied on but not the evidence by which they are to be proved,

and shall conclude with a prayer setting out the particulars of the relief claimed.

(2) The petition shall be presented by filing it and at the same time leaving three copies of it at the office of the Supreme Court.

(3) The Registrar of the Supreme Court shall forthwith cause a copy of the petition to be served on every person who by section 168(2) or (3) above is required to be a respondent thereto and shall forthwith notify the Chief Justice of the filing of the petition.

170. (1) Subject to the provisions of this section, an election petition shall be presented within twenty-eight days after the date of first publication of the result of the election to which the petition relates.

(2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by a candidate or on his account or with his privity since the date specified in subsection (1) above in pursuance or in furtherance of the alleged corrupt practice it may be presented within twenty-eight days of the date of payment.

(3) A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented --

- (a) not later than the expiration of twenty-eight days after the day specified in subsection (4) below;
- (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by a member to whose election or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within twenty-eight days after the date of payment or other act.

(4) The said day is the tenth day after the end of the time allowed for transmitting to the returning officer returns as to election expenses at the election or, if later -

- (a) that on which the returning officer receives the return and declarations as to election expenses by the said member and his election agent; or
- (b) where the return and declarations are received on different days; or
- (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.

(5) An election petition presented within the time limited by subsections (1) or (2) above may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the Supreme Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under subsection (3) above.

(6) Subsection (3), (4) and (5) above apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under section 141 above as if it were an illegal practice.

(7) For the purposes of this section, an allegation that an election is avoided by reason of any offence committed shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

171. (1) Where the petitioner on an election petition is the Attorney General or the petitioners on an election petition include the Attorney General, the Supreme Court shall not have power to order that any security for the costs of the petition be given to the respondents or any of them.

(2) Except as provided by subsection (1) above, the Supreme Court may, on the application of any respondent made to if at any time following the service upon him of an election petition, and shall if on application by the Attorney General, order that the petitioner, or

Security for costs of an election petition.

Time for presentation of election petition. in the case of a petition by more than one person, order that any petitioner give or all or any of joint petitioners do each give, security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

(3) Any security ordered by the Supreme Court under subsection (2) above shall -

- (a) be of such amount;
- (b) be given within such time;
- (c) be given in such manner; and
- (d) be given to such person,

as the Supreme Court may in its discretion order and an order under this section may be made ex-parte.

(4) The Supreme Court may on application by any party at any time vary in such manner as if thinks fit any order made by it under subsection (3) above, and may discharge any such order.

(5) If any petitioner shall fail to comply with any order made under one of the preceding provisions of this section, the Supreme Court may strike out the petition of that petitioner but, where the petition is made jointly with any other person without prejudice to the petition of that other person.

172. Where more petitions than one are presented relating to the same election in the same constituency, unless the Supreme Court shall otherwise order all those petitions shall be dealt with as one petition.

173. (1) An election petition shall be tried in open court, without a jury, and notice of the time and place of trial shall be given by the Registrar of the Supreme Court to the parties.

Trial of petition.

Consolidation of petitions.

(2) The Supreme Court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.

(3) The trial of an election petition shall be proceeded with notwithstanding the acceptance by any respondent whose membership of the Legislative Council may be affected by the petition has been vacated by reason of any event or matter referred to in sections 24, 25 or 26 of the Constitution occurring after the date of presentation of the petition and notwithstanding the provocation or dissolution of the Legislative Council under section 28 of the Constitution.

(4) On the trial of an election petition, unless the Supreme Court otherwise directs, any charge of a corrupt practice or an illegal practice may be gone into and evidence in relation thereto received, before any proof has been given of agency on behalf of any candidate in respect thereof.

(5) On the trial of an election petition complaining of an undue election and claiming the seat for some other person, any party may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(6) If if appears that, in the election to which the election petition relates, there was an equality of votes between any candidates, and that the addition of a vote would entitle any of those candidates to be declared elected, then -

- (a) any decision under section 125 above shall, insofar as it determines the question between those candidates, be effective also for the purposes of the election petition;
- (b) insofar as that question is not determined by such a decision, the Supreme Court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

174. (1) Witnesses shall be summoned and sworn in the same manner as nearby as Witnesses. circumstances admit as in a civil action tried by the Supreme Court.

(2) The Supreme Court may, of its own motion, as well as on the application of any party to the petition, require any person who appears to it to have been concerned in the election to attend as a witness.

(3) The Supreme Court may examine any person required under subsection (2) above to attend or who is in court although he is not called and examined by any party to the petition, and any person so examined by the court may, after such examination, be cross-examined by any party to the petition.

(4) The Attorney General shall cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and, unless he is given leave by the Supreme Court not to do so, he shall examine him as a witness.

(5) A person called as a witness respecting an election before the Supreme Court on the trial of an election petition shall not be excused from answering any question relating to any offence at or connected with the election, on the ground that the answer thereto may criminate or tend to criminate that person or any other person or on the ground of privilege; but —

- (a) a witness who answers truly all questions which he is required to answer shall be entitled to receive a certificate of indemnity under the hand of the trial judge stating that the witness has so answered; and
- (b) an answer by a person to a question put by or before the Supreme Court on the trial of an election petition shall not, except in the case of a criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against that person or his spouse.

(6) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any alleged offence to which the certificate relates the court having cognisance of the case shall on production of the certificate stay the proceeding and an it its discretion award to the said person such costs as he may have been put to in the proceeding.

(7) Nothing in this section shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under this Ordinance or under the Constitution or from any proceedings to enforce that incapacity (other than a criminal prosecution).

175. (1) At the conclusion of the trial of an election petition the Supreme Court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and shall for-thwith certify in writing the determination so certified shall be final and no appeal shall lie from such determination.

(2) The Supreme Court shall at the same time as it certifies its determination make a special report to the Governor as to matters arising in the course of the trial an account of which ought, in the opinion of the court, to be submitted to the Legislative Council.

(3) The Governor, on receiving a certificate under subsection (1) above or a special report under subsection (2) above shall —

- (a) give such direction for confirming or altering the return as may be necessary;
- (b) issue such writ for a new election as may be necessary;
- (c) issue such direction for carrying the determination into execution as may be necessary; and
- (d) cause the determination and special report (if any) to be laid before the Legislative Council at its next sitting.

176. (1) An election petition by a person other than the Attorney General shall not be withdrawn except with the leave of the Attorney General or of the Supreme Court.

(2) An election petition by the Attorney General may be withdrawn at any time before the determination thereof.

Conclusion of trial of an election petition.

Withdrawal of election petition. (3) Leave to withdraw an election petition shall not be granted unless the Attorney General or, as the case may be, the Supreme Court, is satisfied that no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, as to withdrawal of the petition, except such an agreement or undertaking in relation to costs or withdrawal of any allegation contained in the petition as may be lawful and that there are good and adequate grounds for the withdrawal of the election petition.

177. (1) Any person who makes an agreement or agrees terms or enters into any undertaking as to the withdrawal of an election petition by him shall disclose the same to the Attorney General or, as the case may be, to the Supreme Court at the same time as he applies under section 176(1) above for leave to withdraw the election petition.

(2) Any person who, whether the agreement terms or undertaking in question was or were lawful or not, in contravention of subsection (1) above fails to disclose it or them or any of them commits an offence and is liable on conviction to imprisonment for twelve months or to a fine not exceeding £1000 or both such imprisonment and such fine.

178. (1) Where the Attorney General is the petitioner or a petitioner on an election petition, the petition shall not be abated by any change in the person holding or acting in the office of Attorney General, and where the Attorney General is the respondent or a respondent to an election petition, it shall not be necessary to re-serve the petition merely because the person holding or acting in the office of Attorney General changes before the petition is determined.

(2) Where a sole petitioner or the survivor of joint petitioners dies, the election petition shall not thereby be abated and the Attorney General shall be substituted as petitioner and shall cease to be a respondent thereto.

(3) Where by virtue of subsection (2) above the Attorney General becomes a petitioner nothing in that subsection shall prevent, him from withdrawing that petition, but subject to subsection (4) and (7) below.

(4) Upon the Attorney General becoming the petitioner under subsection (2) above, he shall cause notice of that fact and of the effect of subsections (5) and (6) below to be published in the Gazette.

(5) Any person who might have been a petitioner in respect of the petition within fourteen days of the publication of the notice required by subsection (4) above apply to the Supreme Court to be substituted as a petitioner in place of a deceased petitioner and the court may, if it thinks fit, substitute him accordingly.

(6) Section 171 above applies in respect of a petitioner substituted under subsection (5) above as it does to an original petitioner.

(7) The Attorney General may

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- (a) withdraw a petition in respect of which he is the sole petitioner under subsection (2) above
 - (i) if no application is made under subsection (5) above within the time limited thereby;
 - (ii) if all applications (if any) under subsection (5) above are refused by the Supreme Court; or
- (b) give notice to all parties and to the court that he ceases to be a petitioner by virtue of subsection (2) above if an application under subsection (5) above is granted by the Supreme Court,

but where the Attorney General gives notice under paragraph (b) of this subsection he shall again be a respondent to the election petition.

179. (1) A respondent to an election petition, other than the Attorney General and the returning officer (if a respondent) may give notice to the court, the petitioner and all other respondents that he does not intend to oppose the petition and, if he does so he shall not be allowed to appear or act as a party against the petition in any proceedings thereon, but he may nevertheless be ordered to pay the whole or any part of the costs of the petition and any proceedings attendant thereon if the court considers that by his act, default or neglect he has caused or contributed to the petition being brought.

Notice of intention not to oppose.

Punishment for corrupt withdrawal.

Abatement of petition etc.

(2) If the Supreme Court, on notice being given pursuant to subsection (1), considers that it would be just and expedient to give an opportunity to any person not presently a party to the proceedings an opportunity to be heard therein, it may make such order or orders as it thinks fit to make for that purpose.

180. (1) All costs of an incidental to the presentation of an election petition and the proceedings consequent thereon, except such as are by this Ordinance otherwise provided for, shall be defrayed by the parties to the petition and former parties to the petition in such proportions as the Supreme Court may determine, except that no order for costs may be made against the Attorney General in his private capacity.

(2) Without prejudice to the generality of subsection (1) above, the Supreme Court may order any party who in its opinion by vexatious conduct, unfounded allegations or unfounded objections incurs or causes any needless expense to defray those costs whether or not he is on the whole successful.

(3) An order for costs made under this section may be enforce in the same manner as an order for costs in a civil action tried in the Supreme Court.

Consequences of finding of corrupt or illegal practice

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181. (1) The report of the court under section 175 above shall state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice.

(2) For the purposes of sections 182 and 183 below if it is reported that a corrupt practice other than treating or undue influence was committed with the knowledge and consent of a candidate he shall be treated as having been reported personally guilty of that corrupt practice, and if it is reported that an illegal practice was committed with the knowledge and consent of a candidate at an election, he shall be treated as having been reported personally guilty of that illegal practice.

(3) The report shall also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election; but if a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court -

- (a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent; and
- (b) that the candidate and his election agent took all resonable means for preventing the commission of corrupt and illegal practices at the election; and
- (c) that the offences mentioned in the report were of a trivial, unimportant and limited character; and
- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents,

then the candidate shall not be treated for the purposes of section 182 below as having been reported guilty by his agents of the offences mentioned in the report.

182. (1) If a candidate who has been elected is reported by the Supreme Court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.

(2) A candidate at an election shall also be incapable from the date of the report of being elected to and sitting in the Legislative Council -

- (a) if reported personally guilty of a corrupt practice, for ten years
- (b) if reported guilty by his agents of a corrupt practice or personally guilty of an illegal practice, for seven years;
- (c) if reported guilty by his agents of an illegal practice, until the Legislative Council is next dissolved.

Avoidance of election and incapacity of candidate reported guilty of a corrupt or illegal practice.

Report as to candidate guilty of corrupt or illegal practice.

Costs of petition.

183. (1) The report of the Supreme Court under section 175 above shall state the names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt or illegal practice, but in the case of a person who is not a party to the petition nor a candidate on behalf of whom the seat is claimed by the petition, the Supreme Court shall first cause notice to be given to him, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(2) The report shall be transmitted to the Attorney General who may, if he considers that any person in respect of whom a certificate of indemnity has not been given may properly be prosecuted for an offence disclosed by the report, direct or institute a prosecution of any such person.

(3) Subject to section 192 below, a candidate or other person reported by the Supreme Court personally guilty of a corrupt practice shall for five years from the date of the report be incapable —

(a) of being registered as an elector;

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- (b) of being elected to and sitting in the Legislative Council;
- (c) of holding any public or judicial office,

and, if already elected to the Legislative Council or holding such office, shall as from the said date vacate the seat or office.

(4) Subject to the provisions of section 192 below, a candidate or other person reported by the Supreme Court personally guilty of an illegal practice shall for five years from the date of the report be incapable of being registered as an elector or voting at any election.

Further provisions as to avoidance of elections and striking off votes

184. (1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.

(2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation.

185. (1) Where, on an election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.

(2) If any person who is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring at an election votes at the election, his vote shall be void.

(3) If any person who is by virtue of any provision of this Ordinance subject to an incapacity to vote at an election votes at that election, his vote shall be void.

Power to except innocent act from being illegal practice, payment, employment or hiring

186. (1) An application for relief under this section may be made to the Supreme Court or to the Senior Magistrate.

- (2) If it is shown to the court by such evidence as to the court seems sufficient -
 - (a) that any act or omission of any person would apart from this section by reason of being in contravention of this Ordinance be an illegal practice, payment, employment or hiring;
 - (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and

Avoidance of election for general corruption.

Votes to be struck off for corrupt or illegal practices.

Provisions applying to all persons reported personally guilty of a corrupt or illegal practice.

Power to except innocent act from being illegal practice, payment, employment or hiring. (c) that such notice of the application has been given as to the court seems fit,

and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under this Ordinance of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of this Ordiance making it an illegal practice, payment, employment or hiring and therupon no person shall be subject to any of the consequences under this Ordinance or the said act or omission.

(3) The jurisdiction vested by subsection (1) above in the Supreme Court may be exercised only by a judge, but may be exercised by him in open court or at chambers.

(4) The jurisdiction vested by subsection (1) above in the Senior Magistrate is not exercisable at all if an election petition has been filed in respect of the election but otherwise may be exercised otherwise than in open court.

(5) An appeal lies to the Supreme Court from any order of the Senior Magistrate under this section.

Prosecutions for corrupt or illegal practices

187. No prosecution for a corrupt or illegal practice shall be commenced except by or with the written authority of the Attorney General.

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188. (1) A corrupt practice shall only be triable on indictment before the Supreme Court.

(2) A person convicted of a corrupt practice, other than personation or aiding or abetting, counselling or procuring the commission of the offence of personation shall be liable on conviction to imprisonment for twelve months or to a fine of £5000 or both such imprisonment and such fine.

(3) A person who commits the offence of personation or of aiding, abetting or procuring the commission of the offence of personation shall be liable on conviction to imprisonment for two years or to a fine of \pounds 7000 or both such imprisonment and such fine.

(4) A person shall not be convicted of personation on the uncorroborated evidence of one witness.

189. (1) A charge or information alleging an illegal practice shall be triable summarily by the Senior Magistrate.

(2) A person convicted of an illegal practice is liable to imprisonment for three months or to a fine of £1000 or both such imprisonment and such fine.

190. A person tried by the Supreme Court on an indictment alleging a corrupt practice may, if the circumstances warrant such finding, be convicted of an illegal practice (which for that purpose shall be an indictable offence), and any person tried by the Senior Magistrate on any charge or information alleging an illegal practice may be convicted of that offence notwithstanding that the act or acts alleged amounted to a corrupt practice.

191. Subject to the provisions of section 192 below, but in addition to any punishment imposed as provided by the foregoing provisions -

- (a) a person convicted of a corrupt practice shall be subject to the incapacities imposed by section 183(3) above as if at the date of the conviction he had been reported personally guilty of a corrupt practice; and
- (b) a person convicted of an illegal practice shall be subject to the incapacities imposed by section 183(4) above as if at the date of the conviction he had been reported personally guilty of that illegal practice.

Mitigation of penalties

192. (1) Where any person is subject to any incapacity by virtue of the report of the Supreme Court, and he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the court before whom he is tried may order that the incapacity shall thencefoth cease so far as it is imposed in respect of those matters.

Authority of Attorney General required for prosecution.

Prosecutions for corrupt practice.

Prosecutions for illegal practice.

Conviction of illegal practice on charge of corrupt practice etc.

Incapacities on conviction of corrupt or illegal practice.

Mitigation of penalties. (2) Where any person who is subject to any incapacity as aforesaid is on a prosecution convicted of any such matters as aforesaid, no further incapacity shall be taken to be imposed by reason of the conviction, and the court shall have the like power (if any) to mitigate or remit for the future the incapacity so far as it is imposed by section 182 or 183 above or section thirty-eight of the Corrupt and Illegal Practices Prevention Act, 1883, in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.

(3) A court exercising any of the powers conferred by subsections(1) and (2) of this section, shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of the said power, and that order shall be conclusive for all purposes.

(4) Where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty thereof by an election court, not further incapacity shall be imposed on him under the section 183 above by the reason of the report.

(5) Where any person is subject to any incapacity by virtue of a conviction or of the report of the Supreme Court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the Supreme Court, and the court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

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(6) The jursidiction vested in the Supreme Court by subsection (5) above shall be excercised by a judge in open court.

Illegal payments, employments or hirings

193. (1) A person guilty of an offence of illegal payment, employment or hiring shall on summary conviction, be liable to a fine not exceeding $\pounds 500$; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment, employment or hiring as the case may be.

(2) A candidate or election agent who is personally guilty of an offence of illegal payment, employment or hiring shall be guilty of an illegal practice.

(3) Any person charged with an offence of illegal payment, employment or hiring may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

General provisions as to prosecutions

194. (1) A proceeding against a person in respect of any offence to which this section applies shall be commenced within one year after the offence was committed, and the time so limited by this section shall, in the case of any proceedings where by another enactment a different time limitation would apply, the provisions of this subsection shall apply in relation to that proceeding.

(2) For the purpose of this section the issue of a summons, warrant or other process shall be deemed to be a communecement of a proceeding, where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, but save as aforesaid service or execution of the same on or against the alleged offender, and not the issue thereof, shall be deemed to be the commencement of the proceeding.

(3) This section applies to any corrupt or illegal practice, any illegal payment, employment or hiring and any offence under sections 155 or 177 above.

195. Where any corrupt or illegal practice or any illegal payment, employment or hiring is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by this Ordinance.

196. On any prosecution for a corrupt or illegal practice or for any illegal payment, employment or hiring the certificate of the Attorney General that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be sufficient evidence of the facts therein stated.

employments or hirings.

Illegal payments,

Time limit for prosecutions.

Offences by corporations.

Evidence by certificate of holding of election.

Supplemental

197. The Chief Justice may make rules of court for the purposes of Part VIII and this Part.

198. The rules and regulations of the Supreme Court with respect to costs to be allowed in actions, causes and matters in the Supreme Court shall in principle and so far as practicable apply to the costs of petitions and other proceedings under Part VIII and this Part, and whether the proceedings took place in the Supreme Court or before the Senior Magistrate.

199. (1) Any summons, notice or document required to be served on any person with reference to any proceeding respecting an election for the purpose of requiring him to appear before the Supreme Court or the Senior Magistrate or otherwise or of giving him an opportunity of making a statement, or showing cause or being heard gy himself by any court for any purpose of this Part may be served —

- (a) by delivering it to that person, or by leaving it at, or sending it by post to his last known place of abode in the Falkland Islands, or
- (b) if the proceeding is before any court in such other manner as the court may direct.

(2) In proving service by post under this section it shall be sufficient to prove that the letter was posted prepaid and properly addressed.

PART VIII

DETERMINATIONS BY SUPREME COURT AS TO WHETHER PERSON HAS CEASED TO BE A MEMBER OF THE LEGISLATIVE COUNCIL

200. (1) The question as to whether a member of the Legislative Council has vacated his seat therein ("a vacation petition") or is required under section 26(1) of the Constitution to cease to perform his functions as such may be referred to the Supreme Court only by a petition presented in accordance with this Part.

(2) A vacation petition shall ask the Supreme Court to determine whether the member of the Legislative Council specified therein has vacated his seat in the Legislative Council.

(3) A cesser petition shall ask the Supreme Court to determine whether the member of the Legislative Council specified therein is required under section 26(1) of the Constitution to cease to perform his functions as a member of the Legislative Council.

201. (1) A vacation petition or a cesser petition may be presented -

- (a) in the case of an elected member of the Legislative Council by any person registered as a voter in the constituency for which the member concerned was elected; and
- (b) in the case of any member of the Legislative Council, elector or otherwise
 - (i) by any elected member of the Legislative Council; or
 - (ii) by the Attorney General.

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(2) If the Attorney General is not himself a petitioner, the Attorney General shall be a respondent to the petition.

(3) There shall be as respondents to a petition under this Part -

- (a) the member whose seat in the Legislative Council is the subject of the petition; and
- (b) any other person whom the Supreme Court may order to be a respondent to the petition.

202. (1) A vacation petition and a cesser petition shall be in the prescribed form or a form to the like effect and shall state -

Form of vacation petitions and cesser

petitions.

Presentation of vacation peti-

tions and cesser

petitions.

Vacation peti-

tions and cesser petitions.

Rules of procedure.

Service of

notices.

Costs.

- (a) in which of the capacities mentioned in section 201(1) above the petitioner or each of the petitioners presents the petition;
- (b) the name of the member to whom the petition relates and -
 - (i) a statement as to whether or not he is an elected member of the Legislative Council;
 - (ii) if it is stated that the member is an elected member of the Legislative Council, the constituency in respect of which he is such member;
 - (iii) if it is stated that the member is not an elected member of the Legislative Council, the public office he holds by reason of which he became a member of the Legislative Council;
- (c) the grounds on which relief is sought, setting out with sufficient particularity the facts relied on but not the evidence by which they are to be proved.

(2) The petition shall be presented by filing it and at the same time leaving three copies of it at the office of the Supreme Court.

(3) The registrar of the Supreme Court shall forthwith cause a copy of the petition to be served on every person who by section 201(3) above is required to be a respondent thereto and shall forthwith notify the Chief Justice of the filing of the petition.

203. (1) A certificate under the hand of the Attorney General that on the date specified therein a person named therein was -

Certificates as evidence.

- (a) a member of the Legislative Council;
- (b) was an elected member of the Legislative Council in respect of the constituency mentioned in the certificate, or a member of the Legislative Council by virtue of his holding an office mentioned in the certificate,

shall be conclusive evidence of those facts or such of them as are stated in the certificate.

- (2) A certificate under the hand of the Governor that the person named therein was -
 - (a) on the date specified therein sentenced by a court in an overseas country to death or imprisonment (by whatever name called);
 - (b) that the person so named was so sentenced in a specified overseas country;
 - (c) that the overseas country formed a part of the Commonwealth on the date specified under paragraph (a) above,

shall be conclusive evidence of those facts or such of them as are stated in the certificate.

204. Section 174, 178 to 180 inclusive and 197 above shall apply in a respect of a petition under any provision of this Part they do to a petition under Part VII above.

205. (1) On determination of a vacation petition the Supreme Court may declare that the seat of the member of the Legislative Council is vacant.

(2) On determination of a cesser petition the Supreme Court may order the member of the Legislative Council to cease to perform his functions.

(3) The Supreme Court shall forthwith upon determining a petition under this Part transmit to the Governor a copy on order in writing under the seal of the Court incorporating the terms of the determination of the Court.

206. (1) Where the Supreme Court has ordered on a petition under this Part that a member of the Legislative Council shall cease to perform his functions as such and the person is a member of the Legislative Council by virtue of his holding same office in the public service, the Governor acting in his discretion may remove that person from that office forthwith and appoint another person in his place and notwithstanding that the person the subject of the petition may be pursuing an appeal against the conviction or sentence which gave rise to the order of the Supreme Court.

(2) Nothing in subsection (1) above shall be construed as in any way -

Application of certain provisions of part VII above.

Powers of Supreme Court on determination of petition under this part.

Powers of Governor in certain cases.

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- (a) from preventing the Governor acting in his discretion from removing a public officer who by virtue of his office is a member of the Legislative Council from that office otherwise than in exercise of his powers under that subsection; or
- (b) preventing the Governor from re- appointing the person concerned if, at any future time, subsection 26(1) of the Constitution no longer requires him to cease to perform functions as a member of the Legislative Council.

207. Nothing in any order under section 205 above shall itself impose any disqualification from election as a member of the Legislative Council, but a person who is the subject of such an order is disqualified from election as a member of the Legislative Council if he would otherwise be so disgualified.

PART IX GENERAL

Transitional provisions

208. Until registers first came into force under the provisions of this Ordinance, the registers Existing registers. and lists last in force immediately before the enactment of this Ordinance shall remain in force and shall be used for the purposes of any election held before the registers first came into force under this Ordinance.

Regulations

209. The Governor may make regulations -

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- prescribing fees to be paid in connection with anything done under this (a) Ordinance;
- prescribing forms to be used for the purposes of this Ordinance; and (b)
- precribing any other matter necessary or convenient for the purposes of this (c) Ordinance.

210. In respect of any offence under any provision of this Ordinance in relation to which Penalty for cerno other penalty is prescribed, a person committing that offence is liable on conviction tain offences. to a fine of £250.

211. The Legislative Council (Elections) Ordinance is repealed.

Alternative clause 53 **Disqualification**

53. (1) A person is not qualified to be elected as a member of the Legislative Council — Disgualification.

- unless he is qualified to be so elected under section 23 of the Constitution (a) (which requires the person to be --
 - (i) a Commonwealth citizen of the age of twenty-one years or upwards;
 - registered as a voter in the constituency in which he is seeking election; (ii)
 - (iii) not prohibited by any law from so voting);
- if he is by or pursuant to section 24(1) of the Constitution declared not to (b) be qualified to be so elected.

(2) A person is not, subject to subsection (3), qualified to be elected as a member of the Legislative Council if he holds or acts in any of the following offices -

- (a) Agricultural Officer;
- (b) Attorney General;
- (c) Broadcasting Officer;
- (d) Chief Executive;
- Chief Medical Officer; (e)

Supplementary to section 205.

Repeals.

Regulations.

- (f) Clerk of Councils;
- (g) Collector of Customs and Harbour Master;
- (h) Commissioner for Elections;
- (i) Crown Counsel;
- (j) Crown Solicitor;
- (k) Development Officer;
- (1) Director of Civil Aviation;
- (m) Director of Fisheries and any Deputy Director of Fisheries;
- (n) Director of Public Works and his deputy;
- (0) Financial Secretary and his deputy;
- (p) General Manager and Assistant General Manager of the Development Corporation whose offices are hereby prescribed as public offices in accordance with section 24(4)(a) of the Constitution;
- (q) Government Secretary and any Deputy Government Secretary;
- (r) Members of Her Majesty's Diplomatic Service whose offices are hereby prescribed as public offices in accordance with section 24(4)(a) of the Constitution;
- (s) The holders of any judicial office other than an office of justice of the peace;
- (t) Police officer (other than reserve police officers);
- (u) Principal Auditor;
- (v) Registrar General;
- (w) Superintendent of Education;
- (x) Superintendent of Posts and Telecommunications.

(3) A person holding or acting in any office referred to in subsection (2) except those referred to in paragraphs (f) and (q) thereof may stand as a candidate for election to Legislative Council if prior to his nomination as a candidate he delivers to the Governor an undertaking in writing to relinquish or, as the case may be, to cease to act in the said office if he is elected as a member of Legislative Council.

(4) If a person to whom subsection (2) applies is elected to Legislative Council he shall not take his seat until he has fulfilled his undertaking and if he has not fulfilled his undertaking within thirty days of being so elected his seat shall fall vacant at the expiration of that period.



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The Employment Protection Bill 1988.

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EMPLOYMENT PROTECTION BILL 1988

EXPLANATORY MEMORANDUM

Introductory

The attached Bill is very firmly based on the provisions of the Employment Protection (Consolidation) Act 1978 of Great Britain as amended up to early 1986. In point of fact it may be regarded as, for the most part, modifying and adapting the provisions of that Act to the circumstances of the Falkland Islands. There are, however, a number of significant departures from the provisions of the British Act —

- (a) the Bill does not seek to establish a system of industrial tribunals | instead it seeks to confine their functions to an existing body, the Summary Court, with an appeal in certain circumstances to the Supreme Court;
- (b) the Bill does not seek to establish a Redundancy Fund or Maternity Fund;
- (c) the Bill does not provide for conciliation officers or an arbitration and conciliation service;
- (d) it excludes the Public Service entirely from the provisions of the Bill (for reasons which are explained below).

The Bill seeks to confer rights on employees which are fair and reasonable and which have statutorily formed part of the rights of employees in Great Britain for many years. In this respect it will, if enacted, represent a major departure from the Common Law. The Bill is long and complex (even though it is very much shorter then the comparable legislation in Great Britain).

Part I of the Bill

This Part is introductory. It is important to note the provisions of Clause 3. This would have the effect of excluding "Crown employment" from the subsequent provisions of the Bill. It is intended, so far as the Public Service is concerned that rights of public officers will be governed by the provisions of a Public Service Ordinance and General Orders made under it.

The provisions of the Bill will not apply to Her Majesty's armed forces but will apply to contractors' employees at M.P.A. and elsewhere. There would otherwise be no way by which the rights of local employees of such contractors would be protected. As to expatriate employees of such contractors, they are not, in general, protected by the provisions of the 1978 Act while they are in the Falkland Islands and there is no reason why the provisions of the Bill should not apply to them - indeed the Bill would be discriminatory if they did not. It may be added that the 1978 Act, in Great Britain, does apply to foreign employees of a contractor there just as it does to U.K. citizen employees of such a contractor. One reason for following closely the provisions of the 1978 Act in the provisions of the Bill is that the provisions should be very familiar to such contractors.

Part II of the Bill

Clause 4 of the Bill requires that every employee should, within 13 weeks of the commencement of his employment be given written particulars of the terms of his employment. This Clause does <u>not</u> apply to an employee usually employed for less than 16 hours weekly (see Clause 108(1)), unless he has been employed for 8 hours or more for a continuous period of five years or more (Clause 108(4)). Where the employee's employment began before the commencement of Clause 4, if enacted, by Clause 14 the particulars are to be given within 13 weeks of the commencement of Clause 4(1). Obviously, if an employee is employed under a written contract of employment which contains all the required particulars no separate written particulars need to be given to him (see Clause 7). Clause 4 does not apply, generally, to employment outside the Falkland Islands (see Clause 105) or to certain mariners (see Clause 107).

The clause does <u>not</u> require that a written contract should be entered into with every employee: it merely requires that written particulars of the terms of his employment in relation to the matters specified in Clause 4 should be provided. Reference should also be made to Clause 5: the required particulars do not have to be given to each employee individually if they are contained in a document which is reasonably accessible to the employee during the course of his employment.

Clause 6 requires written particulars to be given of changes in the terms of employement. However Clause 6 again does not apply to certain part-time employee's, nor does it apply generally to employment outside the Falkland Islands or to certain mariners.

Clause 8 deals with the position arising when an employee ceases to be excluded from the provisions of clauses 4 to 6.

Part II does not impose on an employer any obligation to make any payment to his employee: thus it is not essentially linked in any of its provisions to the employee's length of service. Most employers have in practice already, and without being required by law so to do, done in relation to their employees most of the things that the provisions of Part II will require.

Part III of the Bill Guarantee payments

Clauses 15 to 21 of the Bill deal with "guarantee payments." Clause 15 deals with the right to guarantee payments and Clause 16 provides that this right does not apply to employees who have been continuously employed for not more than one month or to certain short term contract employees (generally, for terms of three months or less, see Clause 16(2)).

Clauses 16 to 21 will principally apply to piece work employees. (It is noted that the Bill deals with employees (and apprentices) and not with contractors). Piece work employees would not, in the absence of agreement, be entitled to payment for a day on which they attend work and on which, through no fault of their own, there is no work for them to do. Piece work payment of employees is not common in the Falkland Islands, but it is possible that it may apply in the future (particularly in relation to construction contracts or fish processing) so it is desirable for the Bill to make provision for it.

Clause 20 provides for a complaint to the Summary Court against a failure to make a guarantee payment which the employer has failed to make. The Bill, in fact, provides in nearly every instance of a failure of the employer to meet his obligations that the employee has a right of access to the Summary Court.

Clause 20(2) provides that the employee must make this complaint, (unless the court thinks it reasonable for him to have delayed), within three months. This time limit is one commonly provided in relation to other complaints under the Bill to the Summary Court. Incidentally, it may be mentioned here that the choice of the Summary Court, and not the Senior Magistrate, is deliberate. The desire is to have a tribunal of three selected from the local community, and not a tribunal consisting of a single lawyer.

Suspension on medical grounds

Clauses 22 to 25 deal with an employee's right to remuneration when he is suspended by his employer from work on medical grounds. (This is an entirely different matter from an employee absenting himself from work because of ill-health). For example, an employee who is otherwise fit for work may be suspended from work, if he works in a food or catering business, if he is a carrier of an infectious disease which could be transmitted to customers, although he is perfectly fit, in himself, for work.

Trade union membership and activities

Clause 26 supplements the "fundamental right or freedom of association" provision of Chapter 1 of the Constitution.

Clause 26(1) provides "Subject to the following provisions of this section, every employee shall have the right not to have action (short of dismissal) taken against him as an individual by his employer..." The words "(short of dismissal)" must not be interpreted as allowing him to be dismissed, but forbidding other action against him. It is simply that dismissal in the circumstances with which Clause 26 deals would be unfair dismissal which is dealt with by other provisions of the Bill and Clause 26, therefore, forbids action short of dismissal. Clause 26(1) guarantees the employee's right, without penalty —

- (a) to join a trade union;
- (b) to choose not to join a trade union;
- (c) to choose which trade union he will join; and
- (d) to take part in the activities of any trade union he joins.

Clause 26(2) and (3) provide that compulsory deductions by way of trade union contributions cannot be made from the remuneration of an employee who chooses not to join a trade union.

Clause 26 (as do other Clauses of the Bill) refers to an "independent trade union". This means a trade union entirely independent of his employer.

Clause 27 provides for complaints to the Summary Court against breaches of Clause 26 and Clauses 28 to 30 are, in effect, supplementary to Clause 26.

Time off work

Clause 31 deals with time off work for the purpose of carrying out union duties, at the cost of the employer. It should be noted that it relates only to time off work for duties as a trade union official which are concerned with industrial relations between that employer or any "associated employer" (defined Clause 2) and its employees and not to trade union duties generally. Furthermore, the time off must be such as is reasonable in all the circumstances.

Clause 32 deals with time off for employees for trade union activities generally. This clause is not limited to trade union officials and the employee is not required to be paid by the employers for the time off taken. Strikes and other industrial action are excluded from the operation of the clause. Its effect is to prevent the employee being treated as "absent without leave", if, for example, he attends a union meeting within working hours.

Clause 33 deals with time off for public duties during working hours. It has been the practice of employers in the Falkland Islands to be most generous in allowing time off for public duty purposes. It should be noted that the clause does not require the employee to be paid for the time off (although, in practice, many employers do grant paid time off).

Clauses 34 and 35 deal with time off work for attendance at court and for the purpose of seeking medical attention. Clause 36 deals with the powers of the Summary Court on complaints under Clauses 31 to 33.

Time off for ante-natal care is dealt with by Clause 37. The employer will, subject to the provisions of the Clause, be obliged to grant paic time off for this purpose. This Clause and the provisions of Part IV (Maternity) are relevant to the Falkland Islands' obligations under the Convention for the Elimination of Discrimination Against Women, which applies to the Falkland Islands.

In Clause 38 will be found definitions of certain expressions used in the foregoing provisions of Part III of the Bill - for example "recognised trade union" and "collective bargaining". "Collective bargaining" is not, of course, new to the Falkland Islands.

Part IV of the Bill

Part IV of the Bill is devoted entirely to the rights of a female employee who becomes pregnant and gives birth. Enactment of this Part (supplemented as it is by Schedule I to the Bill) will go some way in assisting the Falkland Islands to comply with certain provisions of the Convention on the Elimination of Discriminiation Against Women, which, in principle, commits the Falkland Islands to the enactment of such legislation.

Clause 39(1) sets out the two basic rights of a female employee who is absent from work wholly or partly because of pregnancy -

- (a) to maternity pay;
- (b) to return to work.

These rights are (Clause 39(2)) dependent on her having been continuously employed for a period of at least two years immediately preceding the beginning of the eleventh week preceding her expected date of confinement and to her continuing to be employed up to the beginning of that week and also upon her producing a medical certificate as to her pregnancy and confinement if requested by her employer to do so (Clause 39(7)). Additionally, so as to be entitled to maternity pay she must inform her employer (in writing if he requests) at least 21 days before her absence begins or if that is not reasonably practicable, as soon as is reasonably practicable, that she will be absent from work wholly or partly because of pregnancy or confinement(Clause 39(3)(c)).

She must also (Clause 39(3)(d)) if she wishes to exercise her right to return to work inform her employer in writing at least 21 days before her absence begins or, if that is not reasonably practicable as soon as is reasonably practicable, that

- (i) she will be (or is) absent from work wholly or partly because of pregnancy or confinement;
- (ii) she intends to return to work with that employer; and
- (iii) notify him of the expected week of confinement, or if confinement has occurred, the date of the confinement.

The employer (or his successor) may (not earlier than forty-nine days after the beginning of the expected week of confinement or the date of confinement notified as above) require her to confirm within 14 days or as soon as is reasonably practicable, that she intends to return to work (Clause 39(4)).

In effect therefore, even if a woman has told her employer that she intends to return to work, she has at least nine weeks after the beginning of her expected date of confinement to decide whether she in fact wishes to return to work if she has served the preliminary notice required by Clause 39(3)(d) saying that she wishes to return to work.

Clause 40 deals with maternity pay and the periods for which it may be claimed. Only six weeks' maternity pay may be claimed and it may be claimed in respect of the first six weeks of any period of absence commencing not earlier than the beginning of the eleventh week before the expected week of confinement. It should be noted that a woman is not obliged to be absent from that time and may defer her absence until closer to the expected date of confinement. Clause 41 deals with the amount of maternity pay. It is to be a weekly sum equivalent to nine-tenths of a week's pay. The section makes provision for the alteration of the fraction of a week's pay by Order by the Governor, so as to provide (for example) that maternity pay should be 100% of a week's pay. Such an order (and there are other provisions of the Bill making provision for this sort of order) must be approved in draft by the Legislative Council before it is made.

If a woman believes her rights to maternity pay have been infringed, she has a right to make an application to the Summary Court under Clause 42.

In England, maternity pay is in part funded by the Government through the Maternity Fund and National Insurance contributions by employers (and a similar situation exists in relation to sick pay and redundancy payments.) The Bill would place the burden wholly on the employer.

Clause 43 spells out in more detail the right of a woman who has taken maternity leave to return to work —

- (a) she is entitled to go back to her old job at any time before the end of 29 weeks beginning with the week in which the date of confinement falls, on terms not less favourable than those which would have applied had she not been absent;
- (b) if her employer has disposed of the business, she has a right to return to work with his successor;
- (c) if her old job no longer exists because of redundancy, she is entitled to alternative employment (where there is a suitable vacancy) under a new contract of employment which must —
 - (i) offer suitable and appropriate work;
 - (ii) must not be substantially less favourable in terms of job and place of work and as to other conditions.

A woman who wishes to take advantage of her rights under clause 43 cannot simply turn up to work when she feels like returning to work. She must at least 21 days before her proposed date of her return give her employer written notice of her intended date of return. (Clause 45(1)). This date may not be convenient to her employer, so that he is given a right, by Clause 45(2), to postpone her return for up to 4 weeks. Further by Clause 45(3), if the employee is, through ill-health, unable to return to work on the notified day she can postpone her return by up to 4 weeks (even though her return will then be later than 29 weeks after the confinement) on production of a medical certificate. She can only do this once. Other provisions of Clause 45 deal with the position arising if a woman's return to work is affected by an interruption of work due to a strike or other reason.

There are special provisions in relation to maternity as to unfair dismissal and redundancy made by Schedule I to the Bill. The general provisions of the Bill as to unfair dismissal and redundancy are in later clauses and are dealt with later in this Explanatory Memorandum.

Clause 44 confers rights under Clause 54 (as well as under Clause 45) if an employer infringes a woman's right to return to work after maternity. But the rights under Clause 54 (which are to treat herself as dismissed if she is not allowed to return to work, and to treat herself as being so dismissed for the reason she was not permitted to return: and thus, frequently to claim "unfair dismissal") do not apply (Clause 55) if —

- 1. (a) immediately before her absence her employer and any associated employer did not have more than five employees; and
 - (b) it is not reasonably practicable for her to be offered suitable alternative employment; or
- 2. (a) it is not reasonably practicable for reasons other than redundancy for her to be permitted to return to work; and

(b) she is offered, and unreasonably refuses reasonable alternative employment.

Absences from work wholly or partly due to pregnancy or confinement count, if a woman returns to work in accordance with Clause 43(1) or Clause 55(2) as part of continuous employment (Schedule 5, paragraph 10). This is important: e.g. for redundancy payment purposes.

Clause 46 deals with the situation when an employee has a contractual right to return to work after pregnancy and confinement. The employee cannot exercise both her statutory and contractual rights but may take advantage of whichever of the two rights is in any respect more favourable.

Part V of the Bill

Part V of the Bill deals with the termination of employment. Clause 47 would lay down <u>statutory</u> minimum periods of notice. These would not apply —

- (a) where the employee has been continuously employed with the employer for less than a month; or
- (b) where the employee is employed under a contract made in contemplation of the completion of a specific task which is not expected to last more than three months <u>unless</u> the employee has been continuously employed for more than three months; or
- (c) similarly in a situation in which the employer is entitled to dismiss the employee summarily, or the employee is entitled to leave without notice.

Where the employee has been continuously employed by the employer -

- (i) for one month or more but less than two years, <u>at least one week's notice</u> must be given by the employer;
- (ii) for two years or more but for less than twelve years, at least one week's notice must be given by the employer for each year of service;
- (iii) for twelve years or more, at least twelve weeks' notice must be given by the employer.

The employee is required to give his employer at least one week's notice (subject to the same exceptions as are listed above).

Where Clause 47 requires that notice of a stated minimum period be given, neither party can contract out of it (Clause 47(3)), but he can waive his right to notice on any particular occasion or, of course, accept payment in lieu of notice. Of course it is permitted to make a contract for a greater period of notice (by employer or employee), and this is frequently done. Clause 48(1) and Schedule 2 would govern the rights of an employee who gives notice required under Clause 47(1) or gives notice required under Clause 47(2). But this is not so if, contractually, the notice to be given by the employer is at least one week longer than that required by Clause 47(1).

A written statement of reasons for dismissal must on request by the employee be provided within 14 days by the employer of an employee who has been continuously employed for six months or more on the date the termination takes effect. If an employer breaches this provision, or gives a false reason, the employee may make a complaint to the Summary Court which can find the reason, or true reason for dismissal and must, if it finds the complaint justified, award the employee two weeks pay (Clause 51).

Part VI of the Bill

Part VI of the Bill deals with "unfair dismissal". This is entirely a statutory concept. Clause 52 confers upon every employee (subject to limited exceptions) a right not to be "unfairly dismissed." Basically, an employee is "unfairly dismised" if his employment is terminated -

- (a) for no reason;
- (b) for inadequate reason;
- (c) for a reason for which the Bill, if enacted, does not allow him to be dismissed.

"Unfair dismissal" (a statutory concept) is to be distinguished from "wrongful dismissal" (a common law concept). In broad terms, a man is not generally "wrongfully dismissed" if his employer gives him the required period of notice or pays him wages or salary in lieu of that notice. An employer might, for example, give his employee notice because the employee, against his employer's wishes, was courting his employer's daughter. That is not "wrongful dismissal" (because, at common law, an employer can dismiss his employee for any reason, provided that he acts in accordance with the provisions of the contract). But it would certainly be "unfair dismissal" under the Bill. In certain circumstances, an employer can both "wrongfully dismiss" and "unfairly dismiss" his employee: for example, if in the example given the employee had been dismissed instantly (without payment of salary or wages) that would be both "unfair dismissal" and "wrongful dismissal" provisions do NOT apply —

- (1) to an employee who has not been continously employed by the employer for at least 2 years; or
- (2) employees over retiring age (Clause 63).

Clause 56 contains general provisions relating to the fairness of dismissal. First of all there must have been sufficient reason for dismissing the employee. (Clause 56(2) sets out certain examples of what sufficient reason might be, but this list is not exclusive). Secondly, if there was sufficient reason, the employer must have acted reasonably and fairly in all the circumstances treating it as sufficient reason for dismissing the employee.

Clause 57 renders it unfair dismissal for an employee to dismiss an employee -

- (a) because he is a trade union member; or
- (b) because he wishes to join a trade union; or
- (c) proposes to take part in trade union activities "at an appropriate time". (defined by the Clause); or
- (d) is not a member of a particular trade union, not a trade union member at all or refuses to join a trade union or a particular trade union.

If an employer dismisses an employee because he is redundant this is not, generally, "unfair dismissal" if the redundancy is genuine, but in certain circumstances, unfair selection of an employee for redundancy makes his dismissal "unfair dismissal". Clause 58 deals with this (e.g. selection for redundancy because of trade union membership of the lack of it or in breach of a "last in, first out" arrangement or procedure).

Dismissal on the ground of pregnancy is, in general, unfair dismissal (Clause 59) but there are exceptions to this. Clause 59 makes detailed provision as to this subject. Also, Clause 64 provides that a woman has no right to treat herself as unfairly dismissed if she is not allowed to return to work after pregnancy and

- (1) she has not worked for the employer for two years; and
- (2) the employer does not have more than 20 employees.

Frequently, when an employee is absent because of pregnancy or because of medical suspension from work the employer will need to engage another employee to replace him. Provided that such an employee is told when he or she is engaged that he or she will be dismissed on the return to work of the person whom he or she replaced, then if he or she is dismissed on that return, the dismissal is not unfair. (Clause 60). Clause 61 makes provision for the situation where an employee is dismissed in relation to a strike, lock-out or other industrial action. Clause 62 prevents an employer relying on pressure (threat of industrial action if he does not dismiss the employee) as being sufficient reason for the dismissal of an employee.

The Bill gives certain rights to employees who believe they have been unfairly dismissed. These rights can be enforced by a complaint (normally to be made within 3 months of the dismissal) to the Summary Court. (Clause 65).

The Summary Court, if it finds the complaint justified, can if the employee wishes, and if it is appropriate to do so, make an Order for the employee's re-instatement by his employer (Clauses 66(1) and 67.) If it does not make such a re-instatement Order, and the complaint is justified, the Summary Court must make an Order for an award of compensation to the employee for unfair dismissal.

Clause 67 makes detailed provision in relation to re-instatement Orders and is supplemented by Clause 68. If a re-instatement order is not complied with, the court must make an award of compensation of an amount provided for by the Bill (Clause 69). Clauses 70 to 75 deal with the amount of such compensation. The award is divided into three parts —

- (a) basic award; and
- (b) compensatory award; and
- (c) where the employee was dismissed for "union membership" reasons, and the complainant so requests, a special award.

(see Clause 70).

The calculation of "the basic award" is dealt with by Clause 71. Its provisions are somewhat complex because of a number of different circumstances. The effect is explained below.

Generally, the amount of "the basic award" is to be calculated by reference to the period, ending with the effective date of termination, during which the employee has been continuously employed, by starting at the end of that period and reckoning backwards the number of years of employment falling within that period, and allowing

- (1) one and half week's pay for each year which consists wholly of weeks in which the employee was not below the age of forty one;
- (2) one week's pay for each year which consists wholly of weeks in which he was 22 but under forty one; and
- (3) half a week's pay for each such year which consists wholly of weeks in which he was 18 but under 22.

In certain cases, however, "the basic award" is varied. The amount is to be two weeks pay where the Court finds that the reason or principal reason for the employees dismissal was that he was redundant and because of an unreasonable refusal or relinquishment of suitable alternative employment he is not, or if he were otherwise entitled would not be, entitled to a redundancy payment; or because of his renewal of employment or re-engagement he is not treated as dismissed. The amount is also two weeks pay where the amount calculated in accordance with the general provision is less than the amount of two weeks pay.

Where the Court finds that the dismissal was to any extent caused or contributed to by any action of the complainant it must, except in a case where the dismissal was by reason of redundancy, reduce the amount of "the basic award" by such proportion as it considers just and equitable having regard to that finding. The amount of "the basic award" must also be reduced or as the case may be, further reduced, by the amount of any redundancy payment awarded in respect of the same dismissal or of any payment made by the employer to the employee on the grounds that the dismissal was by reason of redundancy. The reason for this provision is to avoid "double compensation". However, in addition to "the basic award," the employee may be entitled, if he is "unfairly dismissed," to receive a "compensatory award". The calculation of such a "compensatory award" is dealt with by clauses 72, 73 and 74. Subject as hereafter stated, the amount of the "compensatory award" is such amount as the Court considers just and equitable in all the circumstances having regard to the loss sustained by the employer. This loss must be taken to include any expenses reasonably incurred by the complainant in consequence of the dismissal, and the loss of any benefit which he might reasonably be expected to have had but for the dismissal, and the loss of any benefit which he might

If the Court finds that this dismissal was to any extent caused or contributed to by any action of the complainant it must reduce the amount of the "compensatory award" by such proportion as it considers just and equitable having regard to that finding. It must also apply the same rule concerning the duty of the person to mitigate his loss as applies to damages recoverable under common law. (In basic terms this means that a person who is "unfairly dismissed" must take reasonable steps to find himself alternative employment so reducing the loss he otherwise suffers by reason of being "unfairly dismissed"). An upper limit on the amount of a "compensatory award" would be fixed by clause 73(1). That limit may be increased by Order after approval by the Legislative Council. The limit applies to the amount the Court would order in respect of the complaint after taking into account any payment made by the respondent to the complainant in respect of that matter and any reduction in the amount of the award required by any enactment or rule of law: in other words it is a limit on the net amount of the award after deductions of the kinds mentioned. Special provisions apply to an employee who has presented a complaint to the Summary Court that he has been "unfairly dismissed" by his employer and that the reason, or principal reason, for his dismissal was that the employee was or proposed to become a member of a particular independent trade union, or had taken, or had proposed to take, part at any appropriate time in the activities of a particular independent trade union of which he was or proposed to become a member. Under clause 76 an employee who has presented a complaint to the Summary Court within 7 days immediately following the effective date of termination in such circumstances whether before, on or after the date of effective termination and an authorised official of the trade union concerned is presented stating that on the date of the dismissal the employee was or had proposed to become a member of it and that there appeared to be reasonable grounds for supposing

that the reason or principal reason for his dismissal was one alleged in the complaint the Summary Court may then entertain such a complaint. It must determine the application as soon as practicable after receiving it with the certificate from the Trade Union but must, at least 7 days before the hearing, give the employer a copy of the application and of the certificate, together with a notice of the date, time and place of the hearing. It may not exercise any power of postponing the hearing except if it is satisfied that special circumstances exist which justify it in postponing the hearing.

If at the hearing that it appears to the Court that it is likely that on determining the complaint it will find that the complainant was unfairly dismissed and that the reason or principal reason for the dismissal was a reason mentioned above, then the Court must announce its findings and explain to both parties, if present, what powers it may exercise and in what circumstances it may exercise them. The Court must ask the employer, if present, whether he is willing, pending the determination or settlement of the complaint, either to re-instate the employee or to re-engage him in another job on terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed. If the employer fails to attend before the Court or he states that he is unwilling either to re-instate the employee or re-engage him, then the Court must make an Order for the continuation of the employee's contract of employment. If the employer is present in the Court and states that he is willing to re-instate the employee, the Court must make an Order to that effect. If the employer states that he is willing to re-engage the employee in another job, and specifies the terms and conditions on which he is willing to do so, the Court must ask the employee whether he is willing to accept this other job on the terms and conditions stated by the employer and if he is, an Order must be made to that effect. If, however, the employee is unwilling to accept the job on those terms and conditions, then if the Court is of the opinion that the employees refusal is reasonable, it must make an Order for the continuation of his contract of employment, but otherwise no Order is to be made.

Clause 74 deals with the calculation of "special awards". These awards are made when an Order for reinstatement of an employee has been made and the terms of the Order have not been fully complied with.

Clause 75 would enable awards to be made against third parties who have induced the dismissal of an employee and clause 77 makes supplementary provision to clause 76 (which clause deals with interim awards in relation to union membership related dismissals).

Part VII of the Bill

Redundancy payments

Part VII imposes on employers the obligation to make payments to their employees who have been dismissed for redundancy. Under clause 79, an employer would be liable to make a redundancy payment to an employee whom he dismisses by reason of redundancy or whom he lays off or keeps on short time in certain circumstances, provided the employee has been continuously employed for two years ending with the relevant date. Schedule 3 deals with the calculation of redundancy payments. Any week which began before the employee reached the age of 18 is excluded, and the right to redundancy payment is lost, in the case of a man, if he has attained the age of 65 and, in the case of a woman, if she has attained the age of 60, immediately before the relevant date (see clause 80(1)). An employee is not entitled to a redundancy payment by reason of dismissal if his employer is entitled to terminate his contract of employment without notice by reason of the employee's conduct and does so either without notice or by giving shorter notice than that which in the absence of misconduct, he would be obliged to give or the usual period of notice accompanied by a statement in writing that the employer would by reason of his employer's conduct be entitled to terminate the contract without notice.

An employee who is under a contract of employment for a fixed term of two years or more may claim a redundancy payment when the term expires and the contract is not renewed unless he has agreed in writing before the expiry to exclude any right to a redundancy payment in that event. Where such an agreement has been made and the contract is renewed the agreement does not apply to the renewed contract although a new agreement may be made.

Merchant seamen may not claim a redundancy payment in respect of any relevant employment and where an employee is outside the Falkland Islands on the relevant date he will not be entitled to redundancy payment unless under his contract of employment he ordinarily worked in the Falkland Islands. Similarly, an employee dismissed by reason of redundancy who ordinarily works outside the Falkland Islands under his contract but is in the Falkland Islands on the relevant date, in accordance with instructions given by his employer, is entitled to a redundancy payment. An employee who is employed as a domestic servant in a private household is entitled to redundancy payment, as if the household were a business and the maintenance of the household were the carrying on of that business by the employer. However, the employer is not liable to pay a redundancy payment where the employee is the employer's wife or husband or a close relative.

"The relevant date" in relation to the above would be defined by clause 88.

Clause 93 would make special provision in relation to the sub-division of land on purchase by the Government or FIDC. The effect of the clause would be that where the Government or FIDC acquires a sheepfarm the previous owner of the farm will be deemed to have dismissed the employees of that farm immediately prior to the transfer of the farm to the Government or FIDC. The employee will then be entitled to a redundancy payment from his previous employer as if he had been actually dismissed and the only reason for his dismissal was his redundancy. If that provision were not contained in the Bill then on the Government or FIDC sub-dividing the farm, the Government or FIDC would be obliged to make a redundancy payment to those employees to whom a sub-division was not assigned and it is intended that this burden shall fall upon the previous employer and vendor of the farm.

An employee is not entitled to a redundancy payment unless, before the end of the period of six months beginning with the relevant date, one of the following events takes place -

- (1) the payment has been agreed and paid;
- (2) the employee has made a claim for the payment by notice in writing given to the employer;
- (3) a question as to the employee's right to the payment, or the amount of the payment, has been referred to the Summary Court; or
- (4) a complaint of unfair dismissal has been presented to the Summary Court.

However, an employee may not lose his right to a redundancy payment, if during the period of six months immediately following the period mentioned above, he

- (a) makes a claim for the payment by notice in writing given to the employer; or
- (b) refers to the Court a question as to his right to the payment, or the amount of the payment;

and it appears to the Court to be just and equitable that he should receive a redundancy payment having regard to the reasons shown by him for his failure to take any such step as is referred to above within the normal period allowed and to all the other relevant circumstances.

The amount of a redundancy payment is regulated by Schedule 3 and is calculated by reference to the period during which the employee has been continuously employed and ending with the relevant date, excluding any week begun before the employee had reached the age of 18. The number of years of employment falling within the period is reckoned backwards up to a maximum of 20 years. One and a half week's pay is allowed for each such year of employment consisting wholly of weeks in which the employee was not under 41; one week's pay is allowed for each other such year when he was not under 22; and half a week's pay is allowed for each other such year. The amount of a week's pay is to be taken to be the minimum remuneration to which the employee would have been entitled in the week ending with the relevant date.

Part VIII of the Bill

Part VIII of the Bill deals with the situation which arises when the employer is insolvent. Clause 99 would enable an unpaid sum due under the Ordinance from the employer to the employee to be treated the same way in insolvency as if it were unpaid wages due to the employee, thus giving to that sum a priority over ordinary debts due from the employer to his creditors.

Clause 100 would enable the Government to pay sums due to an employee in respect of 1 to 8 weeks arrears of pay or payable by the employer for the statutory period of notice or holiday pay (not exceeding 6 weeks in length) or the "basic award" of compensation for "unfair dismissal" to be paid by the Crown and for the Crown to take over the rights of the employee in respect of that debt under clause 101. Clause 102 enables certain information to be obtained by the Financial Secretary when application is made to the Governor to pay sums due from an employer.

Part IX of the Bill

Clause 104 would prevent contracting out of the provisions of the Bill. Clause 105 would provide that the requirements of the Bill as to written particulars of terms of employment and as to notice do not apply when the employee is engaged in work wholly or mainly outside the Falkland Islands unless the employee ordinarily works in the Falkland Islands and the work outside the Falkland Islands is for the same employer. Clause 105 (2) would provide that section 10 (right to itemised pay statements) and 51 (written statements for reasons for dismissal) and Parts III (Rights Arising in the Course of Employment), IV (Maternity), VI (Unfair dismissal) and VIII (Insolvency of Employer) do not apply to employment where under his contract of employment the employee ordinarily works outside the Falkland Islands. Clause 109 would require a periodic review of the pecuniary limits prescribed under the Ordinance. Clause 110 would give effect

to Schedule 4. Clause 111 relates to the computation of the period of continuous employment and sets out rules as far as that is concerned. Clause 112 gives effect to Schedule 6 which sets out the detailed rules as to the calculation of normal working hours and a week's pay. Clause 113 deals with offences by bodies corporate and clause 114 would give rights of appeal to the Supreme Court against decisions of the Summary Court. Clause 115 contains supplemental provisions as to proceedings before the Supreme Court and would allow that Court to make any Order as to the attendance of witnesses or the production or discovery of documents that the Senior Magistrate could make and clause 115 (2) would allow persons other than legal practitioners to appear for a party to any proceedings under the Ordinance and forbid costs of representation by a legal practitioner or other person being ordered to be paid by the other party to proceedings. Clause 116 contains a general power to make regulations.

The Schedules to the Bill

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There are six schedules to the Bill and they deal with matters of detail. Schedule 1 contains supplementary provisions relating to maternity. Part I of Schedule 1 makes adaptations to the Bill in respect of the unfair dismissal provisions of the Bill in maternity cases. Similarly Part II of that Schedule adapts the redundancy payments provisions in the case of maternity and Part III of the Schedule deals with dismissal during a maternity absence. Schedule 2 of the Bill deals with rights of an employee during a period of notice and makes detailed provision in relation to this. Schedule 3 has already been touched upon and deals with the calculation of redundancy payments.

Schedule 4 deals with the situation arising on the death of an employer or employee. It contains rules as to the institutional continuance of Court proceedings in such circumstances and the devalution of rights and liabilities accruing after death of the employer.

Schedule 5 of the Bill deals with the computation of the period of employment of an employee. This period has to be computed so that the amount of entitlement of an employee to various payments provided for by the Ordinance can be calculated. Schedule 6 of the Bill deals with the calculation of normal working hours and a week's pay.

The Employment Protection Bill 1988

(No. of 1988)

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A Bill for

An Ordinance

to confer statutory rights on employees arising out of their employment and for purposes connected therewith.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

PART I

PRELIMINARY

Introductory

1. (1) This Ordinance may be cited as the Employment Protection Ordinance 1988.

(2) This Ordinance shall come into force on such date as the Governor may appoint by notice published in the Gazette, but the Governor may so appoint different dates in respect of different provisions of this Ordinance and if he does so, nothing in this subsection shall be construed as requiring him to do so by a single notice so published.

2. (1) In this Ordinance, except so far as the context otherwise requires -

"act" and "action" each includes omission and references to doing an act or taking action shall be construed accordingly,

"business" includes a trade or profession and includes any activity carried on by a body of persons whether corporate or unincorporate,

"collective agreement" means any agreement or arrangement made by or on behalf of one

Short title and commencement. or more trade unions and one or more employers or employers' associations and relating to one or more of the following matters -

- (a) terms and conditions of employment, or the physical conditions in which workers are required to work;
- (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment of one or more workers;
- (c) allocation of work or the duties of employment as between workers or groups of workers;
- (d) matters of discipline;
- (e) facilities for trade union officials;
- (f) machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers of the right of a trade union to represent workers in any such negotiation or consultation or in the carrying out of such procedures.

"confinement" means the birth of a living child or the birth of a child whether living or dead after twenty-eight weeks of pregnancy;

"contract of employment" means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether it is oral or in writing;

"effective date of termination" has the meaning given by section 53(4) to (6);

"employee" means an individual who has entered into or works under (or where the employment has ceased worked under) a contract of employment;

"employer", in relation to an employee, means the person by whom the employee is (or, in a case where the employment has ceased, was) employed;

"employers' association" includes a combination of employers and employers' associations;

"expected week of confinement" means the week, beginning with midnight between Saturday and Sunday, in which it is expected that confinement will take place;

"the Governor" includes any other officer for the time being responsible under the Constitution for the administration of the government of the Falkland Islands, and except where otherwise permitted by the Constitution means the Governor acting in accordance with the advice of the Executive Council;

"guarantee payment" has the meaning given by section 15(1);

"independent trade union" means a trade union which ---

- (a) is not under the domination or control of an employer or a group of employers or of one or more employer's association; and
- (b) is not liable to interference by an employer or any such group or association (arising out of the provision of financial or material support or by any other means whatsoever) tending towards such control,

and, in relation to a trade union, "independent" and "independence" shall be construed accordingly;

"job", in relation to an employee, means the nature of the work which he is employed to do in accordance with his contract and the capacity and place in which he is so employed;

"maternity pay" has the meaning given by section 40(1);

"notice of intention to claim" has the meaning given by section 86(1);

"notified day of return" has the meaning given by section 45(1) and (8);

"official", in relation to a trade union, means any person who is an officer of the union or a branch or section of the union or who (not being such an officer) is a person elected or appointed in accordance with the rules of the union to be a representative of its members or of some of them, including any person so elected or appointed who is an employee of the same employer as the members, whom he is to represent;

"original contract of employment", in relation to an employee who is absent from work wholly or partly because of pregnancy or confinement, means the contract under which she worked immediately before the beginning of her absence or, if she entered into that contract during her pregnancy by virtue of section 59(2) or otherwise by reason of her pregnancy, the contract under which she was employed immediately before she entered into the later contract or, if there was more than one later contract, the first of the later contracts;

"position", in relation to an employee, means the following matters taken as a whole, the nature of his work and his terms and conditions of employment;

"redundancy payment" has the meaning given by section 79(1);

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"relevant date" for the purposes of the provisions of this Ordinance which relate to redundancy payments, has the meaning given by section 88;

"renewal" includes extension, and any reference to renewing a contract or a fixed term shall be construed accordingly;

"statutory provision" means a provision, whether of a general or a special nature, contained in, or in any document made or issued under, any statute, whether of a general or a special nature;

"successor" has the meaning given by subsections (2) and (3) of this section;

"trade dispute" means a dispute between workers and their employer which relates wholly or mainly to one or more of the things set out or described in subparagraphs (a) to (f) inclusive of the definition of "collective agreement" in this subsection;

"trade union" means an organisation (whether permanent or temporary) which consists mainly of workers of one or more descriptions and is an organisation whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' association;

"week" means, in relation to an employee whose renumeration is calculated weekly by a week ending with a day other than Saturday, a week ending with that other day, and in relation to any other employee, a week ending with Saturday.

(2) Subject to subsection (3) in this Ordinance "successor", in relation to the employer of an employee, means a person who, in consequence of a change occurring (whether by virtue of a sale or other disposition or by operation of law) in the ownership of the undertaking or of part of the undertaking for the purposes of which the employee was employed, has become the owner of that undertaking or of part of the undertaking for the purposes of which the employee was employed, has become the owner of that undertaking or of that part of it, as the case may be.

(3) Subsection (2) shall have effect (subject to the necessary modificactions) in relation to a case where -

- (a) the person by whom an undertaking or part of an undertaking is owned immediately before a change is one of the persons by whom (whether as partners, trustees, or otherwise) it is owned immediately after the change; or
- (b) the persons by whom an undertaking or part of an undertaking is owned immediately before a change (whether as partners, trustees or otherwise) include the persons by whom, or include one or more of the persons by whom, it is owned immediately after the change,

as that subsection has effect where the previous owner and the new owner are wholly different persons; and any reference in this Ordinance to a successor of an employer shall be construed accordingly.

(4) References in this Ordinance to dismissal by reason of redundancy. and to cognate expressions, shall be construed in accordance with section 79.

(5) In sections 39, 45, 54, 60 and Schedule 1, except where the context otherwise requires, "to return to work" means to return to work in accordance with section 43(1), and cognate expressions shall be contrued accordingly.

(6) For the purposes of this Ordinance, any two employers are to be treated as associated if one is a company of which the other (directly or indirectly) has control, or if both are companies of which a third person (directly or indirectly) has control; and the expression "associated employer" shall be contrued accordingly.

(7) For the purposes of this Ordinance it is immaterial whether the law which (apart from this Ordinance) governs any person's employment is the law of the Falkland Islands or not.

(8) In this Ordinance, except where otherwise indicated ---

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- (a) a reference to a numbered Part, section or Schedule is a reference to the Part or section or, or of the Schedule to, this Ordinance so numbered; and
- (b) a reference in a section to a numbered subsection of that section so numbered; and
- (c) a reference in a section, subsection or Schedule to a numbered paragraph is a reference to the paragraph of that section, subsection or Schedule so numbered.

Excluded service

3. (1) Nothing in any subsequent provision of this Ordinance shall apply to employment or service under the Crown.

(2) Without prejudice to the generality of subsection (1) above nothing in any subsequent provision of this Ordinance shall apply to -

- (a) any employment in a public office;
- (b) any employment under the Falkland Islands Development Corporation;
- (c) any employment or engagement in the Falkland Islands Defence Force;
- (d) service or employment as a member of Her Majesty's Regular armed forces or in the Royal Fleet Auxiliary; or to
- (e) service or employment under Her Majesty's Government in the United Kingdom or under the government of any other country (including service or employment under the government of any overseas territory of the United Kingdom and service under the governments of Northern Ireland, the Isle of Man, Guernsey or Jersey).

PART II

PARTICULAR TERMS OF EMPLOYMENT

Written particulars of terms of employment

4. (1) Not later than thirteen weeks after the beginning of an employee's employment with an employer, the employer shall give to the employee a written statement in accordance with the following provisions of this section.

Written particulars of terms of employment.

- (2) An employer shall in a statement under this section
 - (a) identify the parties;
 - (b) specify the date when the employment began;
 - (c) specify the date on which the employee's period of continuous employment began (taking into account any employment with a previous employer which counts towards that period).

(3) A statement under this section shall contain the following particulars of the terms of employment as at a specified date not more than one week before the statement is given, that is to say —

- (a) the scale or rate of remuneration, or the method of calculating remuneration;
- (b) the intervals at which remuneration is paid (that is, whether weekly or monthly or by some other period);
- (c) any terms and conditions relating to hours of work (including any terms and conditions relating to normal working hours);
- (d) any terms and conditions relating to --
 - (i) entitlement to holidays, including public holidays, and holiday pay (the particulars given being sufficient to enable the employee's entitlement, including any entitlement to accrued holiday pay on the termination of employment, to be precisely calculated);
 - (ii) incapacity for work due to sickness or injury, including any provision for sick pay;
 - (iii) pensions and pension schemes;
- (e) the length of notice which the employee is obliged to give and entitled to receive to determine his contract of employment; and
- (f) the title of the job which the employee is employed to do:

Provided that paragraph (d)(iii) shall not apply to the employees of any body or authority if the employees' pension rights depend on the terms of a pension scheme established under any provision contained in or having effect under any Ordinance and the body or authority are required by any such provision to give to new employees information concerning their pension rights, or concerning the determination of questions affecting their pension rights.

(4) Subject to subsection (5), every statement given to an employee under this section shall include a note -

- specifying any disciplinary rules applicable to the employee, or referring to a document which is reasonably accessible to the employee and which specifies such rules;
- (b) specifying, by description or otherwise --
 - (i) a person to whom the employee can apply if he is dissatisfied with any disciplinary decision relating to him; and
 - (ii) a person to whom the employee can apply for the purpose of seeking redress of any grievance relating to his employment,

and the manner in which any such application should be made;

- (c) where there are further steps consequent upon any such application, explaining those steps or referring to a document which is reasonably accessible to the employee and which explains them; and
- (d) stating whether a contracting-out certificate is in force for the employment in respect of which the statement is given.

(5) the provisions of paragraphs (a) to (c) of subsection (4) shall not apply to rules, disciplinary decisions, grievances or procedures relating to health or safety at work.

(6) The definition of week given by section 2(1) does not apply for the purposes of this section.

5. (1) If there are no particulars to be entered under any of the heads of paragraph (d) of subsection (3) of section 4, or under any of the other provisions of section 4(2) and (3), that fact shall be stated.

Supplementary provisions relating to statements under section 4.

(2) If the contract is for a fixed term, the statement given under section 4 shall state the date when the contract expires.

(3) A statement given under section 4 may, for all or any of the particulars to be given by the statement, refer the employee to some document which the employee has reasonable opportunities of reading in the course of his employment or which is made reasonably accessible to him in some other way.

- (4) No statement need by given under section 4 where -
 - (a) the employee's terms of employment are the same as those of earlier employment with the same employer in respect of which a statement under that section and any information subsequently required under section 6 was duly given, and
 - (b) that earlier employment ended not more than six months before the beginning of the employment in question;

but without prejudice to the operation of subsection (i) of section 6 if there is subsequently a change in the terms of employment.

6. (1) If after the date to which a statement given under section 4 relates there is a change in the terms of employment to be included, or referred to, in that statement the employer shall, not more than one month after the change, inform the employee of the nature of the change by a written statement and, if he does not leave a copy of the statement with the employee, shall preserve the statement and ensure that the employee has reasonable opportunities of reading it in the course of his employment, or that it is made reasonably accessible to him in some other way.

(2) A statement given under subsection (1) may, for all or any of the particulars to be given by the statement, refer the employee to some document which the employee has reasonable opportunities of reading in the course of his employment, or which is made reasonably accessible to him in some other way.

(3) If, in referring in the statement given under section 4 or under subsection (1) of this section to any such document, the employer indicates to the employee that future changes in the terms of which the particulars are given in the document will be entered up in the document (or recorded by some other means for the information of persons referring to the document), the employer need not under subsection (1) inform the employee of any such change if it is duly entered up or recorded not later than one month after the change is made.

(4) Where, after an employer has given to an employee a written statement in accordance with section 4

- (a) the name of the employer (whether an individual or a body corporate or partnership) is changed, without any change in the idientity of the employer; or
- (b) the identity of the employer is changed, in such circumstances that the continuity of the employee's period of employment is not broken,

and (in either case) the change does not involve any change in the terms (other than the names of the parties) included or referred to in the statement, then, the person who, immediately after the change, is the employer shall not be required to give to the employee a statement in accordance with section 4, but, subject to subsection (5), the change shall be treated as a change falling within subsection (1) of this section.

(5) A written stateament under this section which informs an employee of such a change in his terms of employment as is referred to in subsection (4)(b) shall specify the date on which the employee's period of continuous employment began.

7. Sections 4 and 6 shall not apply to an employee if and so long as the following conditions are fulfilled in relation to him, that is to say -

Exclusion of certain contracts in writing.

Changes in terms of employment.

- (a) the employee's contract of employment is a contract which has been reduced to writing in one or more documents and which contains express terms affording the particulars to be given under each of the paragraphs in subsection (3) of section 4, and under each head of paragaph (d) of that subsection;
- (b) there has been given to the employee a copy of the contract (with any variations made from time to time), or he has reasonable opportunities of reading such a copy in the course of his employment, or such a copy is made reasonably accessible to him in some other way; and
- (c) such a note as is mentioned in section 4(4) has been given to the employee or he has reasonable opportunities of reading such a note in the course of his employment or such a note is made reasonably accessible to him in some other way.

8. (1) Sections 4 to 6 shall apply to an employee who at any time comes or ceases to come within the exceptions from those sections provided for by section 7, 105, 107 or 108, or under section 109, as if his employment with his employer terminated or began at that time.

(2) Subsection (1) of section 4 shall apply to an employee who ceases to come within the exception provided by section 7 with the substitution for the words "thirteen weeks" of the words "one month".

(3) The fact that section 4 is directed to apply to an employee as if his employment began on his ceasing to come within one of the exceptions referred to in subsection (1) shall not affect the obligation under subsection (2)(b) of that section to specify the date on which his employment actually began.

9. The Governor may by order provide that section 4 shall have effect as if such further particulars as may be specified in the order were included in the particulars to be included in a statement under that section, and, for that purpose, the order may include such provisions amending section 4(1), (2) and (3) as appear to the Governor to be expedient.

Itemised pay statements

10. Every employee shall have the right to be given by his employer at or before the time at which any payment of wages or salary is made to him an itemised pay statement, in writing, containing the following particulars, that is to say -

(a) the gross amount of the wages or salary;

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- (b) the amounts of any variable and, subject to section 11, any fixed deductions from that gross amount and the purposes for which they are made;
- (c) the net amount of wages or salary payable; and
- (d) where different parts of the net amount are paid in different ways, the amount and method of payment of each part-payment.

11. (1) A pay statement given in accordance with section 10 need not contain separate particulars of a fixed deduction if it contains instead an aggregate amount of fixed deduction, including that deduction, and the employer has given to the employee, at or before the time at which that pay statement is given, a standing statement of fixed deduction, in writing, which contains the following particulars of each deduction comprised in that aggregate amount, that is to say,

- (a) the amount of the deduction;
- (b) the intervals at which the deduction is to be made; and
- (c) the purpose for which it is made,

and which, in accordance with subsection (4), is effective at the date on which the pay statement is given.

(2) A standing statement of fixed deductions may be amended, whether by addition of a new deduction or by a change in the particulars or cancellation of an existing deduction, by notice in writing, containing particulars of the amendment, given by the employer to the employee.

(3) An employer who has given to an employee a standing statement of fixed deductions shall, within the period of twelve months beginning with the date on which the first Employees becoming or ceasing to be excluded from sections 4 to 6.

Power of Governor to require futher particulars.

Rights to itemised pay statements.

Standing statement of fixed deductions. standing statement was given and at intervals of not more than twelve months thereafter, re-issue it in a consolidated form incorporating any amendments notified in accordance with subsection (2).

(4) A standing statement of fixed deductions shall become effective, for the purposes of subsection (1), on the date on which it is given to the employee and shall cease to have effect on the expiration of the period of twelve months beginning with that date, or where it is re-issued in accordance with subsection (3), the expiration of the period of twelve months beginning with the date on which it was last re-issued.

12. The Governor may by order —

- (a) vary the provisions of sections 10 and 11 as to the particulars which must be included in a pay statement or a standing statement of fixed deductions by adding items to or removing items from the particulars listed in those sections or by amending any such particulars; and
- (b) vary the provisions of section 11(3) and (4) so as to shorten or extend the periods of twelve months referred to in those subsections, or those periods as varied from time to time under this section.

Enforcement of rights under Part It

13. (1) Where an employer does not give an employee a statement as required by section 4 or 6(1) or 10, the employee may require a reference to be made to the Summary Court to determine what particulars ought to have been included or referred to in a statement so as to comply with the requirements of the relevant section.

- (2) Where -
 - (a) a statement purporting to be a statement under section 4 or 6(1); or
 - (b) a pay statement or a standing statement of fixed deductions, purporting to comply with section 10 or 11(1),

has been given to an employee, and a question arises as to the particulars which ought to have been included or referred to in the statement so as to comply with the requirements of this Part, either the employer or the employee may require that question to be referred to and determined by the Summary Court.

(3) Where a statement under section 4 or 6(1) given by an employer to an employee contains such an indication as is mentioned in section 6(3), and

- (a) any particulars purporting to be particulars of a change to which that indication relates are entered up or recorded in accordance with that indication, and
- (b) a question arises as to the particulars which ought to have been so entered up or recorded,

either the employer or the employee may require that question to be referred to and determined by the Summary Court.

(4) In this section, a question as to the particulars which ought to have been included in a pay statement, or in a standing statement of fixed deductions, does not include a question solely as to the accuracy of an amount stated in any such particulars.

(5) Where, on a referce under subsection (1), the Summary Court determines particulars as being those which ought to have been included or referred to in a statement given under section 4 or 6(1) the employer shall be deemed to have given to the employee a statement in which those particulars were included, or referred to, as specified in the decision of the Summary Court.

(6) On determining a reference under subsection (2)(a) the Summary Court may either confirm the particulars as included or referred to in the statement given by the employer, or may amend those particulars, or may substitute other particulars for them, as the court may determine to be appropriate; and the statement shall be deemed to have been given by the employer to the employee in accordance with the decision of the court.

Powers to amend sections 10 and 11.

References to Summary Court. (7) On determining a reference under subsection (3), the Summary Court may either confirm the particulars to which the reference relates, or may amend those particulars or may substitute other particulars for them, as the court may determine to be appropriate; and particulars of the change to which the reference relates shall be deemed to have been entered up or recorded in accordance with the decision of the court.

(8) Where on a reference under this section the Summary Court finds that an employer has failed to give an employee any pay statement in accordance with section 10 or that a pay statement or standing statement of fixed deductions does not, in relation to a deduction, contain the particulars required to be included in that statement by that section or section 11(1) —

- (a) the court shall make a declaration to that effect; and
- (b) where the court further finds that any unnotified deductions have been made from the pay of the employee during the period of thirteen weeks immediately preceding the date of the application for the reference (whether or not the deductions were made in breach of the contract of employment), the court may order the employer to pay the employee a sum not exceeding the aggregate of the unnotified deductions so made.

In this subsection "unnotified deduction" means a deduction made without the employer giving the employee, in any pay statement or standing statement of fixed deductions, the particulars of that deduction required by section 10 or 11(1).

(9) The Summary Court shall not entertain a reference under this section in a case where the employment tot which the reference relates has ceased unless an application requiring the reference to be made was made before the end of the period of three months beginning with the date on which the employment ceased.

Transitional

14. Where an employee's employment began before the commencement of section 4(1), that provision shall apply with the substitution of the words "the commencement of this section" for the words "the beginning of an employee's employment" appearing therein.

PART III

RIGHTS ARISING IN COURSE OF EMPLOYMENT

Guarantee Payments

15. (1) Where an employee throughout a day during any part of which he would normally be required to work in accordance with his contract of employment is not provided with work by his employer by reason of -

Rights to guarantee employment.

- (a) a diminution in the requirement of the employer's business for work of the kind which the employee is employed to do, or
- (b) any other occurrence affecting the normal working of the employers's business in relation to work of the kind which the employee is employed to do,

he shall, subject to the following provisions of this Ordinance be entitled to be paid by his employer a payment, referred to in this Ordinance as a guarantee payment, in respect of that day, and in this section and sections 16 and 19 -

- (i) such a day is referred to as a "workless day", and
- (ii) "workless period" has a corresponding meaning.

(2) In this section and sections 16 to 20, "day" means the period of twenty-four hours from midnight to midnight, and where a period of employment begun on any day extends over midnight in to the following day, or would normally so extend, then —

- (a) if the employment before midnight is, or would normally be, of longer duration than that after midnight, that period of employment shall be treated as falling wholly on the first day, and
- (b) in any other case, that period of employment shall be treated as falling wholly on the second day.

16. (1) An employee shall not be entitled to a guarantee payment unless he has been continuously employed for a period of not less than one month ending with the day before that in respect of which the guarantee payment is claimed.

- (2) An employee who is employed
 - (a) under a contract for a fixed term of three months or less, or
 - (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months,

shall not be entitled to a guarantee payment unless he has been continuously employed for a period of more than three months ending with the day before that in respect of which the guarantee payment is claimed.

(3) An employee shall not be entitled to a guarantee payment in respect of a workless day if the failure to provide him with work occors in consequence of a strike, lockout or other industrial action involving any employee of his employer or of an associated employer.

(4) An employee shall not be entitled to a guarantee payment in respect of a workless day if -

- (a) his employer has offered to provide alternative work for that day which is suitable in all the circumstances whether or not work which the employee is under his contract employed to perform, and the employee has unreasonably refused that offer; or
- (b) he does not comply with reasonable requirements imposed by his employer with a view to ensuring that his services are available.

17. (1) Subject to the limits set by section 18, the amount of a guarantee payment payable to an employee in respect of any day shall be the sum produced by multiplying the number of normal working hours on that day by the guaranteed hourly rate, and accordingly, no guarantee payment shall be payable to an employee in whose case there are no normal working hours on the day in question.

(2) Subject to subsection (3), the guaranteed hourly rate in relation to an employee shall be the amount of one week's pay divided by, -

- (a) the number of normal working hours in a week for that employee when employed under the contract of employment in force on the day in respect of which the guarantee payment is payable; or
- (b) where the number of such normal working hours differs from week to week or over a longer period, the average number of such hours calculated by dividing by twelve the total number of the employee's normal working hours during the period of twelve weeks ending with the last complete week before the day in respect of which the guarantee payment is payable; or
- (c) in a case falling within paragraph (b) but where the employee has not been employed for a sufficient period to enable the calculation to be made under that paragraph, a number which fairly represents the number of normal working hours in a week having regard to such of the following considerations as are appropriate in the circumstances, that is to say —
 - (i) the average number of normal working hours in a week which the employee could expect in accordance with the terms of his contract;
 - (ii) the average number of such hours of other employees engaged in relevant comparable employment with the same employer.

(3) If in any case an employee's contract has been varied, or a new contract has been entered into, in connection with a period of short-time working, subsection (2) shall have effect as if for the reference to the day in respect of which the guarantee payment is payable there was substituted a reference to the last day on which the original contract was in force.

18. (1) The amount of a guarantee payment payable to an employee in respect of any day shall not exceed £15.

(2) An employee shall not be entitled to guarantee payments in respect of more than the specified number of days in any period of three months.

(3) The specified number of days for the purposes of subsection (2) shall be, subject to subsection (4), -

(a) the number of days, not exceeding five, on which the employee normally works in a week under the contract of employment in force on the day in respect of which the guarantee payment is claimed; or Limits on amount of and entitlement to guarantee payment.

Calculation of guarantee payment.

- (b) where that number of days varies from week to week or over a longer period, the average number of such days, not exceeding five, calculated by dividing by twelve the total number of such days during the period of twelve weeks ending with the last complete week before the day in respect of which the guarantee payment is claimed, and rounding up the resulting figure to the next whole number; or
- (c) in a case falling within paragraph (b) but where the employee has not been employed for a sufficient period to enable the calculation to be made under that paragraph, a number which fairly represents the number of the employee's normal working days in a week, not exceeding five, having regard to such of the following considerations as are appropriate in the circumstances, that is to say —
 - (i) the average number of normal working days in a week which the employee could expect in accordance with the terms of his contract;
 - (ii) the average number of such days of other employees engaged in relevant comparable employment with the same employer.

(4) If in any case an employee's contract has been varied, or a new contract has been entered into, in connection with a period of short-time working, subsection (3) shall have effect as if for the references to the day in respect of which the guarantee payment is claimed there were substituted references to the last day on which the original contract was in force.

(5) The Governor may by order vary any of the limits referred to in this section, and may in particular vary the length of the period referred to in subsection (2).

19. (1) Subject to subsection (2), a right to a guarantee payment shall not affect any right to an employee in relation to remuneration under his contract of employment (in this section referred to as "contractual remuneration").

(2) Any contractual remuneration paid to an employee in respect of a workless day shall go towards discharging any liability of the employer to pay a guarantee payment in respect of that day, and conversely any guarantee payment paid in respect of a day shall go towards discharging any liability of the employer to pay contractual remuneration in respect of that day.

(3) For the purposes of subsection (2), contractual remuneration shall be treated as paid in respect of a workless day -

- (a) where it is expressed to be calculated or payable by reference to that day or any part of that day, to the extent that it is so expressed; and
- (b) in any other case, to the extent that it represents guaranteed remuneration, rather than remuneration for work actually done, and is referable to that day when apportioned rateably between that day and any other workless period falling within the period in respect of which the remuneration is paid.

(4) The Governor may by order provide that in relation to any description of employees the provisions of sections 15(2), 17 and 18(3) (as originally enacted or as varied under section 18(5)) and of subsections (1) to (3), and, so far as they apply for the purposes of those provisions, the provisions of Schedule 6 shall have effect subject to such modifications and adaptations as may be described by the order.

20. (1) An employee may present a complaint to the Summary Court that his employer has failed to pay the whole or any part of a guarantee payment to which the employee is entitled.

(2) The Summary Court shall not entertain a complaint relating to a guarantee payment in respect of any day unless the complaint is presented to the court before the end of the period of three months beginning with that day or within such further period as the court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

(3) Where the Summary Court finds a complaint under subsection (1) well-founded, the court shall order the employer to pay the complainant the amount of guarantee payment which it finds is due to him.

21. (1) If at any time there is in force a collective agreement whereby employees to whom the agreement relates have a right to guaranteed remuneration and on application of all parties to the agreement who, in the circumstances of the case are relevant parties, the Governor, having regard to the provisions of the agreement is satisfied that section 15 should not apply to those employees he may make an order under this section excluding those employees from the operation of that section.

Supplementary provisions relating to guarantee payments.

Complaint to the Summary Court.

Exemption Orders. (2) The Governor shall not make an order under this section in respect of an agreement unless —

- (a) the agreement provides for procedures to be followed (whether by arbitration or otherwise) in cases where an employee claims that his employer has failed to pay the whole or any part of any guaranteed remuneration to which the employee is entitled under the agreement, and that those procedures include a right to arbitration or adjudication by an independent referee or body in cases where (by reason of an equality of votes or otherwise) a decision cannot otherwise be reached; or
- (b) the agreement indicates that an employee to whom the agreement relates may present a complaint to the Summary Court that his employer has failed to pay the whole or any part of any guaranteed remuneration to which the employee is entitled under the agreement;

and where an order under this section is in force in respect of such an agreement as is described in paragraph (b) the Summary Court shall have jurisdiction over such a complaint as if it were a complaint falling within section 20.

(3) An order under this section may be varied or revoked by a subsequent order thereunder, whether in pursuance of an application made by all or any of the relevant parties to the agreement in question, or without any such application.

Suspension from work on medical grounds

22. (1) An employee who is suspended from work by his employer on medical grounds in consequence of -

- Right to remuneration or suspension on medical grounds.
- (a) any requirement imposed by or under any provision of any enactment or of any instrument made under any enactment; or
- (b) any recommendation of a Government Medical Officer or made pursuant to any code of practice issued or approved under any provision of any legislation dealing with health and safety at work,

shall subject to the following provisions of this Ordinance, be entitled to be paid by his employer remuneration while he is so suspended for a period not exceeding twenty-six weeks.

(2) For the purposes of this section and sections 23 to 25 and 60, an employee shall be regarded as suspended from work only if, and so long as, he continues to be employed by his employer, but is not provided with work or does not perform the work he normally performed before the suspension.

23. (1) An employee shall not be entitled to remuneration under section 22 unless he has been continuously employed for a period of not less than one month ending with the day before that on which the suspension begins.

General exclusion from rights under section 22.

- (2) An employee who is employed
 - (a) under a contract for a fixed term of three months or less, or
 - (b) under a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months,

shall not be entitled to remuneration under section 22 unless he has been continuously employed for a period of more than three months ending with the day before that on which the suspension begins.

(3) An employee shall not be entitled to remuneration under section 22 in respect of any period during which he is incapable of work by reason of disease or bodily or mental disablement.

(4) An employee shall not be entitled to remuneration under section 22 in respect of any period during which -

(a) his employer has offered to provide him with suitable alternative work, whether or not work which the employee is under his contract, or was under the contract in force before the suspension, employed to perform, and the employee has unreasonbly refused to perform that work; or (b) he does not comply with reasonable requirements imposed by his employer with a view to ensuring that his services are available.

24. (1) The amount of remuneration payable by an employer to an employee under section 22 shall be a week's pay in respect of each week of the period of suspension referred to in subsection (1) of that section, and if in any week remuneration is payable in respect only of part of that week the amount of a week's pay shall be reduced proportionately.

(2) Subject to subsection (3), a right to remuneration under section 22 shall not affect any right of an employee in relation to remuneration under his contract of employment (in this section referred to as "contractual remuneration").

(3) Any contractual remuneration paid by an employer to an employee in respect of any period shall go towards discharging the employer's liability under section 22 in respect of that period, and conversely any payment of remuneration in discharge of an employer's liability under section 22 in respect of any period shall go towards discharging any obligation of the employer to pay contractual remuneration in respect of that period.

25. (1) An employee may present a complaint to the Summary Court that his employer has failed to pay the whole or any part of remuneration to which the employee is entitled under section 22.

(2) The Summary Court shall not entertain a complaint relating to remuneration under section 22 in respect of any day unless the complaint is presented to the court before the end of the period of three months beginning with that day, or within such further period as the court considers reasonable in a case where it considers it was not reasonably practicable for the complaint to be presented within the period of three months.

(3) Where the Summary Court finds a complaint under subsection (1) well-founded the Summary Court shall order the employer to pay the complainant the amount of remuneration which it finds is due to him.

Trade union membership and activities

26. (1) Subject to the following provisions of this section, every employee shall have the right not to have action (short of dismissal) taken against him as an individual by his employer for the purpose of -

- (a) preventing or deterring him from being or seeking to become a member of an independent trade union, or penalising him for doing so; or
- (b) preventing or deterring him from taking part in the activities of an independent trade union at any appropriate time, or penalising him for doing so; or
- (c) compelling him to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions.

(2) Every employee shall also have the right not to have action (short of dismissal) taken against him for the purpose of enforcing a requirement (whether or not imposed by his contract of employment or in writing) that, in the event of his failure to become or his ceasing to remain a member of any trade union or of a particular trade union or of one of a number of particular trade unions, he must make one or more payments.

(3) For the purposes of this section, any deduction made by an employer from the remuneration payable to an employee of his in respect of that employee's employment shall, if the deduction is attributable to the employee's failure to become or his ceasing to remain a member of any trade union or of a particular trade union or of one or a number of particular trade unions, be treated as if it were action (short of dismissal) taken against the employee for the purpose of enforcing a requirement of a kind mentioned in subsection (2).

(4) In this section "appropriate time", in relation to an employee taking part in any activities of a trade union, means time which either -

- (a) is outside his working hours, or
- (b) is a time within his working hours at which, in accordance with arrangements agreed with, or consent given by his employer, it is permissible for him to take part in those activities,

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Calculation of

remuneration.

Complaint to Summary Court.

Trade union activities. and in this subsection "working hours", in relation to an employee, means any time when, in accordance with his contract of employment, he is required to be at work.

(5) In this section, unless the context otherwise requires, references to a trade union include references to a branch or section of a trade union.

27. (1) An employee may present a complaint to the Summary Court on the ground that acation has been taken against him by his employer in contravention of section 26.

^t (2) The Summary Court shall not entertain a complaint under subsection (1) unless it is presented to the Court before the end of the period of three months beginning with the date on which there occurred the action complained of, or where that action is part of a series of similar actions, the last of those actions, or within such further period as the court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

(3) Where the court finds the complaint well-founded it shall make a declaration to that effect and may make an award of compensation, calculated in accordance with section 29 to be paid by the employee in respect of the action complained of.

28. (1) On a complaint under section 27 if shall be for the employer to show the purpose for which action was taken against the complainant.

(2) In determining a complaint under section 27, any question as to whether action was taken by the complainant's employer or the purpose for which it was taken, no account shall be taken of any pressure which, by calling, organising, procuring or financing a strike or other industrial action, or threatening to do so, was exercised on the employer to take the action complained of, and that question shall be determined as if no such pressure had been exercised.

29. (1) The amount of the compensation awarded by the Summary Court on a complaint under section 27 shall be such amount as the tribunal considers just and equitable in all the circumstances having regard to the infringement of the complainant's right under section 26 by the employer's action complained of and to any loss sustained by the complainant which is attributable to that action.

- (2) The said loss shall be taken to include -
 - (a) any expenses reasonably incurred by the complainant in consequence of the action complained of; and
 - (b) loss of any benefit which he might reasonably be expected to have had but for that action.

(3) In ascertaining the said loss the Summary Court shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law of England and Wales.

(4) In determining the amount of compensation to be awarded under subsection (1), no account shall be taken of any pressure as is referred to in section 28(2), and that question shall be determined as if no such pressure had been exercised.

(5) Where the tribunal finds that the action complained of was to any extent caused or contributed to by any action of the complainant it shall reduce the amount of the compensation by such proportion as it considers just and equitable having regard to that finding.

- 30. (1) Where -
 - (a) complaint is presented to the Summary Court under section 27 on the ground that action has been taken against the complainant by his employer for the purpose of compelling him to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions, and
 - (b) either the employer or the complainant claims in proceedings before the court that the employer was induced to take the action by pressure which a trade union or other person exercised on the employer by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so,

Awards against third parties.

Assessment of compensation on a complaint under section

Supplementary

provisions relating to

complaints under section

27.

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Complaint to Summary Court. the employer or the complainant may request the court to direct that the person who he claims exercised the pressure be joined as a party to the proceedings.

(2) A request under subsection (1) shall be granted if it is made before the hearing of the complaint begins, but may be refused if it is made after that time; and no such request may be made after the Summary Court has made a declaration under section 27(3).

(3) Where a person has been joined as a party to proceedings before the Summary Court by virtue of subsection (1), and the court -

(a) makes an award of compensation, but

(b) finds that the claim mentioned in subsection (1) is well-founded,

the award may be made against that person instead of against the employer, or partly against that person and partly against the employer, as the court may consider just and equitable in the circumstances.

Time off work

33. (1) An employer shall permit an employee of his who is an official of an independent trade union recognised by him to take time off, subject to and in accordance with subsection (2), during the employee's working hours for the purpose of enabling him to carry out those duties of his as such an official which are concerned with industrial relations between his employee and any associated employer, and their employees.

Time off for carrying out trade union duties.

(2) The amount of time off which an employee is to be permitted to take under this section and the purposes for which, the occasions on which and any conditions subject to which time off may be so taken are those that are reasonable in all the circumstances.

(3) An employer who permits an employee to take time of f under this section for any purpose shall, subject to the following provisions of this section, pay him for the time taken of f for that purpose in accordance with the permission —

- (a) where the employee's remuneration for the work he would ordinarily have been doing during that time does not vary with the amount of work done, as if he had worked at that work for the whole of that time;
- (b) where the employee's remuneration for that work varies with the amount of work done, an amount calculated by reference to the average hourly earnings for that work.

(4) The average hourly earnings referred to in subsection (3)(b) shall be the average hourly earnings of the employee concerned or, if no fair estimate can be made of those earnings, the average hourly earnings for work of that description of persons in comparable employment with the same employer or, if there are no such persons, a figure of average hourly earnings which is reasonable in the circumstances.

(5) Subject to subsection (6), a right to be paid any amount under subsection (3) shall not affect any right of an employee in relation to remuneration under his contract of employment (in this section referred to as "contractual remuneration").

(6) Any contractual remuneration paid to an employee in respect of a period of time off to which subsection (1) applies shall go towards discharging any liability of the employer under subsection (3) in respect of that period, and conversely any payment of any amount under subsection (3) in respect of a period shall go towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

(7) An employee who is an official of an independent trade union recognised by his employer may present a complaint to the Summary Court that his employer has failed to permit him to take time off as required by this section or to pay him the whole or part of any amount so required to be paid.

32. (1) An employer shall permit an employee of his who is a member of an appropriate trade union to take time off, subject to and in accordance with subsection (3), during the employee's working hours for the purpose of taking part in any trade union activity to which this section applies.

Time off for trade union activities. (2) In this section "appropriate trade union", in relation to an employee of any description, means an independent trade union which is recognised by his employer in respect of that description of employee, and the trade union activities to which this section applies are —

- (a) any activities of an appropriate trade union of which the employee is a member; and
- (b) any activities, whether or not falling within paragraph (a), in relation to which the employee is acting as a representative of such union,

excluding activities which themselves consist of industrial action whether or not in contemplation or furtherance of a trade dispute.

(3) The amount of time off which an employee is to be permitted to take under this section and the purposes for which, the occasions on which and any conditions subject to which time off may be so taken are those that are reasonable in all the circumstances.

(4) An employee who is a member of an independent trade union recognised by his employer may present a complaint to the Summary Court that his employer has failed to permit him to take time off as required by this section.

33. (1) An employer shall permit an employee of his who is --

Time off for public duties.

(a) a member of the Legislative Council;

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- (b) a member of the Falkland Islands Development Corporation;
- (c) a justice of the peace or a magistrate,

to take time off, subject to and in accordance with subsection (3), during the employee's working hours for the purposes of performing any of the duties of his office or, as the case maybe, his duties as such member.

(2) For the purposes of subsection (1) the duties of a member of a body therein referred to are -

- (a) attendance at a meeting of the body or of any of its committees or sub-committees or subsidiaries and
- (b) the doing of any other thing approved by the body, or anything of a class so approved, for the purpose of the discharge of the functions of the body or of any of its committees or sub-committees but, in the case of a member of the Legislative Council, this shall not include anything done in connection with any election of any person to be a member of that Council or any meetings or discussions with constituents whom the member represents.

(3) The amount of time off which an employee is to be permitted to take under this section and the occasions on which and any conditions subject to which time off may be so taken are those that are reasonable in all the circumstances having regard, in particular, to the following: -

- (a) how much time off is required for the performance of the duties of the office or as a member of the body in question, and how much time off is required for the performance of the particular duty;
- (b) how much time off the employee has already been permitted under this section or sections 31 and 32;
- (c) the circumstances of the employer's business and the effect of the employee's absence on the running of that business.
- (4) The Governor may by order -
 - (a) modify the provisions of subsection (1) by adding any office or body to, or removing any office or body from, that subsection or by altering the description of any office or body in that subsection; and
 - (b) modify the provisions of subsection (2).

(5) An employee may present a complaint to the Summary Court that his employer has failed to permit him to take time off as required by this section.

34. (1) An employer shall permit an employee of his who is -

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- (a) summoned to appear before any court to give evidence or to produce any document or other thing;
- (b) summoned to attend at any court for the purpose of serving as a juror in any proceedings pending before that court,

to take time off during the employee's working hours for that purpose.

(2) An employer shall permit an employee of his who is summoned or otherwise required to attend before any court as a defendant to any criminal proceedings to take time off during the employee's working hours for that purpose.

(3) An employer who contravenes subsection (1) or subsection (2), in addition to any other liability at law he may have, and whether under this Ordinance or otherwise, commits an offence and is liable on conviction to imprisonment for three months or to a fine of \pounds 5000 or both,

(4) Where an employee who is, a parent or guardian has the custody of another person under the age of eighteen years, who has been summoned or otherwise required to attend before a court as a defendant to any criminal proceedings, subsections (2) and (3) shall apply as if the employee himself were that defendant.

(5) Where an employee is a party to civil proceedings in any court subsection (1)(b) and subsection (2) shall apply as if he had been summoned for the purpose of serving as a juror in those proceedings during such time as he is absent from work for the purpose of attending court.

(6) An employee may present a complaint to the Summary Court that his employer has failed to permit him to take time off as required by this section.

35. (1) An employer shall permit an employee who wishes to absent himself from work for the purpose of seeking medical or dental attention to take time off, subject to subsection (3), during the employee's working hours for that purpose.

(2) Subsection (1) also applies in respect of an employee who wishes to take time off for the purpose of accompanying another person under the age of sixteen years of whom he is a parent or guardian or of whom he has custody, while that person seeks medical or dental attention.

(3) An employer does not contravene subsection (1) or (2), if, having regard to the exigencies of his business he requires the employee to postpone his absence to a later time during the same day and such postponement is reasonable having regard to —

- (a) the said exigencies;
- (b) the urgency of the medical or dental attention; and
- (c) the availability of the medical or dental attention sought at the time to which the employer wishes to postpone the employee's absence.

(4) An employer who contravenes subsection (1) or subsection (2), commits an offence and is liable on conviction to imprisonment for three months or to a fine of \pounds 5000 or both.

36. (1) The Summary Court shall not consider —

- (a) a complaint under section 31, 32, 33 or 34 that an employer has failed to permit an employee to take time off; or
- (b) a complaint under section 31 that an employer has failed to pay an employee the whole or any part of any amount required to be paid under section 31;

unless it is presented within three months of the date when the failure occurred or within such further period as the court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

Time off for the purpose of seeking medical or dental attention.

Time off for for attendance at a court.

Provision as to Summary Court. (2) Where the Summary Court finds any complaint mentioned in subsection (1)(a) wellfounded, the court shall make a declaration to that effect and may make an award of compensation to be paid by the employer to the employee which shall be of such amount as the court considers just and equitable in all the circumstances having regard to the employer's default in failing to permit time off to be taken by the employee and to any loss sustained by the employee which is attributable to the matters complained of.

(3) Where on a complaint under section 31 the Summary Court finds that the employer has failed to pay the employee the whole or part of the amount required to be paid under that section, the court shall order the employer to pay the employee the amount which it finds due to him.

37. (1) An employee who is pregnant and who has, on the advice of a Government medical officer, Government midwife or Government health visitor, made an appointment to attend at any place for the purpose of receiving ante-natal care shall, subject to the following provisions of this section, have the right not to be unreasonably refused time off during her working hours to enable her to keep the appointment.

(2) Subject to subsection (3), an employer shall not be required by virtue of this section to permit an employee to take time off to keep an appointment unless, if he requests her to do so, she produces for his inspection -

- (a) a certificate from a Governmental Medical Officer, Government midwife or Government health visitor stating that the employee is pregnant; and
- (b) an appointment card or some other document showing that the appointment has been made.

(3) Subsection (2) shall not apply where the employee's appointment is the first appointment during her pregnancy for which she seeks permission to take time off in accordancae with subsection (1).

(4) An employee who is permitted to take time off during her working hours in accordance with subsection (1) shall be entitled to be paid remuneration by her employer for the period of absence at the appropriate hourly rate.

(5) The appropriate hourly rate in relation to an employee shall be the amount of one week's pay divided by --

- (a) the number of normal working hours in a week for that employee when employed under the contract of employment in force on the day when the time off is taken; or
- (b) where the number of such normal working hours differs from week to week or over a longer period, the average number of such hours calculated by dividing by twelve the total number of the employee's normal working hours during the period of twelve weeks ending with the last complete week before the day on which the time off is taken; or
- (c) in a case falling within paragraph (b) but where the employee has not been employed for a sufficient period to enable the calculation to be made under that paragraph, a number which fairly represents the number of normal working hours in a week having regard to such of the following considerations as are appropriate in the circumstances, that is to say —
 - (i) the average number of normal working hours in a week which the employee could expect in accordance with the terms of her contract;
 - (ii) the average number of such hours of other employees engaged in relevant comparable employment with the same employer.

(6) An employee may present a complaint to the Summary Court that her employer has unreasonably refused her time off as required by this section or that he has failed to pay her the whole or part of any amount to which she is entitled under subsection (4).

(7) The Summary Court shall not entertain a complaint under subsection (6) unless it is presented within the period of three months beginning with the day of the appointment concerned, or within such further period as the court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

Time off for ante natal care. (8) Where on a complaint under subsection (6) the Summary Court finds the complaint well-founded it shall make a declaration to that effect; and

- (a) if the complaint is that the employer has unreasonably refused the employee time off, the court shall order the employer to pay to the employee an amount equal to the remuneration to which she would have been entitled under subsection (4) if the time off had not been refused; and
- (b) if the complaint is that the employer has failed to pay the employee the whole or part of any amount to which she is entitled under subsection (4), the court shall order the employer to pay to the employee the amount which it finds due to her.

(9) Subject to subsection (10), a right to any amount under subsection (4) shall not affect any right of an employee in relation to remuneration under her contract of employement (in this section referred to as "contractual remuneration").

(10) Any contractual remuneration paid to an employee in respect of a period of time off under this section shall go towards discharging any liability of the employer to pay remuneration under subsection (4) in respect of that period, and conversely any payment of remuneration under subsection (4) in respect of a period shall go towards discharging any liability of the employer to pay contractual remuneration in respect of that period.

38. (1) For the purposes of sections 31 to 37 -

Provisions supplimentary to sections 31 to 37.

- (a) a trade union shall be treated as recognised if it is recognised for the purposes of collective bargaining; and
- (b) the working hours of an employee shall be taken to be any time when, in accordance with his contract of employment, he is required to be at work.
- (2) In subsection (1) -

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"collective bargaining" means negotiations related to or connected with one or more of the following matters —

- (a) terms or conditions of employment, or the physicial conditions in which any workers are required to work;
- (b) engagement or non-engagement, or termination or suspension of employment or the duties of employment, of one or more workers;
- (c) allocation of work or the duties of employment as between workers or groups of workers;
- (d) matters of discipline;
- (e) the membership or non-membership of a trade union on the part of a worker;
- (f) facilities for officials of trade unions;
- (g) machinery for negotiation or consultation, and other procedures, relating to any of the foregoing matters, including the recognition by employers or employers' associations of the right of a trade union to represent workers in any such negotiation or in the carrying out of such procedures.

"recognised" means recognised by an employer or two or more associated employers, to any extent for the purpose of collective bargaining.

PART IV

MATERNITY

General provisions

39. (1) An employee who is absent from work wholly or partly because of pregnancy or confinement shall, subject to the following provisions of this Ordinance —

(a) be entitled to be paid by her employer a sum to be known as maternity pay; and

(b) be entitled to return to work.

Right of employee in respect of pregnancy and confinement. (2) Schedule 1 shall have effect for the purpose of supplementing the following provisions of this Ordinance in relation to an employee's right to return to work.

(3) An employee shall be entitled to the rights referred to in subsection (1) whether or not a contract of employment subsists during the period of her absence but, subject to subsection (6), she shall not be so entitled unless -

- (a) she continues to be employed by her employer (whether or not she is at work) until immediatley before the beginning of the eleventh week before the expected week of confinement;
- (b) she has at the beginning of that eleventh week been continuously employed for a period of not less than two years;
- (c) in the case of the right to maternity pay, she informs her employer, in writing if he so requests, at least twenty-one days before her absence begins or, if that is not reasonably practicable, as soon as reasonably practicable, that she will be (or is) absent from work wholly or partly because of pregnancy or confinement; and
- (d) in the case of the right to return, she informs her employer in writing at least twenty-one days before her absence begins, or if that is not reasonably practicable, as soon as reasonably practicable
 - that she will be (or is) absent from work wholly or partly because of pregnancy or confinement,
 - (ii) that she intends to return to work with her employer, and
 - (iii) of the expected week of confinement or, if the confinement has occurred, the date of confinement.

(4) Where not earlier than forty-nine days after the beginning of the expected week of confinement (or the date of confinement) notified under subsection (3)(d) an employee is requested in accordance with subsection (5) by her employer or a successor of his to give him written confirmation that she intends to return to work, she shall not be entitled to the right to return unless she gives that confirmation within fourteen days of receiving the request or, if that is not reasonably practicable, as soon as reasonably practicable.

(5) A request under subsection (4) shall be made in writing and shall be accompanied by a written statement of the effect of that subsection.

(6) An employee who has been dismissed by her employer for a reason falling within section 59(1)(a) or (b) and has not been re-engaged in accordance with that section, shall be entitled to the rights referred to in subsection (1) of this section notwithstanding that she has thereby ceased to be employed before the beginning of the eleventh week before the expected week of confinement if, but for that dismissal, she would at the beginning of that eleventh week have been continuously employed for a period of not less than two years, but she shall not be entitled to the right to return unless she informs her employer (in writing if he so requests), before or as soon as reasonably practicable after the dismissal takes

effect, that she intends to return to work with him.

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In this subsection "dismiss" and "dismissal" have the same meaning as they have for the purposes of Part VI.

(7) An employee shall not be entitled to either of the rights referred to in subsection (1) unless, if requested to do so by her employer, she produces for his inspection a certificate from a Government medical officer or a Government midwife stating the expected week of confinement.

(8) The Governor may by order vary the periods of two years referred to in subsection (3) and (6), or those periods as varied from time to time under this subsection, but no such order shall be made unless a draft of the order has been laid before the Legislative Council and approved by resolution of the Legislative Council.

Maternity pay

40. (1) Maternity pay shall be paid in respect of a period not exceeding, or periods not exceeding in the aggregate, six weeks during which the employee is absent from work wholly or partly because of pregnancy or confinement (in this section and sections 41 and 42 referred to as the payment period or payment periods).

(2) An employee shall not be entitled to maternity pay for any absence before the beginning of the elventh week before the expected week of confinement, and her payment period or payment periods shall be the first six weeks of absence starting on or falling after the beginning of that eleventh week.

(3) The Governor may by order vary the periods of six weeks referred to in subsections (1) and (2), or those periods as varied from time to time under this subsection, but no such order shall be made unless a draft of the order has been laid before the Legislative Council and approved by resolution of the Legislative Council.

(4) Where an employee gives her employer the information required by section 39(3)(c) or produces any certificate requested under section 39(7) after the beginning of the payment period or the first of the payment periods, she shall not be entitled to maternity pay for any part of that period until she gives him that information or certificate, but on giving him the information or, as the case may be, producing the certificate, she shall be entitled to be paid in respect of that part of the period or periods which fell before the giving of the information or the production of the certificate.

41. (1) The amount of maternity pay to which an employee is entitled as respects any week shall be nine-tenths of a week's pay.

Calculation of maternity pay.

(2) Maternity pay shall accrue due to an employee from day to day and in calculating the amount of maternity pay payable for any day -

(a) there shall be disregarded Sunday; and

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(b) the amount payable for any other day shall be taken as one-sixth of the amount of the maternity of the maternity pay for the week in which the day falls.

(3) Subject to subsection (4), a right to maternity pay shall not affect any right of an employee in relation to remuneration under any contract of employment (in this section referred to as "contractual remuneration").

(4) Any contractual remuneration paid to an employee in respect of a day within a payment period shall go towards discharging any liability of the employer to pay maternity pay in respect of that day, and conversely any maternity pay paid in respect of a day shall go towards discharging any liability of the employer to pay contractual remuneration in respect of that day.

(5) The Governor may by order amend subsection (1) above -

- (a) by substituting for the fraction of nine-tenths referred to there, or the fraction as substituted from time to time under this subsection, such greater fraction as he considers appropriate; or
- (b) by deleting the reference to a fraction.

(6) No order shall be made under subsection (5) above unless a draft of the order has been laid before the Legislative Council and approved by a resolution of the Legislative Council.

42. (1) A complaint may be presented to the Summary Court by an employee against her employer that he has failed to pay her the whole or any part of the maternity pay to which she is entitled.

Complaint to Summary Court.

(2) The Summary Court shall not entertain a complaint under subsection (1) unless it is presented to the court before the end of the period of three months beginning with the last day of the payment period or, as the case may be, the last of the payment periods, or within such further period as the court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented within the period of three months.

(3) Where the Summary Court finds a complaint under subsection (1) well-founded, the court shall order the employer to pay the complainant the amount of maternity pay which it finds is due to her.

Right to return to work

43. (1) The right to return to work of an employee who has been absent from work wholly or partly because of pregnancy or confinement is, subject to the following provisions of this Ordinance, a right to return to work with her original employer, or, where appropriate, his successor, at any time before the end of the period of twenty-nine weeks beginning with the week in which the date of confinement falls, in the job in which she was employed under the original contract of employment and on terms and conditions not less favourable than those which would have been applicable to her if she had not been so absent.

(2) In subsection (1) "terms and conditions not less favourable than those which would have been applicable to her if she had not been so absent" means, as regards seniority, pension rights and other similar rights, that the period or periods of employment prior to the employee's absence shall be regarded as continuous with her employment following that absence.

(3) If an employee is entitled to return to work in accordance with subsection (1), but it is not practicable by reason of redundancy for the employer to permit her so to return to work she shall be entitled, where there is a suitable available vacancy, to be offered alternative employment with her employer (or his successor), or an associated employer, under a new contract of employment complying with subsection (4).

(4) The new contract of employment must be such that --

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- (a) the work to be done under the contract is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances; and
- (b) the provisions of the new contract as to the capacity and place in which she is to be employed and as to the other terms and conditions of her employment are not substantially less favourable to her than if she had returned to work in accordance with subsection (1).

44. The remedies of an employee for infringement of either of the rights mentioned in section 43 are those conferred by or by virtue of the provisions of sections 45, 54 and 84 and Schedule 1.

45. (1) An employee shall exercise her right to return to work by giving written notice to the employer (who may be her original employer or a successor of that employer) at least twenty-one days before the day on which she proposes to return of her proposal to return on that day (in this section referred to as the "notified day of return").

(2) An employer may postpone an employee's return to work until a date not more than four weeks after the notified day of return if he notifies her before that day that for specified reasons he is postponing her return until that date, and accordingly she will be entitled to return to work with him on that date.

- (3) Subject to subsection (4), an employee may -
 - (a) postpone her return to work until a date not exceeding four weeks from the notified day of return, notwithstanding that that date falls after the end of the period of twenty-nine weeks mentioned in section 43(1); and
 - (b) where no day of return has been notified to the employer, extend the time during which she may exercise her right to return in accordance with subsection (1), so that she returns to work not later than four weeks from the expiration of the said period of twenty-nine weeks,

if before the notified day of return or, as the case may be, the expiration of the period of twenty-nine weeks she gives the employer a certificate from a Government medical officer stating that by reason of disease or bodily or mental disablement she will be incapable of work on the notified day of return or the expiration of that period, as the case may be.

(4) Where an employee has once exercised a right of postponement or extension under subsection (3)(a) or (b), she shall not again be entitled to exercise a right of postponement or extension under that subsection in connection with the same return to work.

Right to return to work.

Enforcement of rights under section 43.

Exercise of right to return to work. (5) If an employee has notified a day of return but there is an interruption of work (whether due to industrial action or some other reason) which renders it unreasonable to expect the employee to return to work on the notified day of return, she may instead return to work when work resumes after the interruption or as soon as reasonably practicable thereafter.

(6) If no day of return has been notified and there is an interruption of work (whether due to industrial action or some other reason) which renders it unreasonable to expect the employee to return to work before the expiration of the period of twenty-nine weeks referred to in section 43(1), or which appears likely to have that effect, and in consequence the employee does not notify a day of return, the employee may exercise her right to return in accordance with subsection (1) so that she returns to work at any time before the end of the period of twenty-eight days from the end of the interruption notwithstanding that she returns to work outside the said period of twenty-nine weeks.

(7) Where the employee has either —

- (a) exercised the right under subsection (3)(b) to extend the period during which she may exercise her right to return; or
- (b) refrained from notifying the day of return in the circumstances described in subsection (6),

the other of those subsections shall apply as if for the reference to the expiration of the period of twenty-nine weeks there were substituted a reference to the expiration of the further period of four weeks or, as the case may be, of the period of (twenty-eight) days from the end of the interruption of work.

- (8) Where
 - (a) an employee's return is postponed under subsection (2) or (3)(a), or
 - (b) the employee returns to work on a day later than the notified day of return in the circumstances described in subsection (5),

then, subject to subsection (4), references in those subsections and in sections 54 and 84 and Schedule 1 to the notified day of return shall be construed as references to the day to which the return is postponed or, as the case may be, that later day.

46. (1) An employee who has a right both under this Ordinance and under a contract of employement, or otherwise, to return to work, may not exercise the two rights separately but may in returning to work take advantage of whichever right is, in any particular respect, the more favourable.

(2) The provisions of sections 43, 44, 45, 54 and 84 and paragraphs 1 to 4 and 6 of Scheldule 1 shall apply, subject to any modifications necessary to give effect to any more favourable contractual terms, to the exercise of the composite right described in subsection (1) as they apply to the exercise of the right to return conferred solely by this Part.

PART V

TERMINATION OF EMPLOYMENT

47. (1) The notice required to be given by an employer to terminate the contract of employment of a person who has been continuously employed for one month or more —

- (a) shall be not less than one week's notice if his period of continuous employment is less than two years;
- (b) shall be not less than one week's notice for each year of continuous employment if his period of continuous employment is two years or more but less than twelve years; and
- (c) shall be not less than twelve week's notice if his period of continuous employment is twelve years or more.

(2) The notice required to be given by an employee who has been continuously employed for one month or more to terminate his contract of employment shall be not less than one week.

Contractual right to return to work.

Rights of employer and employee to minimum period of notice. (3) Any provision for shorter notice in any contract of employment with a person who has been continuously employed for one month or more shall have effect subject to the foregoing subsections, but this section shall not be taken to prevent either party from waiving his right to notice on any occasion, or from accepting a payment in lieu of notice.

(4) Any contract of employment of a person who has been continuously employed for three months or more which is a contract for a term certain of one month or less shall have effect as if it were for an indefinite period and, accordingly, subsections (1) and (2) shall apply to the contract.

(5) Subsections (1) and (2) do not apply to a contract made in contemplation of the performance of a specific task which is not expected to last for more than three months unless the employee has been continuously employed for a period of more than three months.

(6) It is hereby declared that this section does not affect any right of either party to treat the contract as terminable without notice by reason of such conduct by the other party as would have enabled him so to treat it before the passing of this Ordinance.

(7) The definition of week given by section 2(1) does not apply for the purposes of this section.

48. (1) If an employer gives notice to terminate the contract of employment of a person who has been continuously employed for one month or more, the provisions of Schedule 2 shall have effect as respects the liability of the employer for the period of notice required by section 47(1).

(2) If an employee who has been continuously employed for one month or more gives notice to terminate his contract of employment, the provisions of Schedule 2 shall have effect as respects the liability of the employer for the period of notice required by section 47(2).

(3) This section shall not apply in relation to a notice given by the employer or the employee if the notice to be given by the employer to terminate the contract must be at least one week more than the notice required by section 47(1).

49. If an employer fails to give the notice required by section 47, the rights conferred by section 48 (with Schedule 2) shall be taken into account in assessing his liability for breach of the contract.

50. Sections 47 and 48 shall apply in relation to a contract all or any of the terms of which are terms which take effect by virtue of any provision contained in or having effect under any statute as they apply in relation to any other contract; and the reference in this section to a statute includes, subject to any express provision to the contrary, a statute made or passed after this Ordinance.

51. (1) An employee shall be entitled -

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- (a) if he is given by his employer notice of termination of his contract of employment;
- (b) if his contract of employment is terminated by his employer without notice; or
- (c) if, where he is employed under a contract for a fixed term, that term expires without being renewed under the same contract,

to be provided by his employer, on request, within fourteen days of that request, with a written statement giving particulars of the reasons for his dismissal.

(2) An employee shall not be entitled to a written statement under subsection (1) unless on the effective date of termination he has been, or will have been, continuously employed for a period of six months ending with that date.

(3) A written statement provided under this section shall be admissible in evidence in any proceedings.

(4) A complaint may be presented to the Summary Court by an employee against his employer on the ground that the employer unreasonably refused to provide a written statement under subsection (1) or that the particulars of reasons given in purported compliance with that subsection are inadequate or untrue, and if the court finds the complaint well-founded -

Measure of damages in proceedings against employers.

Statutory contract.

Written state-

ment of reasons for.

Rights of employee in period of notice.

- (a) it may make a declaration as to what it finds the employer's reasons were for dismissing the employee; and
- (b) it shall make an award that the employer pay to the employee a sum equal to the amount of two weeks' pay.

(5) The Summary Court shall not entertain a complaint under this section relating to the reasons for a dismissal unless it is presented to the court at such a time that the court would, in accordance with sections 65(2) or (4), entertain a complaint of unfair dismissal in respect of that dismissal presented at the same time.

PART VI

UNFAIR DISMISSAL

Right not to be unfairly dismissed

52. (1) In every employment to which this section applies every employee shall have the right not to be unfairly dismissed by his employer.

(2) This section applies to every employment except insofar as its application is excluded by section 3 or by or under any provision of this Part.

Meaning of unfair dismissal

53. (1) In this Part, except as respects a case to which section 54 applies, "dismissal" and "dismiss" shall be construed in accordance with the following provisions of this section.

(2) Subject to subsection (3), an employee shall be treated as dismissed by his employer if, but only if, -

- (a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice, or
- (b) where under that contract he is employed for a fixed term, that term expires without being renewed under the same contract, or
- (c) the employee terminates that contract, with or without notice, in circumstances such that he is entitled to terminate it without notice by reason of the employer's conduct.

(3) Where an employer gives notice to an employee to terminate his contract of employment and, at a time within the period of that notice, the employee gives notice to the employer to terminate the contract of employment on a date earlier than the date on which the employer's notice is due to expire, the employee shall for the purposes of this Part be taken to be dismissed by this employer, and the reasons for the dismissal shall be taken to be the reasons for which the employer's notice is given.

(4) In this Part "the effective date of termination" -

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- (a) in relation to an employee whose contract of employment is terminated by notice, whether given by his employer or by the employee, means the date on which that notice expires;
- (b) in relation to an employee whose contract of employment is terminated without notice, means the date on which the termination takes effect; and
- (c) in relation to an employee who is employed under a contract for a fixed term, where that term expires without being renewed under the same contract, means the date on which that term expires.

(5) Where the contract of employment is terminated by the employer and the notice required by section 47 to be given by an employer would, if duly given on the material date, expire on a date later than the effective date of termination (as defined by subsection (4) then, for the purposes of section 51(2), 63(1)(a), 64 and 71(3) and paragraph 8(3) of Schedule 6, the later date shall be treated as the effective date of termination in relation to the dismissal.

- (6) Where the contract of employment is terminated by the employee and
 - (a) the material date does not fall during a period of notice given by the employer to terminate that contract; and
 - (b) had the contract been terminated not by the employee but by notice given on the material date by the employer, that notice would have been required by section 47 to expire on a date later than the effective date of termination (as defined by subsection (4)),

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Right of employee not to be unfairly dismissed.

Meaning of dismissal.

then, for the purposes of sections 63(1)(a), 64 and 71(3) and paragraph 8(3) of Schedule 6, the later date shall be treated as the effective date of termination in relation to the dismissal.

- (7) "Material date" means ---
 - (a) in subsection (5), the date when notice of termination was given by the employer or (where no notice was given) the date when the contract of employment was terminated by the employer; and
 - (b) in subsection (6), the date when notice of termination was given by the employee or (where no notice was given) the date when the contract of employment was terminated by the employee.

54. Where an employee is entitled to return to work and has exercised her right to return in accordance with section 45 but is not permitted to return to work, then subject to section 55 she shall be treated for the purposes of this Part as if she had been employed until the notified day of return, and, if she would not otherwise be so treated, as having been continuously employed until that day, and as if she had been dismissed with effect from that day for the reason for which she was not permitted to return.

55. (1) Section 54 shall not apply in relation to an employee if -

- (a) immediately before her absence began the number of employees employed by her employer, added to the number employed by any associated employer of his, did not exceed five, and
- (b) it is not reasonably practicable for the employer (who may be the same employer or a successor of his) to permit her to return to work in accordance with section 43(1), or for him or an associated employer to offer her employment under a contract of employment satisfying the conditions specified in subsection (3).
- (2) Section 54 shall not apply in relation to an employee if -
 - (a) it is not reasonably practicable for a reason other than redundancy for the employer (who may be the same employer or a successor of his) to permit her to return to work in accordance with section 43(1), and
 - (b) he or an associated employer offers her employment under a contract of employment satisfying the conditions specified in subsections (3), and
 - (c) she accepts or unreasonably refuses that offer.
- (3) The conditions referred to in subsections (1) and (2) are -
 - (a) that the work to be done under the contract is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances; and
 - (b) that the provisions of the contract as to the capacity and place in which she is to be employed and as to the other terms and conditions of her employment are not substantially less favourable to her than if she had returned to work in accordance with section 43(1).

(4) Where on a complaint of unfair dismissal any question arises as to whether the operation of section 54 is excluded by subsection (1) or (2), it shall be for the employer to show that the provisions of that subsection were satisfied in relation to the complainant.

56 (1) In determining for the purposes of this Part whether the dismissal of an employee was fair or unfair, it shall be for the employer to show -

- (a) what was the reason (or, if there was more than one, the principal reason) for the dismissal, and
- (b) that it was a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held.

Failure to permit woman to return to work after confinement treated as dismissal.

Exclusion of section 54 in certain cases. (2) In subsection (1)(b) the reference to a reason falling within this subsection is a reference to a reason which -

- (a) related to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do, or
- (b) related to the conduct of the employee, or
- (c) was that the employee was redundant, or
- (d) was that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.

(3) Where the employer has fulfilled the requirements of subsection (1), then, subject to sections 57 to 61, the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee; and that question shall be determined in accordance with equity and the substantial merits of the case.

(4) In this section, in relation to an employee, -

- (a) "capability" means capability assessed by reference to skill, aptitude, health or any other physical or mental quality;
- (b) "qualifications" means any degree, diploma or any other academic, technical or professional qualification relevant to the position which the employee held.

57. (1) The dismissal of an employee by an employer shall be regarded for the purposes of this Part as having been unfair if the reason for it (or, if more than one, the principal reason) was that the employee -

Dismissal relating to trade union membership.

- (a) was, or proposed to become, a member of an independent trade union, or
- (b) had taken part, or proposed to take part, in activities of an independent trade union at an appropriate time, or
- (c) was not a member of any trade union, or of a particular trade union, or of one of a number of particular trade unions, or had refused or proposed to refuse to become or remain a member.

(2) In subsection (1) "an appropriate time", in relation to an employee taking part in the activities of a trade union, means a time which either -

- (a) is outside his working hours, or
- (b) is a time within his working hours at which, in accordance with arrangements agreed with or consent given by his employer, it is permissible for him to take part in those activities;

and in this subsection "working hours", in relation to an employee, means any time when, in accordance with his contract of employment, he is required to be at work.

58. Where the reason or principal reason for the dismissal of an employee was that he was redundant, but it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by him and who have not been dismissed by the employer, and either -

- (a) that at the reason (or, if more than one, the principal reason) for which he was selected for dismissal was one of those specified in section 57(1); or
- (b) that he was selected for dismissal in contravention of a customary arrangement or agreed procedure relating to redundancy and there were no special reasons justifying a departure from that arrangement or procedure in his case,

then, for the purposes of this Part, the dismissal shall be regarded as unfair.

59. (1) An employee shall be treated for the purposes of this Part as unfairly dismissed if the reason or principal reason for her dismissal is that she is pregnant or is any other reason connected with her pregnancy, except one of the following reasons -

Dismissed on ground of pregnancy.

Dismissal on ground of

redundancy.

(a) that at the effective date of termination she is or will have become, because of her pregnancy, incapable of adequately doing the work which she is employed to do; 292

(b) that, because of her pregnancy, she cannot or will not be able to continue after that date to do that work without contravention (either by her or her employer) of a duty or restriction imposed by or under any enactment.

(2) An employee shall be treated for the purposes of this Part as unfairly dismissed if her employer dismisses her for a reason mentioned in subsection (1)(a) or (b), but neither he nor any successor of his, where there is a suitable available vacancy, makes her an offer before or on the effective date of termination to engage her under a new contract of employment complying with subsection (3).

(3) The new contract of employment must -

- (a) take effect immediately on the ending of employment under the previous contract, or, where that employment ends on a Friday, Saturday or Sunday, on or before the next Monday after that Friday, Saturday or Sunday;
- (b) be such that the work to be done under the contract is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances; and
- (c) be such that the provisions of the new contract as to the capacity and place in which she is to be employed and as to the other terms and conditions of her employment are not substantially less favourable to her than the corresponding provisions of the previous contract.

(4) On a complaint of unfair dismissal on the ground of failure to offer to engage an employee as mentioned in subsection (2), it shall be for the employer to show that he or a successor made an offer to engage her in compliance with subsections (2) and (3) or, as the case may be, that there was no suitable available vacancy for her.

(5) Section 53(3) shall not apply in a case where an employer gives notice to an employee to terminate her contract of employment for a reason mentioned in subsection (1)(a) or (b).

60. (1) Where an employer -

Dismissal of replacement.

- (a) on engaging an employee informs the employee in writing that his employment will be terminated on the return to work of another employee who is, or will be, absent wholly or partly because of pregnancy or confinement; and
- (b) dismisses the first-mentioned employee in order to make it possible to give work to the other employee;

then, for the purposes of section 56(1)(b), but without prejudice to the application of section 56(3), the dismissal shall be regarded as having been for a substantial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held.

2 Where an employer ----

- (a) on engaging an employee informs the employee in writing that his employment will be terminated on the end a suspension such as referd to in section 56(1)(b) of another employee; and
- (b) dismisses the first-mentioned employee in order to make it possible to resume his original work;

then, for the puposes of section 56(1)(b), but without prejudice to the application of section 56(3), the dismissal shall be regarded as having been for a substancial reason of a kind such as to justify the dismissal of an employee holding the position which that employee held.

61. (1) The provisions of this section shall have effect in relation to an employee (the "complainant") who claims that he has been unfairly dismissed by his employer where at the date of dismissal -

Dismissal in connection with lock-out strike or other industrial action.

- (a) the employer was conducting or instituting a lock-out, or
- (b) the complainant was taking part in a strike or other industrial action.

(2) In such a case the Summary Court shall not determine whether the dismissal was fair or unfair unless it is shown —

(a) that one or more relevant employees of the same employer have not been dismissed, or

(b) that any such employee has, before the expiry of the period of three months beginning with that employee's date of dismissal, been offered re-engagement and that the complainant has not been offered re-engagement.

(3) Where it is shown that the condition referred to in paragraph (b) of subsection (2) is fulfilled, the provisions of sections 56 to 59 shall have effect as if in those sections for any reference to the reason or principal reason for which the complainant was dismissed there were substituted a reference to the reason or principal reason of which he has not been offered re-engagement

- (4) In this section
 - (a) "date of dismissal" means -
 - (i) where the employee's contract of employment was terminated by notice, the date on which the employer's notice was given, and
 - (ii) in any other case, the effective date of termination;
 - (b) "relevant employees" means -
 - (i) in relation to a lock-out, employees who were directly interested in the dispute in contemplation or furtherance of which the lock-out occurred, and
 - (ii) in relation to a strike or other industrial action, those employees at the establishment who were taking part in the action at the complainant's date of dismissal;

"establishment", in sub-paragraph (ii), meaning that establishment of the employer at or from which the complainant works; and

(c) any reference to an offer of re-engagement is a reference to an offer (made either by the original employer or by a successor of that employer or an associated employer) to re-engage an employee, either in the job which he held immediately before the date of dismissal or in a different job which would be reasonably suitable in his case.

62. In determining, for the purposes of this Part any question as to the reason, or principal reason, for which an employee was dismissed or any question whether the reason or principal reason for which an employee was dismissed was a reason fulfulling the requirements of section 56(1)(b) or whether the employer acted reasonably in treating it as a sufficient reason for dismissing him, -

- (a) no account shall be taken of any pressure which, by calling, organising, procuring or financing a strike or other industrial action, or threatening to do so, was exercised on the employer to dismiss the employee, and
- (b) any such question shall be determined as if no such pressure had been exercised.

Exclusion of section 52

63. (1) Subject to subsection (3), section 5 does not apply to the dismissal of an employee from any employment if the employee -

Qualifying period and upper age limit.

Pressure on

employer to dismiss unfairly.

- (a) was not continuously employed for a period of not less than two years ending with the effective date of termination, or
- (b) on or before the effective date of termination attained the age which, in the undertaking in which he was employed, was the normal retiring age for an employee holding the position which he held, or, if a man, attained the age of sixty-five, or if a woman, attained the age of sixty.

(2) If an employee is dismissed by reason of any such requirement or recommendation as is referred to in section 22(1), subsection (1)(a) shall have effect in relation to that dismissal as if for the words "two years" there were substituted the words "one month".

(3) Subsection (1) shall not apply to the dismissal of an employee if it is shown that the reason (or, if more than one, the principal reason) for the dismissal was one of those specified in section 57(1)

64. (1) Subject to subsection (2), section 52 does not apply for the dismissal of an employee from any employment if -

(a) the period (ending with the effective date of termination) during which the employee was continuously employed did not exceed two years; and

Extended qualifying period where no more than twenty employees. (b) at no time during that period did the number of employees employed by the employer for the time being of the dismissed employee, added to the number employed by any associated employer, exceed twenty.

(2) Subsection (1) shall not apply to the dismissal of an employee by reason of any such requirement or recommendation as is referred to in section 22(1), or if it is shown that the reason (or, if more than one, the principal reason) for the dismissal was one of those specified in section 57 (1)

Remedies for unfair dismissal

65. (1) A complaint may be presented to the Summary Court against an employer by any person (in this Part referred to as the complainant) that he was unfairly dismissed by the employer.

(2) Subject to subsection (4) the Summary Court shall not consider a complaint under this section unless it is presented to the Court before the end of the period of three months beginning with the effective date of termination or within such further period as the court considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of three months.

(3) Subsection (2) shall apply in relation to a complaint to which section 61(3) applies as if -

- (a) for the references to three months there were substituted, in each case, a reference to six months; and
- (b) as if for the reference to the effective date of termination there were substituted a reference to the complainant's date of dismissal (within the meaning of section 61(4)).

(4) The Summary Court shall consider a complaint under this section if, where the dismissal is with notice, the complaint is presented after the notice is given notwithstanding that it is presented before the effective date of termination and in relation to such a complaint the provisions of this Ordinance, so far as they relate to unfair dismissal, shall have effect —

- (a) as if references to a complaint by a person that he was unfairly dismissed by his employer included references to a complaint by a person that his employer has given him notice in such circumstances that he will be unfairly dismissed when the notice expires;
- (b) as if references to reinstatement included references to the withdrawal of the notice by the employer;
- (c) as if references to the effective date of termination included references to the date which would be the effective date of termination on the expiry of the notice; and
- (d) as if references to an employee ceasing to be employed included references to an employee having been given notice of dismissal.

66. (1) Where on a complaint under section 65 the Summary Court finds that the grounds of the complaint are well-founded, it shall explain to the complainant what orders for reinstatement or re-engagement may be made under section 67 and in what circumstances they may be made, and shall ask him whether he wishes the court to make such an order, and if he does express such a wish the court may make an order under section 67.

(2) If on a complaint under section 65 the court finds that the grounds of the complaint are well-founded and no order is made under section 67, the Summary Court shall make an award of compensation for unfair dismissal, calculated in accordance with sections 70 to 75, to be paid by the employer to the employee.

67. (1) An order under this section may be an order for reinstatement (in accordance with subsections (2) and (3) or an order for re-engagement in accordance with subsections (4)), as the Summary Court may decide, and in the latter case may be on such terms as the court may decide.

Order for reinstatement or re-engagement.

Complaint to Summary Court.

Remedies for unfair dismissal. (2) An order for reinstatement is an order that the employer shall treat the complain ant in all respects as if he had not been dismissed, and on making such an order the court shall specify —

- (a) any amount payable by the employer in respect of any benefit which the complainant might reasonably be expected to have had but for the dismissal including arrears of pay, for the period between the date of termination of employment and the date of reinstatement;
- (b) any rights and privileges, including seniority and pension rights, which must be restored to the employee; and
- (c) the date by which the order must be complied with.

(3) Without prejudice to the generality of subsection (2), if the complainant would have benefitted from an improvement in his terms and conditions of employement had he not been dismissed, an order for reinstatement shall require him to be treated as if he had benefitted from that improvement from the date on which he would have done so but for being dismissed.

(4) An order for re-engagement is an order that the complainant be engaged by the employer, or by a successor of the employer or by an associated employer, in employment comparable to that from which he was dismissed or other suitable employment, and on making such an order the court shall specify the terms on which re-engagement is to take place including -

(a) the identity of the employer;

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- (b) the nature of the employment;
- (c) the remuneration for the employment;
- (d) any amount payable by the employer in respect of any benefit which the complainant might reasonably be expected to have had but for the dismissal, including arrears of pay, for the period between the date of termination of employment and the date of re-engagement;
- (e) any rights and privileges, including seniority and pension rights, which must
 be restored to the employee; and
- (f) the date by which the order must be complied with.

(5) In exercising its discretion under this section the court shall first consider whether to make an order for reinstatement and in so doing shall take into account the following considerations, that is to say -

- (a) whether the complainant wishes to be reinstated;
- (b) whether it is practicable for the employer to comply with an order for reinstatement;
- (c) where the complainant caused or contributed to some extent to the dismissal, whether it would be just to order his reinstatement.

(6) If the court decides not to make an order for reinstatement it shall then consider whether to make an order for re-engagement and if so on what terms; and in so doing the court shall take into account the following considerations, that is to say —

- (a) any wish expressed by the complainant as to the nature of the order to be made;
- (b) whether it is practicable for the employer or, as the case may be, a successor or associated employer to comply with an order for re-engagement;
- (c) where the complainant caused or contributed to some extent to the dismissal, whether it would be just to order his re-engagement and if so on what terms;

and except in a case where the court takes into account contributory fault under paragraph (c) it shall, if it orders re-engagement, do so on terms which are, so far as is reasonably practicable, as favourable as an order for reinstatement.

68. (1) Where in any case an employer has engaged a permanent replacement for a dismissed employee, the court shall not take that fact into account in determining, for the purposes of subsection (5)(b) or (6)(b) of section 67, whether it is practicable to comply with an order for reinstatement or re-engagement unless the employer shows -

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(a) that it was not practicable for him to arrange for the dismissed employee's work to be done without engaging a permanent replacement; or

(b) that he engaged the replacement after the lapse of a reasonable period, without having heard from the dismissed employee that he wished to be reinstated or re-engaged, and that when the employer engaged the replacement it was not longer reasonable for him to arrange for the dismissed employee's work to be done except by a permanent replacement.

(2) In calculating for the purpose of subsection (2)(a) or (4)(d) of section 67 any amount payable by the employer, the court shall take into account, so as to reduce the employers's liability, any sums received by the complainant in respect of the period between the date of termination of employment and the date of reinstatement or engagement by way of —

- (a) wages in lieu of notice or ex gratia payments paid by the employer;
- (b) remuneration paid in respect of employment with another employer;

and such other benefits as the court thinks appropriate in the circumstances.

69. (1) If an order under section 67 is made and the complainant is reinstated or, as the case may be, re-engaged but the terms of the order are not fully complied with, then, subject to section 73, the Summary Court shall make an award of compensation, to be paid by the employer to the employee, of such amount as the court thinks fit having regard to the loss sustained by the complainant in consequence of the failure to comply fully with the terms of the order.

(2) Subject to subsection (1), if an order under section 67 is made but the complainant is not reinstated or, as the case may be, re-engaged in accordance with the order -

- (a) the court shall make an award of compensataion for unfair dismissal, calculated in accordance with sections 70 to 75, to be paid by the employer to the employee; and
- (b) except in a case in which the dismissal is to be regarded as unfair by virtue of section 57 or 58(a) or in which the employer satisfies the court that it was not practicable to comply with the order, the court shall make an additional award of compensation to be paid by the employer to the employee of an amount not less than thirteen nor more than twenty-six week's pay.

(3) Where in any case an employer has engaged a permanant replacement for a dismissed employee the court shall not take that fact into account in determining, for the purposes of subsection (2)(b) whether it was practicable to comply with the order for reinstatement or re-engagement unless the employer shows that it was not practicable for him to arrange for the dismissed employee's work to be done without engaging a permanent replacement.

(4) Where in any case the Summary Court makes an award of compensation for unfair dismissal, calculated in accordance with sections 70 to 75, and the tribunal finds that the complainant has unreasonably prevented an order under section 67 from being complied with, it shall, without prejudice to the generality of section 72(4), take that conduct into account as a failure in the part of the complainant to mitigate his loss.

Amount of compensation

70. (1) Where the Summary Court makes an award of compensation for unfair dismissal under section 66(2) or 69(2)(a) the award shall consist of —

Compensation for unfair dismissal.

- (a) a basic award (calculated in accordance with section 71); and
- (b) a compensatory award (calculated in accordance with section 72), and
- where the dismissal is to be regarded as unfair by virtue of section 57 or 58(a), a special award (calculated in accordance with section 75);

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provisions relating to section 67.

Enforcement of section 67 order

and compen-

sation.

but paragraph (c) shall not apply unless the complainant requested the court to make an order under section 67, and shall not in any event apply in a case within section 73(2).

(2) Where the Summary Court makes an award of compensation for unfair dismissal under section 66(2) or 69(2)(a) and the dismissal is to be regarded as unfair by virtue of section 57 or 58(a), the court, in considering whether if would be just and equitable to reduce. or further reduce, the amount of any part of the award, shall disregard any conduct or action of the complainant in so far as it constitutes a breach, or proposed breach of any requirement falling within subsection (3);

(3) A requirement falls within this subsection if it is imposed on the complainant in question by or under any arrangement and requires him -

- (a) to be or become a member of any trade union or of a particular trade union or of one of a number of particular trade unions;
- (b) to cease to be, or refrain from becoming, a member of any trade union or of a particular trade union or of one of a number of particular trade unions; or
- (c) not to take part in the activities of any trade union or of a particular trade union or of one of a number of particular trade unions.

71. (1) The amount of the basic award shall be the amount calculated in accordance with subsection (3) to (6), subject to --

Calculation of basic award.

- (a) subsection (2) of this section (which provides for an award of two weeks' pay in certain redundancy cases);
- (b) subsection (9) (which provides for the amount of the award to be reduced where the employee has unreasonably refused an offer of re-instatement)
- (c) subsection (10) (which provides for the amount of the award to be reduced because of the employee's misconduct); and
- (d) subsection (12) (which provides for the amount of the award to be reduced where the employee received a payment in respect of redundancy.

(2) The amount of the basic award shall be two weeks' pay where the count finds that the reason or principal reason for the dismissal of the employee was that he was redundant and the employee -

(3) The amount of the basic award shall be calculated by reference to the period, ending with the effective date of termination, during which the employee has been continuously employed, by starting at the end of that period and reckoning backwards the numbers of years of employment falling within that period, and allowing -

- (a) one and a half week's pay for each such year of employment in which the employee was not below the age of forty-one;
- (b) one week's pay for each year of employment not falling within paragraph(a) in which the employee was not below the age of twenty-two; and
- (c) half a week's pay for each such year of employment not falling within either of paragraphs (a) and (b).

(4) Where, in reckoning the number of years of employment in accordance with subsection (3), twenty years of employment have been reckoned no account shall be taken of any year of employment earlier than those twenty years.

(5) Where the dismissal is to be regarded as unfair by virtue of section 57 or 58(a), the amount of the basic award (before any reduction under the following provisions of this section) shall not be less than $\pounds 2,100$.

(6) The Governor may by order increase or further increase the minimum award provided for by subsection (5), but no order shall be made under this subsection unless a draft of the order has been laid before the Legislative Council and approved by a resolution of the Legislative Council.

(7) Where in the case of an employee the effective date of termination is after the specified anniversary the amount of the basic award calculated in accordance with subsections (3) and (4) shall be reduced by the appropriate fraction.

(8) In subsection (7) "the specified anniversary" in relation to a man means the sixty-fourth anniversary of the day of his birth, and in relation to a woman means the fify-ninth anniversary of the day of her birth, and "the appropriate fraction" means the fraction of which -

- (a) the numerator is the number of whole months reckoned from the specified anniversary in the period beginning with that anniversary and ending with the effective date of termination; and
- (b) the denominator is twelve.

(9) Where the court finds that the complainant has unreasonably refused an offer by the employer which if accepted would have the effect of reinstating the complainant in his employment in all respects as if he had not been dismissed, the court shall reduce or further reduce the amount of the basic award to such extent as it considers just and equitable having regard to that finding.

(10) Where the court considers that any conduct of the complainant before the dismissal (or, where the dismissal was with notice, before the notice was given) was such that it would be just and equitable to reduce or further reduce the amount of the basic award to any extent, the tribunal shall reduce or further reduce that amount accordingly.

(11) Subsection 10 shall not apply where the reason or principal reason for the dismissal was that the employee was redundant unless the dismissal is to be regarded as unfair by virtue of section 58(a), and in that event shall apply only to so much of the basic award as is payable because of subsection (5).

(12) The amount of the basic award shall be reduced or, as the case may be, be further reduced, by the amount of any redundancy payment awarded by the court under Part VII in respect of the same dismissal or of any payment made by the employer to the employee on the ground that the dismissal was by reason of redundancy, whether in pursuance of Part VII or otherwise.

72. (1) Subject to sections 73 and 74, the amount of the compensatory award shall be such amount as the court considers just and equitable in all the circumstances having regard to the loss sustained by the complainant in consequence of the dismissal in so far as that loss is attributable to action taken by the employer.

Calculation of compensatory award.

(2) The said loss shall be taken to include -

- (a) any expenses reasonably incurred by the complainant in consequence of the dismissal, and
- (b) subject to subsection (3), loss of any benefit which he might reasonably be expected to have had but for the dismissal.

(3) The said loss, in respect of any loss of any entitlement or potential entitlement to, or expectation or, a payment on account of dismissal by reason of redundancy, whether in pursuance of Part VII or otherwise, shall include only the loss referable to the amount, if any, by which the amount of that payment would have exceeded the amount of a basic award (apart from any reduction under section 71(9) to (12)) in respect of the same dismissal.

(4) In ascertaining the said loss the court shall apply the same rule concerning the duty of a person to mitigate his loss as applies to damages recoverable under the common law.

(5) In determining, for the purposes of subsection (1), how far any loss sustained by the complainant was attributable to action taken by the employer no account shall be taken of any pressure which, by calling, organising, procuring or financing a strike or other industrial action, or threatening to do so, was exercised on the employer to dismiss the employee, and that question shall be determined as if no such pressure had been exercised.

(6) Where the Court finds that the dismissal was to any extent caused or contributed to by any action of the complainant it shall reduce the amount of the compensatory award by such proportion as it considers just and aquitable having regard to that finding.

(7) If the amount of any payment made by the employer to the employee on the ground that the dismissal was by reason of redundancy, whether in pursuance of Part VII or otherwise, exceedes the amount of the basic award which would be payable but for section 71(12) that excess shall go to reduce the amount of the compensatory award.

73. (1) The amount of compensation awarded to a person under section 69(1) or of a compensatory award to a person calculated in accordance with section 72 shall not exceed £10,000.

(2) The Governor may by order increase the said limit of £10,000 or that limit as from time to time increased under this subsection, but no such order shall be made unless a draft of the order has been laid before the Legislative Council and approved by a resolution of the Legislative Council.

(3) It is hereby declared for the avoidance of doubt that the limit imposed by this section applies to the amount which the Summary Court would, apart from this section, otherwise award in respect of the subject matter of the complaint after taking into account any payment made by the respondent to the complainant in respect of that matter and any reduction in the amount of the award required by any enactment or rule of law.

74. (1) Subject to the following provisions of this section, the amount of the special award shall be -

- (a) one week's pay multiplied by 104, or
- (b) £12.500

whichever is the greater, but shall not exceed £25,000.

(2) If the award of compensation is made under section 69(2)(a) then, unless the employer satisfies the court that it was not practicable to comply with the preceding order under section 67, the amount of the special award shall be increased to —

- (a) one week's pay multiplied by 156, or
- (b) £18,750,

whichever is the greater, but subject to the following provisions of this section.

(3) In a case where the amount of the basic award is reduced under section 71(7), the amount of the special award shall be reduced by the same fraction.

(4) Where the court considers that any conduct of the complainant before the dismissal (or, where the dismissal was with notice, before the notice was given) was such that it would be just and equitable to reduce or further reduce the amount of the special award to any extent, the court shall reduce or further reduce that amount accordingly.

(5) Where the court finds that the complainant has unreasonably -

- (a) prevented an order under section 67 from being complied with; or
- (b) refused an offer by the employer (made otherwise than in compliance with such an order) which if accepted would have the effect of reinstating the complainant in his employment in all respects as if he had not been dismissed;

the court shall reduce or further reduce the amount of the special award to such extent as it considers just and equitable having regard to that finding.

(6) Where the employer has engaged a permanent replacement for the complainant, the court shall not take that fact into account in determining, for the purposes of subsection (2), whether it was practicable to comply with an order under section 67 unless the employer shows that it was not practicable for him to arrange for the complainant's work to be done without engaging a permanent replacement.

(7) The Governor may by order increase any of the sums of £12,500, £25,000 and £18,750 specified in subsections (1) and (2), or any of those sums as from time to time increased under this subsection, but no such order shall be made unless a draft of the order has been laid before the Legislative Council and approved by a resolution of the Legislative Council.

75. (1) If in proceedings before the Summary Court on a complaint against an employer under section 65 either the employer or the complainant claims -

Awards against third parties.

 that the employer was induced to dismiss the complainant by pressure which a trade union or other person exercised on the employer by calling, organising, procuring or financing a strike or other industrial action, or by threatening to do so, and Limit on com-

Calculation of special award.

(b) that the pressure was exercised because the complainant was not a member of any trade union or of a particular trade union or of one of a number of particular trade unions,

the employer or the complainant may request the court to direct that the person who he claims exercised the pressure be joined as a party to the proceedings.

(2) A request under subsection (1) shall be granted if it is made before the hearing of the complaint begins, but may be refused if it is made after that time; and no such request may be made after the tribunal has made an award under section 66(2) or an order under section 67.

(3) Where a person has been joined as a party to proceedings before a court by virtue of subsection (1) and the court -

- (a) makes an award of compensation under section 66(2) or 69(2)(a) or (b), but
- (b) finds that the claim mentioned in subsection (1) is well-founded,

the award may be made against that person instead of against the employer, or partly against that person and partly against the employer, as the court may consider just and equitable in the circumstances.

Interim relief

76. (1) An employee who presents a complaint to the Summary Court under section 65 alleging that the dismissal is to be regarded as unfair by virtue of section 57 may apply to the court for an order under the following provisions of this section.

Interim relief pending determination of complaint of unfair dismissal.

- (2) The Summary Court shall not entertain an application under this section unless -
 - (a) it is presented to the court before the end of the period of seven days immediately following the effective date of termination (whether before, on or after that date); and
 - (b) in a case in which the employee relies on section 57(1)(a) or (b) before the end of that period there is also so presented a certificate in writing signed by an authorised official of the independent trade union of which the employee was or had proposed to become a member stating that on the date of the dismissal the employee was or had proposed to become a member of the union and that there appear to be reasonable grounds for supposing that the reason for his dismissal (or, if more than one, the principal reason) was one alleged in the complaint.

(3) The Summary Court shall determine an application under this section as soon as practicable after receiving the application and where appropriate the relevant certificate, but shall give at the appropriate time -

- (a) to the employer; and
- (b) in the case of a section 75 request made at least three days before the date of the hearing, to the person to whom the request relates;

a copy of the application and certificate (if any) together with notice of the date, time and place of the hearing.

(4) In subsection (3) -

"appropriate time" means -

- (a) in relation to paragraph (a), not later than seven days before the date of the hearing;
- (b) in relation to paragraph (b), as soon as reasonably practicable; and

"section 75 request" means a request made under section 75(1) for the court to direct a person to be joined as a party to the proceedings.

(5) The Summary Court shall not exercise any power it has of postponing the hearing in the case of an application under this section except where the court is satisfied that special circumstances exist which justify it in doing so. (6) If on hearing an application under this section it appears to the Summary Court that it is likely that on determining the complaint to which the application relates the court will find that the complainant is by virtue of section 57 to be regarded as having been unfairly dismissed, the court shall announce its findings and explain to both parties (if present) what powers the court may exercise on an application under this section and in what circumstances it may exercise them, and shall ask the employer (if present) whether he is willing, pending the determination or settlement of the complaint —

- (a) to reinstate the employee, that is to say, to treat the employee in all respects as if he had not been dismissed; or
- (b) if not, to re-engage him in another job on terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed.

(7) In subsection (6) "terms and conditions not less favourable than those which would have been applicable to him if he had not been dismissed" means, as regards seniority, pension rights and other similar rights, that the period prior to the dismissal shall be regarded as continuous with his employment following the dismissal.

(8) If the employer states that he is willing to reinstate the employee, the court shall make an order to that effect.

(9) If the employer states that he is willing to re-engage the employee in another job and specifies the terms and conditions on which he is willing to do so, the court shall ask the employee whether he is willing to accept the job on these terms and conditions and —

- (a) if the employee is willing to accept the job on those terms and conditions, the court shall make an order to that effect; and
- (b) if the employee is unwilling to accept the job on those terms and conditions then, if the court is of the opinion that the refusal is reasonable, the court shall make an order for the continuation of his contract of employment, but otherwise the court shall make no order under this section.

(10) If, on the hearing of an application under this section, the employer fails to attend before the court or he states that he is unwilling either to reinstate the employee or re-engage him as mentioned in subsection (6), the court shall make an order for the continuation of the employee's contract of employment.

(11) In this section -

"authorised official", in relation to a trade union, means an official of the union authorised by the union to act for the purposes of this section; and any reference to the date of dismissal is a reference -

- (a) where the employee's contract of employment was terminated by notice (whether given by his employer or by him), to the date on which the employer's notice was given; and
- (b) in any other case, to the effective date of termination.

(12) A document purporting to be an authorisation of an official by a trade union to act for the purposes of this section and to be signed on behalf of the union shall be taken to be such an authorisation unless the contrary is proved, and a document purporting to be a certificate signed by such an official shall be taken to be signed by him less the contrary is proved.

77. (1) An order for the continuation of a contract of employment under section 76 shall be an order that the contract of employment, if it has been terminated, shall continue in force as if it had not been terminated and if not, shall on its termination, continue in force, in either case until the determination or settlement of the complaint and only for the purposes of pay or any other benefit derived from the employment, seniority, pension rights and other similar matters and for the purpose of determining for any purpose the period for which the employee has been continuously employed.

Orders for continuation of contract of emloyment. (2) Where the court makes any such order it shall specify in the order the amount which is to be paid by the employer to the employee by the way of pay in respect of each normal pay period or part of any such period falling between the date of the dismissal and the determination or settlement of the complaint and, subject to subsection (5), the amount so specified shall be that which the employee could reasonably have been expected to earn during that period or part, and shall be paid, in the case of a payment for any such period falling wholly or partly after the order, on the normal pay day for that period and, in the case of a payment for any past period, within a time so specified.

(3) If an amount is payable by way of pay in pursuance of any such order in respect only of part of a normal pay period the amount shall be calculated by reference to the whole period and be reduced proportionately.

(4) Any payment made to an employee by an employer under his contract of employment, or by way of damages for breach of that contract, in respect of any normal pay period or part of any such period shall go towards discharging the employer's liability in respect of that period under subsection (2), and conversely any payment under subsection (2) in respect of any period shall go towards discharging any liability of the employer under, or in respect of breach of, the contract of employment in respect of that period.

(5) If an employee, on or after being dismissed by his employer, receives a lump sum which, or part of which, is in lieu of wages but is not referable to any normal pay period, the court shall take the payment into account in determining the amount of pay to be payable in pursuance of any such order.

(6) For the purposes of this section the amount which an employee could reasonably have been expected to earn, his normal pay period and the normal pay day for each such period shall be determined as if he had not been dismissed.

78. (1) At any time between the making of an order by the Summary Court under section 76 and the determination or settlement of the complaint to which it relates, the employer or the employee may apply to the court for the revocation or variation of the order on the ground of a relevant change of circumstances since the making of the order, and that section shall apply to the application as it applies to an application for an order under that section except that -

Supplementary provisions relating to interim relief.

- (a) no certificate need be presented to the court under subsection (2)(b), and no copy of the certificate need be given to the employer under subsection (3), of that section; and
- (b) in the case of an application by an employer, for the reference in the said subsection (3) to the employer there shall be substituted a reference to the employee.

(2) If on the application of an employee the court is satisfied that the employer has not complied with the terms of an order for the reinstatement or re-engagement of the employee under section 76(8) or (9), —

- (a) the court shall make an order for the continuation of the employee's contract of employment and section 77 shall apply to an order under this subsection as it applies to an order for the continuation of a contract of employment under section 76; and
- (b) the court shall also order the employer to pay the employee such compensation as the court considers just and equitable in all the circumstances having regard to the infringement of the employee's right to be reinstated or re-engaged in pursuance of the order under section 76(8) or (9) and to any loss suffered by the employee in consequence of the non-compliance.

(3) If on the application of an employee the Summary Court is satisfied that the employer has not complied with the terms of an order for the continuation of a contract of employment, then -

- (a) if the non-compliance consists of a failure to pay an amount by way of pay specified in the order, the court shall determine the amount of pay owed by the employer to the employee on the date of the determination, and, if on that date the court also determine the employee's complaint that he has been unfairly dismissed by his employer, the court shall specify that amount seperately from any other sum awarded to the employee; and
- (b) in any other case, the court shall order the employer to pay the employee such compensation as the court considers just and equitable in all circumstances having regard to any loss suffered by the employee in consequence of the noncompliance.

PART VII

REDUNDANCY PAYMENTS

Right to redundancy payment

- 79. (1) Where an employee who has been continuously employed for the requisite period -
 - (a) is dismissed by his employer by reason of redundancy, or

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(b) is laid off or kept on short-time to the extent specified in subsection (1) of section 86 and complies with the requirements of that section,

then, subject to the following provisions of this Ordinance, the employer shall be liable to pay to him a sum (in this Ordinance referred to as a "redundancy payment") calculated in accordance with Schedule 3,

(2) For the purposes of this Ordinance an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to -

- (a) the fact that his employer has ceased, or intends to cease, to carry on the business for the purposes of which the employee was employed by him, or has ceased, or intends to cease, to carry on that business in the place where the employee was so employed, or
- (b) the fact that the requirements of that business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where he was so employed, have ceased or diminished or are expected to cease or diminish.

For the purposes of this subsection, the business of the employer together with the business or businesses of his associated employers shall be treated as one unless either of the conditions specified in this subsection would be satisfied without so treating those businesses.

(3) In subsection (2), "cease" means cease either permanently or temporarily and from whatsoever cause, and "diminish" has a corresponding meaning.

(4) For the purposes of subsection (1), the requisite period is the period of two years ending with the relevant date.

80. (1) An employee shall not be entitled to a redundancy payment if immediately before the relevant date the employee -

General exclusions from right to redundancy payments.

- (a) if a man, has attained the age of sixty-five; or
- (b) if a woman, has attained the age of sixty.

(2) Except as provided by section 90, an employee shall not be entitled to a redundancy payment by reason of dismissal where his employer, being entitled to terminate his contract of employment without notice by reason of the employee's conduct, terminates it either —

- (a) without notice, or
- (b) by giving shorter notice than that which, in the absence of such conduct, the employer would be required to give to terminate the contract, or

General provisions as to right to redundancy payment. (c) by giving notice (not being such shorter notice as is mentioned in paragraph
 (b)) which includes, or is accompanied by, a statement in writing that the employer would, by reason of the employee's conduct, be entitled to terminate the contract without notice.

(3) If an employer makes an employee an offer (whether in writing or not) before the ending of his employment under the previous contract to renew his contract of employment, or to re-engage him under a new contract of employment, so that the renewal or re-engagement would take effect either immediately on the ending of his employment under the previous contract or after an interval of not more than four weeks thereafter, the provisions of subsections (5) and (6) shall have effect.

(4) For the purposes of the application of subsection (3) to a contract under which the employment ends on a Friday, Saturday or Sunday -

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- (a) the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment under the previous contract if it takes effect on or before the next Monday after that Friday, Saturday or Sunday; and
- (b) the interval of four weeks shall be calculated as if the employment had ended on that Monday.

(5) If an employer makes an employee such an offer as is referred to in subsection (3) and either -

- (a) the provisions of the contract as renewed, or of the new contract, as to the capacity and place in which he would be employed, and as to the other terms and conditions of his employment, would not differ from the corresponding provisions of the previous contract; or
- (b) the first-mentioned provisions would differ (wholly or in part) from those corresponding provisions, but the offer constitutes an offer of suitable employment in relation to the employee;

and in either case the employee unreasonably refuses that offer, he shall not be entitled to a redundancy payment by reason of his dismissal.

(6) If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment, in pursuance of such an offer as is referred to in subsection (3), and the provisions of the contract as renewed, or of the new contract, as to the capacity and place in which he is employed, and as to the other terms and conditions of his employment, differ (wholly or in part) from the corresponding provisions of the previous contract but the employment is suitable in relation to the employee, and during the trial period referred to in section 82 the employee unreasonably terminates the contract, or unreasonably gives notice to terminate it and the contract is thereafter, in consequence, terminated, he shall not be entitled to a redundancy payment by reason of his dismissal from employment under the previous contract.

(7) Any reference in this section to re-engagement by the employer shall be construed as including a reference to re-engagement by the employer or by any assocated employer, and any reference in this section to an offer made by the employer shall be construed as including a reference to an offer made by an associated employer.

81. (1) In this Part, except as respects a case to which section 84 applies, "dismiss" and "dismissal" shall, subject to sections 82, 83 and 91, be construed in accordance with subsection (2).

Dismissal by employer.

- (2) An employee shall be treated as dismissed by his employer if, but only if -
 - (a) the contract under which he is employed by the employer is terminated by the employer, whether it is so terminated by notice or without notice, or
 - (b) where under that contract he is employed for a fixed term, that term expires without being renewed under the same contract, or
 - (c) the employee terminates that contract with or without notice, in circumstances (not falling within section 90(4)) such that he is entitled to terminate it without notice by reason of the employer's conduct.

Renewal of contract or reengagement.

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82. (1) If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment in pursuance of an offer (whether in writing or not) made by his employer before the ending of his employment under the previous contract, and the renewal or re-engagement takes effect either immediately on the ending of that employment or after an interval of not more than four weeks thereafter, then, subject to subsections (3) to (6), the employee shall not be regarded as having been dismissed by his employer by reason of the ending of his employment under the previous contract.

(2) For the purposes of the application of subsection (1) to a contract under which the employment ends on a Friday, Saturday or Sunday —

- (a) the renewal or re-engagement shall be treated as taking effect immediately on the ending of the employment if it takes effect on or before the Monday after that Friday, Saturday or Sunday, and
- (b) the interval of four weeks referred to in that subsection shall be calculated as if the employment had ended on that Monday.

(3) If, in a case to which subsection (1) applies, the provisions of the contract as renewed, or of the new contract, as to the capacity and place in which the employee is employed, and as to the other terms and conditions of his employment, differ (wholly or in part) from the corresponding provisions of the previous contract, there shall be a trial period in relation to the contract as renewed, or the new contract, there shall be a trial period in relation to the contract as renewed, or the new contract (whether or not there has been a previous trial period under this section).

(4) The trial period shall begin with the ending of the employee's employment under the previous contract and end with the expiration of the period of four weeks beginning with the date on which the employee starts work under the contract as renewed, or the new contract, or such longer period as may be agreed in accordance with the next following subsection for the purpose of retraining the employee for employment under that contract.

(5) Any such agreement shall —

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- (a) be made between the employer and the employee or his representative before the employee starts work under the contract as renewed or, as the case may be, the new contract;
- (b) be in writing;
- (c) specify the date of the end of the trial period; and
- (d) specify the terms and conditions of employment which will apply in the employee's case after the end of that period.
- (6) If during the trial period
 - (a) the employee, for whatever reason, terminates the contract, or gives notice to terminate it and the contract is thereafter, in consequence, terminated; or
 - (b) the employer, for a reason connected with or arising out of the change to the renewed, or new, employment, terminates the contract, or gives notice to terminate it and the contract is thereafter, in consequence, terminated,

then, unless the employee's contract of employment is again renewed, or he is again re-engaged under a new contract of employment, in circumstances such that subsection (1) again applies, he shall be treated as having been dismissed on the date on which his employment under the previous contract or, if there has been more than one trial period, the original contract ended for the reason for which he was then dismissed or would have been dismissed had the offer (or original offer) of renewed, or new, employment not been made, or, as the case may be, for the reason which resulted in that offer being made.

(7) Any reference in this section to re-engagement by the employer shall be construed as including a reference to re-engagement by the employer or by any associated employer, and any reference in this section to an offer made by the employer shall be construed as including a reference to an offer made by an associated employer.

83. (1) The provisions of this section shall have effect where —

(a) an employer gives notice to an employee to terminate the contract of employment, and Employee anticipating expiry of employer's notice.

(b) at a time within the obligatory period of that notice, the employee gives notice in writing to the employer to terminate the contract of employment on a date earlier than the date on which the employer's notice is due to expire. (2) Subject to the following provisions of this section, in the circumstances specified in subsection (1) the employee shall, for the purposes of this Part, be taken to be dismissed by his employer.

(3) If, before the employee's notice is due to expire, the employer gives him notice in writing -

- (a) requiring him to withdraw his notice terminating the contract of employment as mentioned in subsection (1)(b) and to continue in the employment until the date on which the employer's notice expires, and
- (b) stating that, unless he does so, the employer will contest any liability to pay to him a redundancy payment in respect of the termination of his contract of employment,

but the employee does not comply with the requirements of that notice, the employee shall not be entitled to a redundancy payment by virtue of subsection (2) except as provided by subsection (4).

(4) Where, in the circumstances specified in subsection (1), the employer has given notice to the employee under subsection (3), and on a reference to the Summary Court it appears to the court, having regard both to the reasons for which the employee seeks to leave the employment and those for which the employer requires him to continue in it, to be just and equitable that the employee should receive the whole or part of any redundancy payment to which he would have been entitled apart from subsection (3), the court may determine that the employer shall be liable to pay to the employee —

- (a) the whole of the redundancy payment to which the employee would have been so entitled, or
- (b) such part of that redundancy payment as the court thinks fit.

(5) In this section —

- (a) if the actual period of the employer's notice (that is to say, the period beginning at the time when the notice is given and ending at the time when it expires) is equal to the minimum period which (whether by virtue of any enactment or otherwise) is required to be given by the employer to terminate the contract of employment, "the obligatory period", in relation to that notice, means the actual period of the notice;
- (b) in any other case, "the obligatory period", in relation to an employer's notice, means that period which, being equal to the minimum period referred to in paragraph (a), expires at the time when the employer's notice expires.

84. Where an employee is entitled to return to work and has exercised her right to return in accordance with section 45 but is not permitted to return to work, then she shall be treated for the purposes of the provisions of this Part as if she had been employed until the notified day of return, and, if she would not otherwise be so treated, as having been continuously employed until that day, and as if she had been dismissed with effect from that day for the reason for which she was not permitted to return.

85. (1) Where an employee is employed under a contract on such terms and conditions that his remuneration thereunder depends on his being provided by the employer with work of the kind which he is employed to do, he shall, for the purposes of this Part, be taken to be laid off for any week in respect of which, by reason that the employer does not provide such work for him, he is not entitled to any remuneration under the contract.

(2) Where by reason of a diminution in the work provided for an employee by his employer (being work of a kind which under his contract the employee is employed to do) the employee's remuneration for any week is less than half a week's pay, he shall for the purposes of this Part be taken to be kept on short-time for that week.

86. (1) An employee shall not be entitled to a redundancy payment by reason of being laid off or kept on short-time unless he gives notice in writing to his employer indicating (in whatsoever terms) his intention to claim a redundancy payment in respect of lay-off or short-time (in this Ordinance referred to as a "notice of intention to claim") and, before the service of that notice, either —

Failure to permit woman to return to work after confinement treated as dismissal.

Lay-off and short time.

Right to redundancy payment by reason of layoff or short-time.

- (a) he has been laid off or kept on short-time for four or more consecutive weeks of which the last before the service of the notice ended on the date of service thereof or ended not more than four weeks before that date, or
- (b) he has been laid off or kept on short-time for a series of six or more weeks (of which not more than three were consecutive) within a period of thirteen weeks, where the last week of the series before the service of the notice ended on the date of service thereof or ended not more than four weeks before that date.
- (2) Where an employee has given notice of intention to claim, --
 - (a) he shall not be entitled to a redundancy payment in pursuance of that notice unless he terminates his contract of employment by a week's notice which (whether given before or after or at the same time as the notice of intention to claim) is given before the end of the period allowed for the purposes of this paragraph (as specified in subsection (5) of section 87), and
 - (b) he shall not be entitled to a redundancy payment in pursuance of the notice of intention to claim if he is dismissed by his employer (but without prejudice to any right to a redundancy payment by reason of the dismissal):

Provided that, if the employee is required by his contract of employment to give more than one week's notice to terminate the contract, the reference in paragraph (a) to a week's notice shall be construed as a reference to the minimum notice which he is so required to give.

(3) Subject to subsection (4), an employee shall not be entitled to a redundancy payment in pursuance of a notice of intention to claim if, on the date of service of that notice, it was reasonably to be expected that the employee (if he continued to be employed by the same employer) would, not later than four weeks after that date, enter upon a period of employment of not less than thirteen weeks during which he would not be laid off or kept on short-time for any week.

(4) Subsection (3) shall not apply unless, within seven days after the service of the notice of intention to claim, the employer gives to the employee notice in writing that he will contest any liability to pay him a redundancy payment in pursuance of the notice of intention to claim.

87. (1) If, in a case where an employee gives notice of intention to claim and the employer gives a notice under section 86(4) (in this section referred to as a "counter-notice"), the employee continues or has continued, during the next four weeks after the date of service of the notice of intention to claim, to be employed by the same employer, and he is or has been laid off or kept on short-time for each of those weeks, it shall be conclusively presumed that the condition specified in subsection (3) of section 86 was not fulfilled.

Supplementary provisions in relation to layoff or short-time.

(2) For the purposes of both subsection (1) of section 86 and subsection (1) of this section, it is immaterial whether a series of weeks (whether it is four weeks, or four or more weeks, or six or more weeks) consists wholly of weeks for which the employee is laid off or wholly of weeks for which he is kept on short-time or partly of the one and partly of the other.

(3) For the purpose mentioned in subsection (2), no account shall be taken of any week for which an employee is laid off or kept on short-time where the lay-off or short-time is wholly or mainly attributable to a strike or a lock-out (within the meaning of paragraph 18 of Schedule 5) whether the strike or lock-out is in the trade or industry in which the employee is employed or not and whether it is in the Falkland Islands or elsewhere.

(4) Where the employer gives a counter-notice within seven days after the service of a notice of intention to claim, and does not withdraw the counter-notice by a subsequent notice in writing, the employee shall not be entitled to a redundancy payment in pursuance of the notice of intention to claim except in accordance with a decision of the Summary Court.

(5) The period allowed for the purposes of subsection (2)(a) of section 86 is as follows, that is to say, -

- (a) if the employer does not give a counter-notice within seven days after the service of the notice of intention to claim, that period is three weeks after the end of those seven days;
- (b) if the employer gives a counter-notice within those seven days, but withdraws it by a subsequent notice in writing, that period is three weeks after the service of the notice of withdrawal;
- (c) if the employer gives a counter-notice within those seven days and does not so withdraw it, and a question as to the right of the employee to a redun dancy payment in pursuance of the notice of intention to claim is referred to the court, that period is three weeks after the court has notified to the employee its decision on that reference.

(6) For the purposes of paragraph (c) of subsection (5), no account shall be taken of any appeal against the decision of the Summary Court, or of any requirement to the Summary Court to state a case for the opinion of the Supreme Court, or of any proceedings or decision in consequence of such an appeal or requirement.

88. (1) Subject to the following provisions of this section, for the purposes of the provisions of this Ordinance so far as they relate to redundancy payments, "the relevant date", in relation to the dismissal of an employee -

The relevant date.

- (a) where his contract of employement is terminated by notice, whether given by his employer or by the employee, means the date on which that notice expires;
- (b) where his contract of employment is terminated without notice, means the date on which the termination takes effect;
- (c) where he is employed under a contract for a fixed term and that term expires as mentioned in subsection (2)(b) of section 81, means the date on which that term expires;
- (d) where he is treated, by virtue of subsection (6) of section 82, as having been dismissed on the termination of his employment under a previous contract means —
 - (i) for the purposes of section 96, the date which is the relevant date as defined by paragraph (a),(b) or (c) in relation to the renewed, or new, contract, or, where there has been more than one trial period under section 82, the last such contract; and
 - (ii) for the purposes of any other provisions, the date which is the relevant date as defined by paragraph (a), (b) or (c) in relation to the previous contract, or, where there has been more than one trial period under section 84, the original contract; and
- (e) where he is taken to be dismissed by virtue of section 83(2), means the date on which the employee's notice to terminate his contract of employment expires.

(2) "The relevant date", in relation to a notice of intention to claim or a right to a redundancy payment in pursuance or such a notice, —

- (a) in a case falling within paragraph (a) of subsection (1) of section 86 means the date on which the last of the four or more consecutive weeks before the service of the notice came to an end, and
- (b) in a case falling within paragraph (b) of that subsection, means the date on which the last of the series of six or more weeks before the service of the notice came to an end.

(3) Where the notice required to be given by an employer to terminate a contract of employment by section 47(1) would, if duly given when notice of termination was given by the employer, or (where no notice was given) when the contract of employment was terminated by the employer, expire on a date later than the relevant date as defined by subsection (1), then for the purposes of section 79(4) and paragraph 1 of Schedule 3 and paragraph 8(4) of Schedule 6, that later date shall be treated as the relevant date in relation to the dismissal.

89. (1) Any question arising under this Part as to the right of an employee to a redundancy payment, or as to the amount of a redundancy payment, shall be referred to and determined by the Summary Court.

(2) For the purposes of any such reference, an employee who has been dismissed by his employer shall, unless the contrary is proved, be presumed to have been so dismissed by reason of redundancy.

(3) In relation to lay-off or short-time, the questions wich may be referred to and determined by a court, as mentioned in subsection (1), shall include any question whether an employee will become entitled to a redundancy payment if he is not dismissed by his employer and he terminates his contract of employment as mentioned in subsection (2)(a) of section 86 and any such question shall for the purposes of this Part be taken to be a question as to the right of the employee to a redundancy payment.

90. (1) Where at any such time as is mentioned in subsection (2), an employee who -

- (a) has been given notice by his employer to terminate his contract of employment, or
- (b) has given notice to his employer under subsection (1) of section 86,

takes part in a strike, in such circumstances that the employer is entitled, by reason of his taking part in the strike, to treat the contract of employment as terminable without notice, and the employer for that reason terminates the contract as mentioned in subsection (2) of section 80, that subsection shall not apply to that termination of the contract.

- (2) The times referred to in subsection (1) are -
 - (a) in a case falling within paragraph (a) of that subsection any time within the obligatory period of the employer's notice (as defined by section 83(5)), and
 - (b) in a case falling within paragraph (b) of subsection (1), any time after the service of the notice mentioned in that paragraph.

(3) Where at any such time as is mentioned in subsection (2) an employee's contract of employment, otherwise than by reason of his taking part in a strike, is terminated by his employer in the circumstances specified in subsection (2) of section 80, and is so terminated as mentioned therein, and on a reference to the Summary Court it appears to the court, in the circumstances of the case, to be just and equitable that the employee should receive the whole or part of any redundancy payment to which he would have been entitled apart from section 80(2), the court may determine that the employer shall be liable to pay the employee —

- (a) the whole of the redundancy payment to which the employee would have been so entitled, or
- (b) such part of that redundancey payment as the court thinks fit.

(4) Where an employee terminates his contract of employment without notice, being entitled to do so by reason of a lock-out by his employer, section 81(2)(c) shall not apply to that termination of the contract.

(5) In this section "strike" and "lock-out" each has the meaning given by paragraph 18 of Schedule 5.

91. (1) Where in accordance with any enactment or rule of law -

- (a) any act on the part of an employer, or
- (b) any event affecting an employer (including, in the case of an individual, his death),

operates so as to terminate a contract under which an employee is employed by him, that act or event shall for the purposes of this Part be treated as a termination of the contract by the employer, if apart from this subsection it would not constitute a termination of the contract by him and, in particular, the provisions of section 81, 82 and 88 shall apply accordingly.

Implied or constructive termination of contract.

Special provisions as to termination of contract in cases of misconduct or indusrial dispute.

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Reference of questions to Summary Court. (2) Where subsection (1) applies, and the employee's contract of employment is not renewed, and he is not re-engaged under a new contract of employment, so as to be treated, by virtue of section 82(1), as not having been dismissed, he shall, without prejudice to section 82(6), be taken for the purposes of this Part to be dismissed by reason of redundancy if the circumstances in which his contract is not so renewed and he is not so re-engaged are wholly or mainly attributable to one or other of the facts specified in paragraphs (a) and (b) of section 79(2).

(3) For the purposes of subsection (2), section 79(2)(a), in so far as it relates to the employer ceasing or intending to cease to carry on the business, shall be construed as if the reference to the employer included a reference to any person to whom, in consequence of the act or event in question, power to dispose of the business has passed.

(4) In this section, any reference to section 82(1), includes a reference to that subsection as applied by section 92(2).

92. (1) The provisions of this section shall have effect, subject to section 93, where -

- a change occurs (whether by virtue of a sale or other disposition or by operation of law) in the ownership of a business for the purposes of which a person is employed, or of a part of such a business, and
- (b) in connection with that change the person by whom the employee is employed immediately before the change occurs (in this section referred to as "the previous owner") terminates the employee's contract of employment, whether by notice or without notice.

(2) If, by agreement with the employee, the person who immediately after the change occurs is the owner of the business, or of the part of the business in question, as the case may be (in this section refered to as "the new owner"), renews the employee's contract of employment (with the substitution of the new owner for the previous owner) or re-engages him under a new contract of employment, sections 82 and 88 shall have effect as if the renewal or re-engagement had been a renewal or re-engagement by the previous owner (without any substitution of the new owner for the previous owner).

(3) If the new owner offers to renew the employee's contract of employment (with the substitution of the new owner for the previous owner) or to re-engage him under a new contract of employment, subsections (3) to (6) of section 80 shall have effect, subject to subsection (4), in relation to that offer as they would have had effect in relation to the like offer made by the previous owner.

(4) For the purposes of the operation, in accordance with subsection (3), of subsections (3) to (6) of section 80 in relation to an offer made by the new owner -

- (a) the offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract as in force immediately before the dismissal by reason only that the new owner would be substituted for the previous owner as the employer, and
- (b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable or, as the case may be, whether the employee acted reasonably in terminating the renewed, or new, employment during the trial period reffered to in section 82.

(5) The proceeding provisions of this section shall have effect (subject to the necessary modifications) in relation to a case where -

- (a) the person by whom a business, or part of a business, is owned immediatly before a change is one of the persons by whom (whether as partners, trustees or otherwise) it is owned immediately after the change, or
- (b) the person by whom a business, or part of a business, is owned immediately before a change (wether as partners, trustees or otherwise) include the person by whom, or include one or more of the persons by whom, it is owned immediately after the change,

as those provisions have effect where the previous owner and the new owner are wholly different persons.

(6) Sections 80(7) and 82(7) shall not apply in any case to which this section applies.

(7) Nothing in this section shall be construed as requiring any variation of a contract of employment by agreement between the parties to be treated as constituting a termination of the contract.

Change of ownership of business.

- 93. (1) Where a business is -
 - (a) a business the whole or a substantial part of which consists of the rearing of sheep or cattle;
 - (b) there is used for the purposes of that business land exceeding one thousand acres in area; and
 - (c) the Crown or the Falkland Islands Development Corporation acquires that business,

section 92 shall not apply, and for all the purposes of this Part, the previous owner of the business shall, if he has not earlier done so, be deemed to have dismissed immediately prior to the transfer every employee whom he has not earlier dismissed.

(2) An employee who, by subsection (1) of this section is deemed to have been dis missed, shall be entitled to a redundancy payment from his previous employer, if in the application of sections 79 to 91 (inclusive) he would be so entitled if he had actually been dismissed and the only reason for his dismissal was his redundancy.

(3) Where the owner of a business disposes of the whole or part of a business to a person who, immediately before such disposal was an employee of the owner in that business, that person shall not be entitled to any payment under any provision of this Part if -

- (a) the whole or the relevant part of the business was transferred to him with his agreement; or
- (b) the whole or the relevant part of the business is given to him by will or other testamentary disposition and he does not prior to the same being vested in him disclaim or refuse the gift,

and section 92 shall not apply in relation to the employee who thus acquires the whole or part of the business but applies in relation to every other employee.

94. (1) The Governor shall by regulations make provision for excluding the right to a redundancy payment, or reducing the amount of any redundancy payment, in such cases as may be prescribed by the regulations, being cases in which an employee has (whether by virtue of any statutory provision or otherwise) a right or claim (whether legally enforceable or not) to a periodical payment or lump sum by way of pension, gratuity or superannuation allowance which is to be paid by reference to his employment by a particular employer and is to be paid, or to begin to be paid, at the time when he leaves that employment or within such period thereafter as may be prescribed by the regulations.

(2) Provision shall be made by any such regulations for securing that the right to a redundancy payment shall not be excluded, and that the amount of a redundancy payment shall not be reduced, by reason of any right or claim to a periodical payment or lump sum, in so far as that payment or lump sum represents such compensation as is payable under a statutory provision, whether made or passed before on or after the passing of this Ordinance.

(3) In relation to any case where, under section 83 or 90 the Summary Court determines that an employer is liable to pay part (but not the whole) of a redundancy payment, any reference in this section to a redundancy payment, or to the amount of a redundancy payment, shall be construed as a reference to that part of the redundancy payment, or to the amount of that part, as the case may be.

95. (1) For the purposes of the application of the provisions of this Part to an employee who is employed as a domestic servant in a private household, those provisions (except section 92) shall apply as if the household were a business and the maintenance of the household were the carrying on of that business by the employer.

(2) Section 79 shall not apply to any person in respect of employment as a domestic servant in a private household, where the employer is the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, or half-sister of the employee.

96. (1) Notwithstanding anything in the preceding provisions of this Part, an employee shall not be entitled to a redundancy payment unless, before the end of the period of six months beginning with the relevant date -

- (a) the payment has been agreed and paid, or
- (b) the employee has made a claim for the payment by notice in writing given to the employer, or

Exclusion or reduction of redundancy payments on account of pension rights.

Section 92 not to apply in certain circumstances.

Claims for redundancy payments.

Domestic

servants.

- (c) a question as to the right of the employee to the payment, or as to the amount of the payment, has been referred to the Summary Court, or
- (d) a complaint relating to his dismissal has been presented by the employee under section 65.

(2) An employee shall not by virtue of subsection (1) lose his right to a redundancy payment if, during the period of six months immediately following the period mentioned in that subsection, the employee —

- (a) makes such a claim as is referred to in paragraph (b) of that subsection,
- (b) refers to the Summary Court such a question as is referred to in paragraph(c) of that subsection, or
- (c) makes such a complaint as is referred to in paragraph (d) of that subsection,

and it appears to the court to be just and equitable that the employee should receive a redundancy payment having regard to the reason shown by the employee for his failure to take any such step as is referred to in paragraph (a), (b) or (c) of this subsection within the period mentioned in subsection (1), and to all the other relevant circumstances.

97. (1) On making any redundancy payment, otherwise than in pursuance of a decision of the court which specifies the amount of the payment to be made, the employer shall give to the employee a written statement indicating how the amount of the payment has been calculated.

Written particulars of redundancy payments.

(2) Any employer who without reasonable excuse fails to comply with subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(3) If an employer fails to comply with the requirements of subsection (1), then (without prejudice to any proceedings for an offence under subsection (2)) the employee may by notice in writing to the employer require him to give to the employee a written statement complying with those requirements within such period (not being less than one week beginning with the day on which the notice is given) as may be specified in the notice; and if the employer without reasonable excuse fails to comply with the notice he shall be guilty of an offence under this subsection and liable on summary conviction to a fine not exceeding £500.

98. (1) Any notice which under this Part is required or authorised to be given by an employer to an employee may be given by being delivered to the employee, or left for him at his usual or last-known place of residence, or sent by post addressed to him at that place.

(2) Any notice which under this Part is required or authorised to be given by an employee to an employer may be given either by the employee himself or by a person authorised by him to act on his behalf, and, whether given by or on behalf of the employee, —

- (a) may be given by being delivered to the employer, or sent by post addressed to him at the place where the employee is or was employed by him, or
- (b) if arrangements in that behalf have been made by the employer, may be given by being delivered to a person designated by the employer in pursuance of the arrangements, or left for such a person at a place so designated, or sent by post to such a person at an address so designated.

(3) In the preceding provisions of this section, any reference to the delivery of a notice shall, in relation to a notice which is not required by this Part to be in writing, be construed as including a reference to the oral communication of the notice.

(4) Any notice which, in accordance with any provision of this section, is left for a person at a place referred to in that provision shall, unless the contrary is proved, be presumed to have been received by him on the day on which it was left there.

(5) Nothing in subsection (1) or subsection (2) shall be construed as affecting the capacity of an employer to act by a servant or agent for the purposes of any provision of this Part, including either of those subsections.

Provision as to notices.

PART VIII

INSOLVENCY OF EMPLOYER

99. (1) An amount to which this section applies shall be treated for the purposes of -

Priority of certain debts on insolvency.

(b) section 319 of the Companies Act 1948;

(a) section 33 of the Bankruptcy Act 1914; and

as if it were wages payable by the employer to the employee in respect of the period for which it is payable.

(2) This section applies to any amount owed by an employer to an employee in respect of -

- (a) a guarantee payment;
- (b) remuneration on medical grounds under section 22;
- (c) any payment for time off under section 31(3) or 37(4); and
- (d) any payment under Part VII.

100. (1) If on an application made in writing to him by an employee the Governor is satisfied -

Employee's rights on insolvency of employer.

- (a) that the employer of that employee has become insolvent; and
- (b) that on the relevant date the employee was entitled to be paid the whole or any part of any debt to which this section applies,

the Governor may, subject to the provisions of this section, authorise the Financial Secretary to pay to the employee out of the Consolidated Fund the amount to which, in the opinion of the Financial Secretary, the employee is entitled in respect of that debt.

(2) In this section "the relevant date", in relation to a debt, means whichever is the latest of -

- (a) the date on which the employer became insolvent;
- (b) the date of the termination of the employee's employment; or
- (c) where the debt falls within subsection (3)(d), the date on which the award was made.

(3) This section applies to the following debts -

- (a) any arrears of pay in respect of one or more (but not more than eight) weeks;
- (b) any amount which the employer is liable to pay the employee for the period of notice required by section 47(1) or (2);
- (c) any holiday pay
 - (i) in respect of a period or periods of holiday not exceeding six weeks in all; and
 - (ii) to which the employee became entitled during the twenty-four months ending with the relevant date; and
- (d) any basic award of compensation for unfair dismissal (within the meaning of section 70).

(4) For the purposes of subsection 3(a), any such amount as is referred to in section 99(2) shall be treated as if it were arrears of pay.

(5) The provisions of subsections (6) and (7) shall apply in a case where one of the following officers (hereafter in this section referred to as the "relevant officer") has been or is required to be appointed in connection with the employer's insolvency, that is to say, a trustee in bankruptcy, a liquidator, a receiver or manager, or a trustee under a composition or arrangement between the employer and his creditors or under a trust deed for his creditors executed by the employer; and in this subsection "liquidator" or "receiver" include the Official Receiver in his capacity as a provisional liquidator or interim receiver.

(6) Subject to subsection (11), the Governor shall not in such a case authorise any payment under this section in respect of any debt until he has received a statement from the relevant officer of the amount of that debt which appears to have been owed to the employee on the relevant date and to remain unpaid; and the relevant officer shall, on request by the Governor, provide him, as soon as reasonably practicable, with such a statement.

- (7) Where -
 - (a) the application for a payment under this section has been received by the Governor, but no such payment has been made;
 - (b) the Governor is satisfied that a payment under this section should be made; and
 - (c) it appears to the Governor that there is likely to be (unreasonble) delay before he receives a statement about the debt in question,

then, the Governor may, if the applicant so requests or, if the Governor thinks fit, without such a request, make a payment under this section, notwithstanding that no such statement has been received.

(8) The total amount payable to an employee in respect of any debt mentioned in subsection (3), where that debt is referable to a period of time, shall not exceed £152 in respect of any one week or, in respect of a shorter period, an amount bearing the same proportion to £152 as that shorter period bears to a week.

101. (1) Where, in pursuance of section 100, the Financial Secretary makes any payment to an employee in respect of any debt to which that section applies -

- (a) any rights and remedies of the employee in respect of that debt (or, if the Financial Secretary has paid only part of it, in respect of that part) shall, on the making of the payment, become rights and remedies of the Crown; and
- (b) any decision of the Summary Court requiring an employer to pay that debt to the employee shall have the effect that the debt or, as the case may be, that part of it which the Financial Secretary has paid, is to be paid to the Financial Secretary.

(2) There shall be included among the rights and remedies which become rights and remedies of the Crown in accordance with subsection (1)(a) any right to be paid in priority to other creditors of the employer in accordance with -

- (a) section 33 of the Bankruptcy Act 1914; and
- (b) section 319 of the Companies Act 1948,

and the Crown shall be entitled to be so paid in priority to any other unsatisfied claim of the employee; and in computing for the purposes of any of those provisions any limit on the amount of sums to be so paid any sums paid to the Crown shall be treated as if they had been paid to the employee.

(3) Any sum recovered by the Crown in exercising any right or pursuing any remedy which is his by virtue of this section shall be paid into the Consolidated Fund.

102. (1) Where an application is made to the Governor under section 100 in respect of a debt owed by an employer, the Financial Secretary may require -

- (a) the employer to provide him with such information as the Governor may reasonably require for the purpose of determining whether the application is well-founded;
- (b) any person having the custody or control of any relevant records or documents to produce for examination on behalf of the Governor any such document in that person's custody or control which is of such a description as the Financial Secretary may require.

(2) Any such requirement shall be made by notice in writing given to the person on whom the requirement is imposed and may be varied or revoked by a subsequent notice so given.

Power of Governor to obtain information in connection with applications.

Transfer of rights and remedies to the Crown. (3) If a person refuses or wilfully neglects to furnish any information or produce any document which he has been required to furnish or produce by a notice under this section he shall be liable on summary conviction to a fine not exceeding £500.

(4) If a person, in purporting to comply with a requirement of a notice under this section, knowingly or recklessly makes any false statement he shall be liable on summary conviction to a fine not exceeding £1000.

103. (1) For the purposes of sections 100 to 102, an employer shall be taken to be insolvent if, but only if, in the Falkland Islands,

Interpretation of sections 99 to 102.

- (a) he becomes bankrupt or makes a composition or arrangement with his creditors or a receiving order is made against him;
- (b) he has died and an order is made under section 130 of the Bankruptcy Act 1914 for the administration of his estate according to the law of bankruptcy, or by virtue of an order of the court his estate is being administered in accordance with rules set out in Part I of Schedule 1 to the Administration of Estates Act 1925; or
- (c) where the employer is a company, a winding up order is made or a resolution for voluntary winding up is passed with respect to it, or a receiver or manager of its undertaking is duly appointed, or possession is taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property of the company comprised in or subject to the charge.

(2) In sections 100 to 102 -

"holiday pay" means -

- (a) pay in respect of a holiday actually taken; or
- (b) any accrued holiday pay which under the employee's contract of employment would in the ordinary course have become payable to him in respect of the period of a holiday if his employment with the employer had continued until he became entitled to a holiday.

PART IX

GENERAL

Contracting out of provisions of Ordinance

104. Except as provided by the following provisions of this section, any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports — c

- (a) to exclude or limit the operation of any provision of this Ordinance; or
- (b) to preclude any person from presenting a complaint to, or bringing any proceedings under this Ordinance before, the Summary Court.

Excluded classes of employment

105. (1) Sections 4 to 6 and 47 to 49 do not apply in relation to employment during any period when the employee is engaged in work wholly or mainly outside the Falkland Islands unless the employee ordinarily works in the Falkland Islands and the work outside the Falkland Islands is for the same employer.

(2) Sections 10 and 51 and Parts III, IV, VI and VIII do not apply to employment where under his contract of employment the employee ordinarily works outside the Falkland Islands.

(3) An employee shall not be entitled to a redundancy payment if on the relevant date he is outside the Falkland Islands, unless under his contract of employment he ordinarily worked in the Falkland Islands.

Restrictions on contracting out.

Employment outside the

Falkland Islands.

(4) An employee who under his contract of employment ordinarily works outside the Falkland Islands shall not be entitled to a redundancy payment unless on the relevant date he is in the Falkland Islands in accordance with instructions given to him by his employer.

(5) For the purpose of subsection (2) a person employed to work on board a ship registered at a port in the Falkland Islands shall, unless --

(a) the employment is wholly outside the Falkland Islands; or

(b) he is not ordinarily resident in the Falkland Islands,

be regarded as a person who ordinarily works in the Falkland Islands.

106. (1) Section 52 does not apply to dismissal from employment under a contract for a fixed term of one year or more, where the dismissal consists only of the expiry of that term without its being renewed, if before the term so expires the employee has agreed in writing to exclude any claim in respect of rights under that section in relation to that contract.

(2) An employee employed under a contract of employment for a fixed term of two years or more entered into after the passing of this Ordinance shall not be entitled to a redundancy payment in respect of the expiry of that term without its being renewed (whether by the employer or by an associated employer of his), if before the term so expires he has agreed in writing to exclude any right to a redundancy payment in that event.

(3) Such an agreement as is mentioned in subsection (1) or (2) may be contained either in the contract itself or in a separate agreement.

(4) Where an agreement under subsection (2) is made during the currency of a fixed term, and that term is renewed, the agreement under that subsection shall not be construed as applying to the term as renewed, but without prejudice to the making of a further agreement under that subsection in relation to the term so renewed.

107. (1) Sections 4 to 9 and 47 to 49 do not apply to a person employed as a master of or a seaman on a sea-going British ship having a gross registered tonnage of eighty tons or more, including a person ordinarily employed as a seaman who is employed in or about such a ship in port by the owner or charterer of the ship to do work of a kind ordinarily done by a seaman on such a ship while it is in port, or registered under section 373 of the Merchant Shipping Act 1894

(2) Sections 10 and 51 and Parts III, IV and VI to VIII do not apply to employment as master or as a member of the crew of a fishing vessel where the employee is remunerated only by a share in the profits or gross earnings of the vessel.

(3) Section 105(3) and (4) do not apply to an employee, and section 106(2) does not apply to a contract of employment, if the employee is employed as a master or seaman in a British ship and is ordinarily resident in the Falkland Islands.

(4) Sections 10, 33 and 100 do not apply to employment as a merchant seaman.

(5) Employment as a merchant seaman does not include employment in the fishing industry or employment on board a ship otherwise than by the owner, manager or charterer of that ship except employment as a radio officer, but, save as aforesaid, it includes employment as master or a member of the crew of any ship and as a trainee undergoing training for the sea service, and employment in or about a ship in port by the owner, manager or charterer of the ship to do work of the kind ordinarily done by a merchant seaman on a ship while it is in port.

108. (1) Subject to subsections (2), (3) and (4), sections 4a, 6, 10, 31, 32 and 33 (which do not depend upon an employee having a qualifying period of continuous employment) do not apply to employment under a contract which normally involves employment for less than sixteen hours weekly.

Miscellaneous classes of employment.

(2) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or more, but less than sixteen hours, weekly, the employee shall nevertheless for a period of twenty-six weeks, computed in accordance with subsection (3), be treated for the purposes of subsection (1) as if his contract normally involved employment for sixteen hours or more weekly.

Contracts for fixed term.

Mariners.

(3) In computing the said period of twenty-six weeks no account shall be taken of any week -

- (a) during which the employee is in fact employed for sixteen hours or more;
- (b) during which the employee takes part in a strike (as defined by paragraph 19 of Schedule 5), or is absent from work because of a lock-out (as so defined) by his employer; or
- (c) during which there is no contract of employment but which, by virtue of paragraph 9(1) of Schedule 5, counts in computing a period of continuous employment.

(4) An employee whose relations with his employer are governed by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he has been continuously employed for a period of five years or more be treated for the purposes of subsection (2) as if his contract normally involved employment for sixteen hours or more weekly.

(5) References in this section to weeks are to 11 weeks within the meaning of Schedule 5.

Reviews of limits.

109. (1) The Governor shall from time to time review --

Review of limits.

- (a) the limits referred to in section 18;
- (b) the limit referred to in section 100(8); and
- (c) the limits imposed by paragraph 8(1) of Schedule 6 on the amount of a week's pay for the purpose of any of the provisions of this Ordinance,

and shall determine whether any of those limits shall be varied.

- (2) In making a review under this section the Governor shall consider -
 - (a) the general level of earnings obtaining in the Falkland Islands at the time of the review;
 - (b) the economic situation of the Falkland Islands as a whole; and
 - (c) such other matters as he thinks relevant.

(3) If on a review under this section the Governor determines that, having regard to the considerations mentioned in subsection (2), any of those limits should be varied, he may prepare and lay before the Legislative Council the draft of an order giving effect to his decision.

(4) If the draft of an order under this section is approved by a resolution of the Legislative Council the Governor may make an order in the form of the draft.

Supplemental provisions

110. Schedule 4 shall have effect for the purpose of supplementing and modifying the provisions of Part II (so far as it relates to itemised pay statements), section 51 and Parts III, IV and VI to VIII as respects the death of an employee or an employer.

111. (1) References in any provision of this Ordinance to a period of continuous employment are, except where provision is expressly made to the contrary, to a period computed in accordance with the provisions of this section and Schedule 5; and in any such provision which refers to a period of continuous employment expressed in months or years a month means a calendar month and a year means a year of twelve calendar months.

(2) In computing an employee's period of continuous employment any question arising as to -

- (a) whether the employee's employment is of a kind counting towards a period of continuous employment, or
- (b) whether periods (consecutive or otherwise) are to be treated as forming a single period of consecutive employment,

Death of employee or employer.

Computation of period of continuous employment. shall be determined in accordance with Schedule 5 (that is to say, week by week), but the length of an employee's period of employment shall be computed in months and years of twelve months in accordance with the following rules.

(3) Subject to the following provisions of this section, an employee's period of continuous emploment for the purposes of any provision of this Ordinance begins with the day on which he starts work and ends with the day by reference to which the length of his period of continuous employment falls to be ascertained for the purposes of the provision in question.

(4) For the purposes of section 79 and Schedule 3 an employee's period of continuous employment shall be treated as beginning on his eighteenth birthday if that date is later than the starting date referred to in subsection (3).

(5) If an employee's period of continuous employment contains one or more periods which, by virtue of any provision of Schedule 5, do not count in computing the length of the period but do not break continuity, the beginning of the period shall be treated as postponed by the number of days falling within that intervening period or, as the case may be, by the aggregate number of days falling within that intervening period, or the case may be, by the agregate number of days falling those periods.

(6) The number of days falling within such an intervening period is -

- (a) in the case of a period to which paragraph 13(2) of Schedule 5 applies, seven days for each week within that sub-paragraph; and
- (b) in the case of a period to which paragraph 14(2) or 14(4) of that Schedule applies, the number of days between the last working day before the strike or lock-out and the day on which work was resumed;

112. Schedule 6 shall have effect for the purposes of this Ordinance for calculating the normal working hours and the amount of a week's pay of any employee.

113. (1) Where an offence under section i02 committed by a body corporate is proved to have been committed with the consent or conivance of or 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.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member as if he were a director of the body corporate.

Appeals to Supreme Court

114. (1) Any person who is aggrieved by a decision or determination of the Summary Court under any provision of this Ordinance may, subject to subsection (2), by notice in writing delivered to the Registrar of the Supreme Court, within twenty-one days thereof or such longer time as the Supreme Court may allow, appeal to the Supreme Court against that decision or determination.

(2) An appeal under subsection (1) must be grounded upon one or more points of law or points of mixed fact and law and no appeal shall lie to the Supreme Court on a matter of fact only.

(3) The Chief Justice or any other judge of the Supreme Court acting with his authority on receiving a copy of any notice of appeal under this section, together with the record of the proceedings before the Summary Court -

- (a) if he considers that the notice of appeal discloses no arguable basis of appeal, and without hearing the appellant or any other person thereon, summarily dismiss the appeal and confirm the decision of the Summary Court; or
- (b) order that the appeal be set down for hearing before him or any other judge of the Supreme Court,

and may do so outside as well as within the Falkland Islands.

Calculation of normal working hours and a week's pay. Offences by bodies corporate. (4) On the determination or other disposal of an appeal heard before him pursuant to an order under subsection (3)(b), the Chief Justice or any other judge of the Supreme Court determining the same pursuant to an order of the Chief Justice pursuant to that provision may make any order or finding that the Summary Court could have made under any provision of this Ordinance and may quash vary or supplement any order or finding of the Supreme Court in the matter.

(5) No further appeal shall lie from a decision or determination of the Supreme Court under this section.

(6) The Chief Justice may make such rules or give such practice directions as he considers necessary for the purposes of this section.

Miscellaneous

115. (1) Where a complaint has been made to the Summary Court under any provision of this Ordinance, that court may make any order as to the attendance of witnesses or the production or discovery of documents as the Senior Magistrate might make in any civil proceedings before the Magistrates Court and, in the event of non-compliance with any such order may make any order the Magistrate's Court might make on non-compliance with any such order in civil proceedings before it.

(2) A Party in any proceedings under this Ordinance before the Summary Court or on an appeal under section 114 to the Supreme Court may appear for himself or be represented by any other person instructed to appear for him in those proceedings, whether or not that other person is a legal practitioner.

(3) No order or award as to the costs of representation by a legal practitioner or other person may be made either by the Summary Court or by the Supreme Court in any proceedings under this Ordinance.

116. In addition to any other powers he has under any other provision of this Ordinance, Re the Governor may make any regulation for the purpose of prescribing any matter or thing necessary or convenient to be prescribed for the purposes of this Ordinance.

Supplemental provisions as to proceedings before the Summary Court or Supreme Court.

Regulations.

Section 39.

SCHEDULE 1

SUPPLEMENTARY PROVISIONS RELATING TO MATERNITY

PART 1

UNFAIR DISMISSAL

Introductory

1. References in this Part to provisions of this Ordinance relating to unfair dismissal are references to those provisions as they apply by virtue of section 54.

Adaptation of unfair dismissal provisions

2. (1) Section 56 shall have effect as if for subsection (3) there were substituted the following subsection: —

"(3) Where the employer has fulfilled the requirements of subsection (1), then, subject to section 57(1), 58, 59 and 61, the determination of the question whether the dismissal was fair or unfair, having regard to the reason shown by the employer, shall depend on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer would have been acting reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee if she had not been absent from work; and that question shall be determined in accordance with equity and the substantial merits of the case."

(2) If in the circumstances described in section 43(3) no offer is made of such alternative employment as is referred to in that subsection, then the dismissal which by virtue of section 56 is treated as taking place shall, notwithstanding anything in section 56 or 57, be treated as an unfair dismissal for the purposes of Part VI of this Ordinance.

- (3) The following references shall be construed as references to the notified day of return, that is to say -
 - (a) references in Part VI of this Ordinance to the effective date of termination;
 - (b) references in sections 67 and 68 to the date of termination of employment.

(4) The following provisions of this Ordinance shall not apply, that is to say, sections 53, 63(1), 71(7), and 8, 105(2), 106(1), 107(2) and 11(1) of Schedule 5, paragraphs 7(1)(f) to (i) and (2) and 8(3) of Schedule 6.

(5) For the purposes of Part II of Schedule 6 as it applies for the calculation of a week's pay for the purposes of section 69 or 71, the calculation date is the last day on which the employee worked under the original contract of employment.

PART II

REDUNDANCY PAYMENTS

Introductory

3. References in this Part to provisions of this Ordinance relating to redundancy are references to those provisions as they apply by virtue of section 84.

Adaptation of redundancy payments provisions

4. (1) References in Part VII of this Ordinance shall be adapted as follows, that is to say —

- (a) references to the relevant date, wherever they occur, shall be construed, except where the context otherwise requires, as references to the notified day of return;
- (b) references in sections 80(4) and 82(1) to a renewal or re-engagement taking effect immediately on the ending of employment under the previous contract or after an interval of not more than four weeks thereafter, shall be construed as references to a renewal or re-engagement taking effect on the notified day of return or not more than four weeks after that day; and
- (c) references in section 82(3) to the provisions of the previous contract shall be construed as references to the provisions of the original contract of employment.

(2) Nothing in section 84 shall prevent an employee from being treated, by reason of the operation of section 82(1), as not having been dismissed for the purposes of Part VII of this Ordinance.

(3) The following provisions of this Ordinance shall not apply, that is to say, sections 79(1)(b), 80(1) and (2), 81(1) and (2), 83, 85 to 87, 88(3), 90, 91, 107(2) and 110, paragraph 4 of Schedule 3, Schedule 4 and paragraphs 7(1)(j) and (k) and 8(4) of Schedule 6.

(4) For the purposes of Part II of Schedule 6 as it applies for the calculation of a week's pay for the purposes of Schedule 3, the calculation date is the last day on which the employee worked under the original contract of employment.

Prior redundancy

- 5. If, in proceedings arising out of a failure to permit an employee to return to work, the employer shows
 - (a) that the reason for the failure is that the empployee is redundant; and
 - (b) that the employee was dismissed or, had she continued to be employed by him, would have been dismissed, by reason of redundancy during her absence on a day earlier than the notified day of return and falling after the beginning of the eleventh week before the expected week of confinement,

then, for the purposes of Part VII of this Ordinance the employee -

- (i) shall not be treated as having been dismissed with effect from the notified day of return; but
- (ii) shall, if she would not otherwise be so treated, be treated as having been continuously employed until that earlier day and as having been dismissed by reason of redundancy with effect from that day.

PART III

GENERAL

Dismissal during period of absence

6. (1) This paragraph applies to the dismissal of an employee who is under this Ordinance entitled to return to work and whose contract of employment continues to subsist during the period of her absence but who is dismissed by her employer during that period after the beginning of the eleventh week before the expected week of confinement.

(2) For the purposes of sub-paragraph (1), an employee shall not be taken to be dismissed during the period of her absence if the dismissal occurs in the course of the employee's attempting to return to work in accordance with her contract in circumstances in which section 46 applies.

(3) In the application of Part VI of this Ordinance to a dismissal to which this paragraph applies, the following provisions shall not apply, that is to say, sections 63, 105(2) and 107(2).

(4) Any such dismissal shall not affect the employee's right to return to work, but —

- (a) compensation in any unfair dismissal proceedings arising out of that dismissal shall be assessed without regard to the employee's right to return; and
- (b) that right shall be exercisable only on her repaying any redundancy payment or compensation for unfair dismissal paid in respect of that dismissal, if the employer requests such repayment.

Power to amend or modify

7. (1) The Governor may by order amend the provisions of this Schedule and section 46 or modify the application of those provisions to any description of case.

(2) No order under this paragraph shall be made unless a draft of the order has been laid before the Legislative Council and approved by a resolution of the Legislative Council.

Section 48.

SCHEDULE 2

RIGHTS OF EMPLOYEE IN PERIOD OF NOTICE

Preliminary

1. In this Schedule the "period of notice" means the period of notice required by section 47(1) or, as the case may be, section 47(2).

Employments for which there are normal working hours

2. (1) If an employee has normal working hours under the contract of employment in force during the period of notice, and if during any part of those normal working hours -

- (a) the employee is ready and willing to work but no work is provided for him by his employer; or
- (b) the employee is incapable of work because of sickness or injury; or
- (c) the employee is absent from work in accordance with the terms of his employment relating to holidays,

then the employer shall be liable to pay the employee for the part of normal working hours covered by paragraphs (a), (b) and (c) a sum not less than the amount of remuneration for that part of normal working hours calculated at the average hourly rate of remuneration produced by dividing a week's pay by the number of normal working hours.

(2) Any payments made to the employee by his employer in respect of the relevant part of the period of notice whether by way of sick pay, holiday pay or otherwise, shall go towards meeting the employer's liability under this paragraph.

(3) Where notice was given by the employee, the employer's liablity under this paragraph shall not arise unless and until the employee leaves the service of the employer in pursuance of the notice.

Employments for which there are no normal working hours

3. (1) If an employee does not have normal working hours under the contract of employment in force in the period of notice the employer shall be liable to pay the employee for each week of the period of notice a sum not less than a week's pay.

(2) Subject to sub-paragraph (3), the employer's obligation under this paragraph shall be conditional on the employee being ready and willing to do work of a reasonable nature and amount to earn a week's pay.

(3) Sub-paragraph (2) shall not apply -

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- (a) in respect of any period during which the employee is incapable of work because of sickness or injury, or
- (b) in respect of any period during which the employee is absent from work in accordance with the terms of his employment relating to holidays,

and any payment made to an employee by his employer in respect of such a period, whether by way of sick pay, holiday pay or otherwise, shall be taken into account for the purposes of this paragraph as if it were remuneration paid by the employer in respect of that period.

(4) Where the notice was given by the employee, the employer's liability under this paragraph shall not arise unless and until the employee leaves the service of the employer in pursuance of the notice.

Absence on leave granted at request of employee

4. The employer shall not be liable under the foregoing provisions of this Schedule to make any payment in respect of a period during which the employee is absent from work with the leave of the employer granted at the request of the employee (including any period of time off taken in accordance with section 31, 32, 33, 34, 35 or 37).

Notice given before a strike

5. No payment shall be due under this Schedule in consequence of a notice to terminate a contract given by an employee if, after the notice is given and on or before the termination of the contract, the employee takes part in a strike of employees of the employer.

In this paragraph "strike" has the meaning given by paragraph 19 of Schedule 5.

Termination of employment during period of notice

6. (1) If, during the period of notice, the employer breaks the contract of employment, payments received under this Schedule in respect of the part of the period after the breach shall go towards mitigating the damages recoverable by the employee for loss of earnings in the part of the period of notice

(2) If, during the period of notice, the employee breaks the contract and the employer rightfully treats the breach as terminating the contract, no payment shall be due to the employee under this Schedule in respect of the part of the period of notice falling after the termination of the contract.

Section 79.

SCHEDULE 3

Calculation of Redundancy Payments

1. The amount of a redundancy payment to which an employee is entitled in any case shall, subject to the following provisions of this Schedule, be calculated by reference to the period, ending with the relevant date, during which he has been continuously employed.

2. Subject to paragraphs 3 and 4, the amount of the redundancy payment shall be calculated by reference to the period specified in paragraph 1 by starting at the end of that period and reckoning backwards the number of years of employment falling within that period and allowing -

- (a) one and a half week's pay for each such year of employment in which the employee was not below the age of forty-one;
- (b) one week's pay for each such year of employment (not falling within the preceding subparagraph) in which the employee was not below the age of twenty-two; and
- (c) half a week's pay for each such year of employment not falling within either of the preceding sub-paragraphs.

3. Where, in reckoning the number of years of employment in accordance with paragraph 2, twenty years of employment have been reckoned, no account shall be taken of any year of employment earlier than those twenty years.

4. (1) Where in the case of an employee the relevant date is after the specified anniversary, the amount of the redundancy payment, calculated in accordance with the preceding provisions of this Schedule, shall be reduced by the appropriate fraction.

(2) In this paragraph "the specified anniversary", in relation to a man, means the sixty-fourth anniversary of the day of his birth, and, in relation to a woman, means the fifty-ninth anniversary of the day of her birth, and "the appropriate fraction" means the fraction of which -

- (a) the numerator is the number of whole months, reckoned from the specified anniversary, in the period beginning with that anniversary and ending with the relevant date, and
- (b) the denominator is twelve.

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5. For the purposes of any provision contained in Part VII whereby the Summary Court determine that an employer shall be liable to pay to an employee either —

- (a) the whole of the redundancy payment to which the employee would have been entitled apart from another provision therein mentioned, or
- (b) such part of that redundancy payment as the court thinks fit,

the preceding provisions of this Schedule shall apply as if in those provisions any reference to the amount of a redundancy payment were a reference to the amount of the redundancy payment to which the employee would have been so entitled.

6. The preceding provisions of this Schedule shall have effect without prejudice to the operation of any regulations made under section 94 whereby the amount of a redundancy payment, or part of a redundancy payment, may be reduced.

Section 110.

SCHEDULE 4

DEATH OF EMPLOYEE OR EMPLOYER

PART I

GENERAL

Introductory

1. In this Schedule "the relevant provisions" means Part II (so far as it relates to itemised pay statements), section 51 and Parts III, IV, VI, VII and VIII of this Ordinance and this Schedule.

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Institution or continuance of court proceedings

2. Where an employee or employer has died, court proceedings arising under any of the relevant provisions may be instituted or continued by a personal representative of the deceased employee or, as the case may be, defended by a personal representative of the deceased employer.

3. (1) If there is no personal representative of a deceased employee, court proceedings arising under any of the relevant provisions (or proceedings to enforce an award of the court made in any such proceedings) may be instituted or continued on behalf of the estate of the deceased employee by such other person as the Court may appoint being either -

- (a) a person authorised by the employee to act in connection with the proceedings before the employee's death; or
- (b) the widower, widow, child, father, mother, brother or sister of the deceased employee,

and references in this Schedule to a personal representative shall be construed as including such a person.

(2) In such a case any award made by the Summary Court shall be in such terms and shall be enforceable in such manner as may be provided by regulation made by the Governor.

4. (1) Subject to any specific provision of this Schedule to the contrary, in relation to an employee or employer who has died -

- (a) any reference in the relevant provisions to the doing of anything by or in relation to an employee or employer shall be construed as including a reference to the doing of that thing by or in relation to any personal representative of the deceased employee or employer; and
- (b) any reference in the said provisions to a thing required or authorised to be done by or in relation to an employee or employer shall be construed as including a reference to any thing which, in accordance with any sich provision as modified by this Schedule (including sub-paragraph (a)), is required or authorised to be done by or in relation to any personal representative of the deceased employee or employer.

(2) Nothing in this paragraph shall prevent references in the relevant provisions to a successor of an employer from including a personal representative of a deceased employer.

Rights and liabilities accruing after death

5. Any right arising under any of the relevant provisions as modified by this Schedule shall, if it had not accrued before the death of the employee in question, nevertheless devolve as if it had so accrued.

6. Where by virtue of any of the relevant provisions as modified by this Schedule a personal representative of a deceased employer is liable to pay any amount and that liability had not accrued before the death of the employer, it shall be treated for all purposes as if it were a liability of the deceased employer which had accrued immediately before the death.

PART II

UNFAIR DISMISSAL

Introductory

7. In this Part of this Schedule "the unfair dismissal provisions" means Part VI of this Ordinance and this Schedule.

8. Where an employer has given notice to an employee to terminate his contract of employment and before that termination the employee or the employer dies, the unfair dismissal provisions shall apply as if the contract had been duly terminated by the employer by notice expiring on the date of the death.

- 9. Where
 - (a) the employee's contract of employment has been terminated; and
 - (b) by virtue of subsection (5) or (6) of section 53 a date later than the effective date of termination as defined in subsection (4) of that sectaion is to be treated as the effective date of termination for the purposes of certain of the unfair dismissal provisions; and
 - (c) before that later date the employer or the employee dies;

subsection (5) or, as the case may be, (6) shall have effect as if the notice referred to in that section as required by section 47 would have expired on the date of the death.

Remedies for unfair dismissal

10. Where an employee has died, then, unless an order for reinstatement or re-engagement has already been made, section 67 shall not apply; and accordingly if the Summary Court finds that the grounds of the complaint are well-founded the case shall be treated as falling within section 66(2) as a case in which no order is made under section 67.

11. If an order for reinstatement or re-engagement has been made and the employee dies before the order is complied with -

- (a) if the employer has before the death refused to reinstate or re-engage the employee in accordance with the order, section 69(2) and (3) shall apply and an award shall be made under section 69(2)(b) unless the employer satisfies the court that it was not practicable at the time of the refusal to comply with the order;
- (b) if there has been no such refusal, section 69(1) shall apply if the employer fails to comply with any ancillary terms of the order which remain capable of fulfilment after the employee's death as it would apply to such a failure to comply fully with the terms of an order where the employee had been reinstated or re-engaged.

PART III

REDUNDANCY PAYMENTS: DEATH OF EMPLOYER

Introductory

12. The provisions of this Part shall have effect in relation to an employee where this employer (in this Part referred to as "the deceased employer") dies.

13. Section 92 shall not apply to any change whereby the ownership of the business, for the purposes of which the employee was employed by the deaceased employer, passes to a personal representative of the deceased employer.

Dismissal

14. Where by virtue of subsection (1) of section 91, the death of the deceased employer is to be treated for the purposes of Part VII of this Ordinance as a termination by him of the contract of employment, section 82 shall have effect subject to the following modifications: -

(a) for subsection (1) there shall be substituted the following subsection -

"(1) If an employee's contract of employment is renewed, or he is re-engaged under a new contract of employment, by a personal representative of the deceased employer and the renewal or re-engagement takes effect not later than eight weeks after the death of the deceased employer, then, subject to subsections (3) and (6), the employee shall not be regarded as having been dismissed by reason of the ending of his employment under the previous contract.";

- (b) in subsection (2), paragraph (a) shall be omitted and in paragraph (b) for the words "four weeks" there shall be substituted the words "eight weeks";
- (c) in subsections (5) and (6), references to the employer shall be construed as references to the personal representative of the deceased employer.

15. Where by reason of the death of the deceased employer the employee is treated for the purposes of Part VII of this Ordinance as having been dismissed by him, section 80 shall have effect subject to the following modifications -

(a) for subsection (3) there shall be substituted the following subsection -

"(3) If a personal representative of the deceased employer makes an employee an offer (whether in writing or not) to renew his contract of employment, or to re-engage him under a new contract of employment, so that the renewal or re-engagement would take effect not later than eight weeks after the death of the deceased employer the provisions of subsection (5) and (6) shall have effect.";

- (b) in subsection (4), paragraph (a) shall be omitted and in paragraph (b) for the words "four weeks" there shall be substituted the words "eight weeks";
- (c) in subsection (5), the reference to the employer shall be construed as a reference to the personal representative of the deceased employer.
- 16. For the purposes of section 80 as modified by paragraph 15 -
 - (a) an offer shall not be treated as one whereby the provisions of the contract as renewed, or of the new contract, as the case may be, would differ from the corresponding provisions of the contract as in force immediately before the death of the deceased employer by reason only that the peronsal representative would be substituted as the employer for the deceased employer, and
 - (b) no account shall be taken of that substitution in determining whether the refusal of the offer was unreasonable, or, as the case may be, whether the employee acted reasonably in terminating the renewed, or new, employment during the trial period referred to in section 82.

Lay-off and short time

17. Where the employee has before the death of the deceased employer been laid off or kept on short-time for one or more weeks, but has not given to the deceased employer notice of intention to claim, then if after the death of the deceased employer -

- (a) his contract of employment is renewed, or he is re-engaged under a new contract by a personal representative of the deceased employer, and
- (b) after the renewal or re-engagement, he is laid off or kept on short-time for one or more weeks by the personal representative of the deceased employer,

the provisions of sections 86 and 87 shall apply as if the week in which the deceased employer died and the first week of the employee's employment by the personal representative were consecutive weeks, and any reference in those sections to four weeks or thirteen weeks shall be construed accordingly.

18. The provisions of paragraph 19 or (as the case may be) paragraph 20 shall have effect where the employee has given to the deceased employer notice of intention to claim, and -

- (a) the deceased employer has died before the end of the next four weeks after the service of that notice, and
- (b) the employee has not terminated the contract of employment by notice expiring before the death of the deceased employer.

19. If in the circumstances specified in paragraph 18 the employee's contract of employment is not renewed by a personal representative of the deceased employer before the end of the next four weeks after the service of the notice of intention to claim, and he is not re-engaged under a new contract by such a personal representative before the end of those four weeks, section 86(1) and (2) and (in relation to subsection (1) of that section) section 87(2) and (3) shall apply as if —

- (a) the deceased employer had not died, and
- (b) the employee had terminated the contract of employment by a week's notice (or, if under the contract he is required to give more than a week's notice to terminate the contract, he had terminated it by the minimum notice which he is so required to give) expiring at the end of those four weeks,

but sections 86(3) and (4) and 87(1) and (4) shall not apply.

20. (1) The provisions of this paragraph shall have effect where, in the circumstances specified in paragraph 18, the employee's contract of employment is renewed by a personal representative of the deceased employer before the end of the next four weeks after the service of the notice of intention to claim, or he is re-engaged under a new contract by such a personal representative before the end of those four weeks, and —

- (a) he was laid off or kept on short-time by the deceased employer for one or more of those weeks, and
- (b) he is laid off or kept on short-time by the personal representative for the week, or for the next two or more weeks, following the renewal or re-engagement.
- (2) Where the conditions specified in sub-paragraph (1) are fulfilled, sections 86 and 87 shall apply as if -
 - (a) all the weeks for which the employee was laid off or kept on short-time as mentioned in subparagraph (1) were consecutive weeks during which he was employed (but laid off or kept on short-time) by the same employer, and
 - (b) each of the periods specified in paragraphs (a) and (b) of subsection (5) of section 87 were extended by any week or weeks any part of which was after the death of the deceased employer and before the date on which the renewal or re-engagement took effect.

Continuity of period of employment

21. For the purposes of the application, in accordance with section 95(1), of any provisions of Part VII of this Ordinance in relation to an employee who was employed as a domestic servant in a private household, any reference to a personal representative in -

- (a) this Part of this Schedule, or
- (b) paragraph 15 of Schedule 5,

shall be construed as including a reference to any person to whom, otherwise than in pursuance of a sale or other disposition for valuable consideration, the management of the household has passed in consequence of the death of the deceased employer.

PART IV

REDUNDANCY PAYMENTS: DEATH OF EMPLOYEE

22. (1) Where an employer has given notice to an employee to terminate his contract of employment, and before that notice expires the employee dies, the provisions of Part VII of this Ordinance shall apply as if the contract had been duly terminated by the employer by notice expiring on the date of the employee's death.

(2) Where the employee's contract of employment has been terminated by the employer and by virtue of section 88(3) a date later than the relevant date as defined by subsection (1) of that section is to be treated as the relevant date for the purposes of certain provisions of Part VII of this Ordinance and before that later date the employee dies, section 88(3) shall have effect as if the notice referred to in that subsection as required to be given by an employer would have expired on the employee's death.

23. (1) Where an employer has given notice to an employee to terminate his contract of employment, and has offered to renew his contract of employment, or to re-engage him under a new contract, then if -

- (a) the employee dies without having either accepted or refused the offer, and
- (b) the offer has not been withdrawn before his death,

section 80 shall apply as if for the words "the employee unreasonably refuses" there were sustituted the words "it would have been unreasonable on the part of the employee to refuse".

(2) Where an employee's contract of employment has been renewed, or he has been re-engaged under a new contract of employment, and during the trial period the employee dies without having terminated or having given notice to terminate the contract, subsection (6) of that section shall apply as if for the words from "and during the trial period" to "terminated" there were substituted the words "and it would have been unreasonable for the employee, during the trial period referred to in section 82, to terminate or give notice to terminate the contract".

24. Where an employee's contract of employment has been renewed, or he has been re-engaged under a new contract of employment, and during the trial period he gives notice to terminate the contract but dies before the expiry of that notice, sections 80(6) and 82(6)(a) shall have effect as if the notice had expired and the contract had thereby been terminated on the date of the employee's death.

25. (1) Where, in the circumstances specified in paragraphs (a) and (b) of subsection (1) of section 83, the employee dies before the notice given by him under paragraph (b) of that subsection is due to expire and before the employer has given him notice under subsection (3) of that section, subsection (4) of that section shall apply as if the employer had given him such notice and he had not complied with it.

(2) Where, in the said circumstances, the employee dies before his notice given under section 83(1)(b) is due to expire but after the employer has given him notice under subsection (3) of section 83, subsections (3) and (4) of that section shall apply as if the circumstances were that the employee had not died, but did not comply with the last-mentioned notice.

26. (1) Where an employee has given notice of intention to claim and dies before he has given notice to terminate his contract of employment and before the period allowed for the purposes of subsection (2)(a) of section 86 has expired, the said subsection (2)(a) shall not apply.

(2) Where an employee, who has given notice of intention to claim, dies within seven days after the service of that notice, and before the employer has given a counter-notice, the provisions of section 86 and 87 shall apply as if the employer had given a counter-notice within those seven days.

(3) In this paragraph "counter-notice" has the same meaning as in section 87(1).

27. (1) In relation to the making of a claim by a personal representative of a deceased employee who dies before the end of the period of six months beginning with the relevant date, subsection (1) of section 101 shall apply with the substitution for the words "six months", of the words "one year".

(2) In relation to the making of a claim by a personal representative of a deceased employee who dies after the end of the period of six months beginning with the relevant date and before the end of the following period of six months, subsection (2) of section 96 shall apply with the substitution for the words "six months", of the words "one year".

28. In relation to any case where, under any provision contained in Part VII of this Ordinance as modified by this Schedule, the Summary Court has power to determine that an employer shall be liable to pay to a personal representative of a deceased employee either -

- (a) the whole of a redundancy payment to which he would have been entitled apart from another provision therein mentioned, or
- (b) such part of such a redundancy payment as the court thinks fit,

any reference in paragraph 5 to a right shall be construed as including a reference to any right to receive the whole or part of a redundancy payment if the court determines that the employer shall be liable to pay it.

SCHEDULE 5

COMPUTATION OF PERIOD OF EMPLOYMENT

Preliminary

1. (1) Except so far as otherwise provided by the following provisions of this Schedule, a week which does not count under paragraphs 3 to 12 breaks the continuity of the period of employment.

(2) The provisions of this Schedule apply, subject to paragraph 13 to a period of employment notwithstanding that during that period the employee was engaged in work wholly or mainly outside the Falkland Islands, or was excluded by or under this Ordinance from any right conferred by this Ordinance.

(3) A person's employment during any period shall, unless the contrary is shown, be presumed to have been continuous.

Normal working weeks

3. Any week in which the employee is employed for sixteen hours or more shall count in computing a period of employment.

Employment governed by contract

4. Any week during the whole or part of which the employee's relations with the employer are governed by a contract of employment which normally involves employment for sixteen hours or more weekly shall count in computing a period of employment. 5. (1) If the employee's relations with his employer cease to be governed by a contract which normally involves work for sixteen hours or more weekly and become governed by a contract which normally involves employment for eight hours or more, but less than sixteen hours, weekly and, but for that change, the later weeks would count in computing a period of employment, or would not break the continuity of a period of employment, then those later weeks shall count in computing a period of employment, notwithstanding that change.

(2) Not more than twenty-six weeks shall count under this paragraph between any two periods falling under paragraph 4, and in computing the said figure of twenty-six weeks no account shall be taken of any week which counts in computing a period of employment, or does not break the continuity of a period of employment, otherwise than by virtue of this paragraph.

6. (1) An employee whose relations with his employer are governed, or have been from time to time governed, by a contract of employment which normally involves employment for eight hours or more, but less than sixteen hours, weekly shall nevertheless, if he satisfies the condition referred to in sub-paragraph (2), be treated for the purposes of this Schedule (apart from this paragraph) as if his contract normally involved employment for sixteen hours or more weekly, and had at all times at which there was a contract during the period of employment of five years or more referred to in sub-paragraph (2) normally involved employment for sixteen hours or more weekly.

(2) Sub-paragraph (1) shall apply if the employee, on the date by reference to which the length of any period of employment falls to be ascertained in accordance with the provisions of this Schedule, has been continuously employed within the meaning of sub-paragraph (3) for a period of five years or more.

(3) In computing for the purposes of sub-paragraph (2) an employee's period of employment, the provisions of this Schedule (apart from this paragraph) shall apply but as if, in paragraphs 3 and 4, for the words "sixteen hours" wherever they occur, there were substituted the words "eight hours".

7. (1) If an employee has, at any time during the relevant period of employment, been continuously employed for a period which qualifies him for any right which requires a qualifying period of continuous employment computed in accordance with this Schedule, then he shall be regarded for the purposes of qualifying for that right as continuing to satisfy that requirement until the condition referred to in sub-paragraph (3) occurs.

(2) In this paragraph the relevant period of employment means the period of employment ending on the date by reference to which the length of any period of employment falls to be ascertained which would be continuous (in accordance with the provisions of this Schedule) if at all relevant times the employee's relations with the employer had been governed by a contract of employment which normally involved employment for sixteen hours or more weekly.

(3) The condition which defeats the operation of sub-paragraph (1) is that in a week subsequent to the time at which the employee qualified as referred to in that sub-paragraph -

- (a) his relations with his employer are governed by a contract of employment which normally involves employment for less than eight hours weekly; and
- (b) he is employed in that week for less than sixteen hours.

(4) If, in a case in which an employee is entitled to any right by virtue of sub-paragraph (1), it is necessary for the purpose of ascertaining the amount of his entitlement to determine for what period he has been continuously employed, he shall be regarded for that purpose as having been continuously employed throughout the relevant period.

Power to amend paragraphs 3 to 7 by order

8. (1) The Governor may by order —

- (a) amend paragraphs 3 to 7 so as to substitute for each of the references to sixteen hours a reference to such other number of hours less than sixteen as may be specified in the order; and
- (b) amend paragraphs 6 and 7 so as to substitute for each of the references to eight hours a reference to such other number of hours less than eight as may be specified in the order.

(2) No order under this paragraph shall be made unless a draft of the order has been laid before the Legislative Council and approved by a resolution of the Legislative Council.

(3) The provisions of any order under this paragraph shall apply to periods before the order takes effect as they apply to later periods.

Periods in which there is no contract of employment

- 9. (1) If in any week the employee is, for the whole or part of the week
 - (a) incapable of work in consequence of sickness or injury, or
 - (b) absent from work on account of a temporary cessation of work, or
 - (c) absent from work in circumstances such that, by arrangement or custom, he is regarded as continuing in the employment of his employer for all or any purposes, or
 - (d) absent from work wholly or partly because of pregnancy or confinement,

that week shall, notwithstanding that it does not fall under paragraph 3, 4 or 5, count as a period of employment.

(2) Not more than twenty-six weeks shall count under paragraph (a) or, subject to paragraph 10, under paragraph (d) of sub-paragraph (1) between any periods falling under paragraph 3, 4 or 5.

Maternity

10. If an employee returns to work in accordance with section 43(1) or in pursuance of an offer made in the circumstances described in section 55(2) after a period of absence from work wholly or partly occasioned by pregnancy or a confinement, every week during that period shall count in computing a period of

employment, notwithstanding that it does not fail under paragraph 3, 4 or 5.

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Intervals in employment where sections 53(5), 55(6) or 82(1) or 88(3) applies.

11. (1) In ascertaining, for the purposes of section 63(1)(a), 64(1) and of section 71(3), the period for which an employee has been continuously employed, where by virtue of section 53(5) or, as the case may be, (6) a date is treated as the effective date of termination which is later than the effective date of termination as defined by section 53(4), the period of the interval between those two dates shall count as a period of employment notwithstanding that it does not otherwise count under this Schedule.

(2) Where by virtue of section 82(1) and employee is treated as not having been dismissed by reason of a renewal or re-engagement taking effect after an interval, then, in determining for the purposes of section 79(1) or Schedule 3 whether he has been continuously employed for the requisite period, the period of that interval shall count as a period of employment except in so far as it is to be disregarded under paragraphs 12 and 13 (notwithstanding that it does not otherwise count under this Schedule).

(3) Where by virtue of section 88(3) a date is to be treated as the relevant date for the purposes of section 79(4) which is later than the relevant date as defined by section 88(1), then in determining for the purposes of section 79(1) or Schedule 3 whether the employee has been continuously employed for the requisite period, the period of the interval between those two dates shall count as a period of employment except in so far as it is to be disregarded under paragraphs 12 to 14 (notwithstanding that it does not otherwise count under this Schedule).

Payment of previous redundancy payment or equivalent payment

12. (1) Where the conditions mentioned in sub-paragraph (2)(a) or(2)(b) are fulfilled in relation to a person, then in determining, for the purposes of section 79(1) or Schedule 3, whether at any subsequent time he has been continuously employed for the requisite period, or for what period he has been continuously employed, the continuity of the period of employment shall be treated as having been broken —

- (a) in so far as the employment was under a contract of employment, at the date which was the relevant date in relation to the payment mentioned in sub-paragraph (2)(a) or, as the case may be, sub-paragraph (2)(b); or
- (b) in so far as the employment was otherwise than under a contract of employment, at the date which would have been the relevant date in relation to that payment had the employment been under a contract of employment,

and accordingly no account shall be taken of any time before that date.

- (2) Sub-paragraph (1) has effect where -
 - (a) a redundancy payment is paid to an employee, whether in respect of dismissal or in respect of lay off or short-time; and
 - (b) the contract of employment under which he was employed (in this section referred to as "the previous contract") is renewed, whether by the same or another employer, or he is re-engaged under a new contract of employment, whether by the same or another employer; and

- (c) the circumstances of the renewal or re-engagement are such that, in determining for the purposes of section 79(1) or Schedule 3 whether at any subsequent time he has been continuously employed for the requisite period, or for what period he has been continuously employed, the continuity of his period of employment would, apart from this paragraph, be treated as not having been broken by the termination of the previous contract and the renewal or re-engagement.
- (3) For the purposes of this paragraph, a redundancy payment shall be treated as having been paid if
 - (a) the whole of the payment has been paid to the employee by the employer, or, in a case where the Summary Court has determined that the employer is liable to pay part (but not the whole) of the redundancy payment, that part of the redundancy payment has been paid in full to the employee by the employer, or
 - (b) the Financial Secretary has paid a sum to the employee in respect of the redundancy payment under section 100.

Redundancy payments: employment wholly or partly abroad

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13. (1) In computing in relation to an employee the period specified in section 79(4) or the period specified in paragraph 1 of Schedule 3, a week of employment shall not count if -

- the employee was employed outside the Falkland Islands during the whole or part of that week; and
- (b) he was not during that week, or during the corresponding contribution week a person in respect of whom a sum was payable in respect of Medical Services Levy, and whether or not such sum was in fact paid.

(2) Where by virtue of sub-paragraph (1) a week of employment does not count in computing such a period as is mentioned in that sub paragraph, the continuity of that period shall not be broken by reason only that that week of employment does not count in computing that period.

(3) Any question arising under this paragraph whether a sum was or would have been payable in respect of Medical Services Levy shall be determined by the Financial Secretary subject to, a right of appeal to the Supreme Court by any person aggrieved by such determination.

(4) The provisions of this paragraph shall not apply in relation to a person who is employed as a master or seaman in a British ship and is ordinarily resident in the Falkland Islands.

Industrial disputes

14. (1) A week shall not count under paragraph 3,4,5,9 or 10 if in that week, or any part of that week, the employee takes part in a strike.

(2) The continuity of an employee's period of employment is not broken by a week which does not count under this Schedule if in that week, or any part of that week, the employee takes part in a strike.

(3) Sub-paragraph (2) applies whether or not the week would, apart from sub paragraph (1), have counted under this Schedule.

(4) The continuity of the period of employment is not broken by a week and which does not count under this Schedule, if in that week, or any part of that week, the employee is absent from work because of a lock-out by the employer.

Change of employer

15. (1) Subject to this paragraph the foregoing provisions of this Schedule relate only to employment by the one employer.

(2) If a trade or business or an undertaking (whether or not it be an undertaking established by or under an Ordinance) is transferred from one person to another, the period of employment of an employee in the trade or business or undertaking at the time of the transfer shall count as a period of employment with the transferee, and the transfer shall not break the continuity of the period of employment.

(3) If by or under an Ordinance, and whether passed before or after this Ordinance, a contract of employment between any body corporate and an employee is modified and some other body corporate is substituted as the employer, the employee's period of employment at the time when the modification takes effect shall count as a period of employment with the second-mentioned body corporate, and the change of employer shall not break the continuity of the period of employment. (4) If on the death of an employer the employee is taken into the employment of the personal representatives or trustees of the deceased, the employee's period of employment at the time of the death shall count as a period of employment with the employer's personal representatives or trustees, and the death shall not break the continuity of the period of employment.

(5) If there is a change in the partners, personal representatives or trustees who employ any perons, the employee's period of employment at the time of the change shall count as a period of employment with the partners, personal representatives or trustees after the change, and the change shall not break the continuity of the period of employment.

16. If an employee of an employer is taken into the employment of another employer who, at the time when the employee enters his employment is an associated employer of the first-mentioned employer, the employee's period of employment at that time shall count as a period of employment with the second-mentioned employer and the change of employer shall not break the continuity of the period of employment.

Reinstatement or re-engagement of dismissed employee

17. (1) Regulations made by the Governor may make provision -

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- (a) for preserving the continuity of a person's period of employment for the purposes of this Schedule or for the purposes of this Schedule as applied by or under any other enactment specified in the regulations, or
- (b) for modifying or excluding the operation of paragraph 12 subject to the recovery of any such payment as is mentioned in sub-paragraph (2) of that paragraph,

in cases where, in consequence of action to which sub-paragraph (2) applies, a dismissed employee is reinstated or re-engaged by his employer or by a successor or associated employer of that employer.

(2) This sub-paragraph applies to any action taken in relation to the dismissal of an employee which consists of the presentation by him of a complaint under section 65.

Employment before the commencement of this Ordinance

18. Save as otherwise expressly provided, the provisions of this Schedule apply to periods before it comes into force as they apply to later periods.

Interpretation

19. (1) In this Schedule, unless the context otherwise requires, -

"lock-out" means the closing of a place of employment, or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him in consequence of a dispute, done with a view to compelling those persons, or to aid another employer in compelling persons employed by him, to except terms or conditions of or affecting employment;

"strike" means the cessation of work by a body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other employees in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions of or affecting employment;

"week" means a week ending with Saturday.

(2) For the purposes of this Schedule the hours of employment of an employee who is required by the terms of his employment to live on the premises where he works shall be the hours during which he is on duty or during which his services may be required.

section 112

SCHEDULE 6

CALCULATION OF NORMAL WORKING HOURS AND A WEEK'S PAY

PART I

Normal Working Hours

1. For the purposes of this Schedule the cases where there are normal working hours include cases where the employee is entitled to overtime pay when employed for more than a fixed number of hours in a week or other period, and subject to paragraph 2, in those cases that fixed number of hours shall be the normal working hours.

2. If in such a case —

- (a) the contract of employment fixes the number, or the minimum number of hours of employment in the said week or other period (whether or not it also provides for the reduction of that number or minimum in certain circumstances), and
- (b) that number or minimum number of hours exceeds the number of hours without overtime,

that number or minimum number or hours (and not the number of hours without overtime) shall be the normal working hours.

PART II

A WEEK'S PAY

Employments for which there are normal working hours

3. (1) This paragraph and paragraph 4 shall apply if there are normal working hours for an employee when employed under the contract of employment in force on the calculation date.

(2) Subject to paragraph 4, if an employee's remuneration for employment in normal working hours, whether by the hour or week or other period, does not vary with the amount of work done in the period, the amount of a week's pay shall be the amount which is payable by the employer under the contract of employment in force on the calculation date if the employee works throughout his normal working hours in a week.

(3) Subject to paragraph 4, if sub-paragraph (2) does not apply, the amount of a week's pay shall be the amount of remuneration for the number of normal working hours in a week calculated at the average hourly rate of remuneration payable by the employer to the employee in respect of the period of twelve weeks -

(a) where the calculation date is the last day of a week ending with that week;

(b) in any other case, ending with the last complete week before the calculation date.

(4) References in his paragraph to remuneration varying with the amount of work done include references to remuneration which may include any commission on similar payment which varies in amount.

4. (1) This paragraph shall apply if there are normal working hours for an employee when employed under the contract of employment in force on the calculation date, and he is required under that contract to work during those hours on days of the week or at times of the day which differ from week to week or over a longer period so that the remuneration payable for, or apportionable to, any week varies according to the incidence of the said days or time.

(2) The amount of a week's pay shall be the amount of remuneration for the average weekly number of normal working hours (calculated in accordance with sub-paragraph (3)) at the average hourly rate of remuneration (calculated in accordance with sub-paragraph(4)).

(3) The average number of weekly hours shall be calculated by dividing by twelve the total number of the employee's normal working hours during the period of twelve weeks -

(a) where the calculation date is the last day of a week, ending with that week;

(b) in any other case, ending with the last complete week before the calculation date.

(4) The average hourly rate of remuneration shall be the average hourly rate of remuneration payable by the employer to the employee in respect of the period of twelve weeks -

- (a) where the calculation date is the last day of a week, ending with that week;
- (b) in any other case, ending with the last complete week before the calculation date.

5. (1) For the purpose of paragraphs 3 and 4, in arriving at the average hourly rate of remuneration only the hours when the employee was working, and only the remuneration payable for, or apportionable to, those hours of work, shall be brought in; and if for any of the twelve weeks mentioned in either of those paragraphs no such remuneration was payable by the employer to the employee, account shall be taken of remuneration in earlier weeks so as to bring the number of weeks of which account is taken up to twelve.

(2) Where, in arriving at the said hourly rate of remuneration, account has to be taken of remuneration payable for, or apportionable to, work done in hours other than normal working hours, and the amount of that remuneration was greater than it would have been if the work had been done in normal working hours, account shall be taken of that remuneration as if -

- (a) the work had been done in normal working hours; and
- (b) the amount of that remuneration had been reduced accordingly.

(3) For the purpose of the application of sub-paragraph (2) to a case falling within paragraph 2, subparagraph (2) shall be construed as if for the words "had been done in normal working hours", in each place where those words occur, there were substituted the words "had been done in normal working hours falling within the number of hours without overtime".

Employments for which there are no normal working hours

6. (1) This paragraph shall apply if there are no normal working hours for an employee when employed under the contract of employment in force on the calculation date.

(2) The amount of a week's pay shall be the amount of the employee's average weekly remuneration in the period of twelve weeks -

- (a) where the calculation date is the last day of a week, ending with that week;
- (b) in any other case, ending with the last complete week before the calculation date.

(3) In arriving at the said average weekly rate of remuneration no account shall be taken of a week in which no remuneration was payable by the employer to the employee and remuneration in earlier weeks shall be brought in so as to bring the number of weeks of which account is taken up to twelve.

The calculation date

7. (1) For the purposes of this Part, the calculation date is, -

- (a) where the calculation is for the purposes of section 17, the day in respect of which the guarantee payment is payable, or, where an employee's contract has been varied, or a new contract entered into, in connection with a period of short-time working, the last day on which the original contract was in force;
- (b) where the calculation is for the purposes of section 24, the day before that on which the suspension referred to in section 22(1) begins;
- (c) where the calculation is for the purposes of section 37, the day of the appointment concerned;
- (d) where the calculation is for the purposes of section 41, the last day on which the employee worked under the contract of employment in force immediately before the beginning of her absence;
- (e) where the calculation is for the purposes of Schedule 2, the day immediately preceding the first day of the period of notice required by section 47(1) or, as the case may be, section 47(2);
- (f) where the calculation is for the purposes of section 51 or 69(2)(b) and the dismissal was with notice, the date on which the employer's notice was given;
- (g) where the calculation is for the purposes of section 51 or 69(2)(b) but sub-paragraph (f) does not apply, the effective date of termination;

- (h) where the calculation is for the purposes of section 71 and by virtue of section 53(5)or, as the case may be, (6) a date is to be treated as the effective date of termination for the purposes of section 71(3) which is later than the effective date of termination as defined by section 53(4), the effective date of termination as defined by section 53(4);
- (i) where the calculation is for the purposes of section 71 but neither subsection (5) nor subsection (6) of section 53 applies in relation to the date of termination, the date on which notice would have been given had the conditions referred to in sub-paragraph (2) been fulfilled (whether those conditions were in fact fulfilled or not);
- (j) where the calculation is for the purposes of section 85(2), the day immediately preceding the first of the four or, as the case may be, the six weeks referred to in section 86(1);
- (k) where the calculation is for the purposes of Schedule 3 and by virtue of section 88(3) a date is to be treated as the relevant date for the purposes of certain provisions of this Ordinance which is later than the relevant date as defined by section 88(1), the relevant date as defined by section 88(1);
- where the calculation is for the purposes of Schedule 3 but sub-paragraph (k) does not apply, the date on which notice would have been given had the conditions referred to in sub-paragraph
 (2) been fulfilled (whether those conditions were in fact fulfilled or not).

(2) The conditions referred to in sub-paragraph (1)(i) and(l) are that the contract was terminable by notice and was terminated by the employer giving such notice as is required to terminate that contract by section 47 and that the notice expired on the effective date of termination or on the relevant date, as the case may be.

Maximum amount of week's pay for certain purposes

8. (1) Notwithstanding the preceding provisions of this Schedule, the amount of a week's pay for the purpose of calculating -

- (a) an additional award of compensation (within the meaning of section 69(2)(b)) shall not exceed £180;
- (b) a basic award of compensation (within the meaning of section 70) shall not exceed £180;
- (c) a redundancy payment shall not exceed £180.

(2) The Governor may after a review under section 109 vary the limit referred to in sub-paragraph (1)(a) or (b) or(c) by an order made in accordance with that section.

(3) Without prejudice to the generality of the power to make transitional provision in an order under section 109, such an order may provide that it shall apply in the case of a dismissal in relation to which the effective date of termination for the purposes of this sub-paragraph, as defined by section 53(5) or, as the case may be, (6), falls after the order comes into operation, notwithstanding that the effective date of termination, as defined by section 53(4), for the purposes of other provisions of this Ordinance falls before the order comes into operation.

(4) Without prejudice to the generality of the power to make transitional provision in an order under section 109, such an order may provide that it shall apply in the case of a dismissal in relation to which the relevant dat for the purposes of this sub-paragraph falls after the order comes into operation, notwithstanding that the relevant date for the purposes of other provisions of this Ordinance falls before the order comes into operation.

Supplemental

9. In any case in which an employee has not been employed for a sufficient period to enable a calculation to be made under any of the foregoing provisions of this Part, the amount of a week's pay shall be an amount which faily represents a week's pay; and in determining that amount the Summary Court shall apply as nearly as may be such of the foregoing provisions of this Part as it considers appropriate, and may have regard to such of the following considerations as it thinks fit, that is to say —

- (a) any remuneration received by the employee in respect of the employment in question;
- (b) the amount offered to the employee as remuneration in respect of the employment in question;
- (c) the remuneration received by other persons engaged in relevant comparable employment with the same employer;

(d) the remuneration received by other persons engaged in relevant comparable employment with other employers.

10. In arriving at an average hourly rate or average weekly rate of remuneration under this Part account shall be taken of work for a former employer within the period for which the average is to be taken if, by virtue of Schedule 5, a period of employment with the former employer counts as part of the employee's continuous period of employment with the later employer.

11. Where under this Part account is to be taken of remuneration or other payments for a period which does not coincide with the periods for which the remuneration or other payments are calculated, then the remuneration or other payments shall be apportioned in such manner as may be just.

12. The Governor may by regulations provide that in prescribed cases the amount of a week's pay shall be calculated in such manner as the regulations may prescribe.

OBJECTS AND REASONS

The Objects of this Bill are --

- (a) to require written particulars of terms of employment to be given;
- (b) to require iternised pay statement to be given to employees;
- (c) to provide for guaranteed earnings for employees whose remuneration would otherwise be reduced because their employer fails to provide work for them to do;
- (d) to provide for payments to employees who are suspended from work on medical grounds;
- to provide a statutory right to take time off work for some purposes (in some cases paid time off);
- (f) to provide for maternity pay, maternity absences and a right to return to work for pregnant female employees;
- (g) to provide that an employee (subject to certain exceptions) may not be unfairly dismissed and to provide rights to employees who are unfairly dismissed;
- (h) to provide for payments to employees who are dismissed because of redundancy; and
- (i) to make provision incidental to and consequential upon the foregoing matters.





THE

FALKLAND ISLANDS GAZETTE (Extraordinary) PUBLISHED BY AUTHORITY

Vol. XCVII

19th OCTOBER 1988

No. 15

NOTICE

The following are Published in this Gazette -

The Schools (Amendment) Regulations 1988 (S.R. & O. No. 13 of 1988;

The Fishing Licences (Applications and Fees) (No. 2) Regulations Order 1988 (S.R. & O. No. 14 of 1988).

The Education Ordinance 1967 (No 14 of 1967)

The Schools (Amendment) Regulations 1988 (S.R. & O. No. 13 of 1988)

Arrangement of Provisions

Regulation

1. Citation.

2. Meaning of "the principal Regulations".

3. Revocation and replacement of regulation 4 of the principal Regulation.

The Education Ordinance 1967

(No. 14 of 1967)

The Schools (Amendment) Regulations 1988

(S.R. & O. No. 13 of 1988)

IN EXERCISE of my powers under section 16 of the Education Ordinance 1967 I make the following Regulations -

1. These Regulations may be cited as the Schools (Amendment) Regulations 1988.

2. In these Regulations, "the principal Regulations" means the Schools Regulations.

Meaning of "the principal Regulations". Revocation and

replacement of regulation 4 of the principal Regulation.

3. Regulation 4 of the principal Regulations is revoked and replaced by the following new regulation 4 -

"4. (1) In respect of recognised Stanley schools the school year shall be divided as follows -

- (a) a first term of 15 weeks in length, so arranged as to allow during such term a holiday of one week coinciding with Camp Sports week;
- (b) a holiday of 2 weeks between the first term and the second term;
- (c) a second term of 12 weeks in length;
- (d) a holiday of 3 weeks between the second term and the third term;
- (e) a third term commencing on the day following the expiration of the holiday referred to in paragraph (d) and ending on the Wednesday of the week preceding the week in which Christmas Day in that year occurs; and
- (f) a holiday of 7 weeks commencing with and including the Thursday of the week preceding the week in which Christmas Day occurs and ending on the day immediately before the commencement of the first term of the next following school year.

(2) The dates of each term falling within a school year shall be published in the Gazette during the month of December immediately preceding the commencement of the school year in question.

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Citation.

(3) Notwithstanding that a day which is a public holiday may fall within a term, no child shall be required to attend school on such a public holiday.

(4) The Governor may, on the recommendation of or after consultation with the Superintendent, declare any day falling within a term to be an occasional holiday in respect of all recognised schools or in respect of such recognised schools or school as may be specified and no child shall be required to attend a school at which he is a pupil in or a day has been declared to be an occasional holiday:

Provided that not more than three days within any term shall be occasional holidays in respect of a particular recognised school.

(5) The Governor's powers to declare an occasional holiday in respect of a school under paragraph (4) of this regulation shall extend so as to enable him to declare part of a day an occasional holiday and paragraph (4) shall be construed with such modifications and adaptations as may be necessary to give effect to this paragraph in respect of any part of a day so declared.

(6) In respect of recognised schools in Camp, the foregoing provisions of this regulation shall apply:

Provided that the Superintendent may vary the dates and length of terms in respect of such schools in such manner as to be convenient for the management of farms, but not so as to reduce the total number of days a child attending any such school is required, subject to this regulation, to attend thereat during a school year."

Made this 16th day of September 1988.

G. W. JEWKES, Governor.

Explanatory Note

(This Note does not form part of the Regulations)

These regulations replace regulation 4 of the Schools Regulations and provide for occasional holidays during school terms. They also make clear that public holidays are not days on which children are required to attend school.

The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) (No. 2) Regulations Order 1988 (S.R. & O. No. 14 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation and Commencement.
- 2. Limitation of application of these Regulations.
- 3. Interpretation.
- 4. Suspension of certain provisions of the principal Regulations.
- 5. Types of licences.
- 5. Applications for fishing licences.
- 7. Fees for licences.
- & Extension of season.

Schedule

Table 1 - Trawlers: Finfish only, type "A" licences.

Table 2 - Jiggers: Squid north, type "B" licences.

Table 3 - Trawlers: Squid north, type "B" licences.

Table 4 - Trawlers: Squid south, type "C" licences.

The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) (No. 2) Regulations Order 1988 (S.R. & O. No. 14 of 1988)

IN EXERCISE of my power under section 20 of the Fisheries (Conservation and Management) Ordinance 1986 I make the following Order —

1. (1) This Order may be cited as the Fishing Licences (Applications and Fees) (No. 2) Regulations Order 1988 and shall come into operation on the date it is first published in the Gazette and cease to have effect on the 30th June 1989.

(2) This Order is hereinafter called "these Regulations" and any paragraph of this Order may be cited as (and is hereafter described as) a regulation bearing the same number as that paragraph and every subparagraph of a paragraph of this Order may be cited as (and is hereafter described as) a paragraph of the same number of the regulation in which it appears.

2. Nothing in these Regulations applies to licences for exploratory or scientific purposes or to fishing within the territorial sea or internal waters.

3. in these Regulations -

1 ... A.

"Exploratory or scientific purposes" means purposes related to the assessment of the commercial or practical viability of fishing for fish generally or for a particular species of fish or to the assessment or quantification of stocks of any species of fish or fish of any age, stage of maturity or size of a species of fish or the locations in which they or any species of fish or fish of any age, stage of maturity or size may be found;

"fishing licence" means a licence to catch or take fish within the fishing waters;

"the fishing season" means —

- (a) in relation to an "A" Licence the period commencing on 1st January 1989 and ending 30th June 1989;
- (b) in relation to a "B" Licence the period commencing on 15th March 1989 and ending on 30th June 1989;
- (c) in relation to a "C" Licence the period commencing on 1st February 1989 and ending on 30th June 1989; and

"the principal Regulations" means the Fishing Regulations Order 1987.

4. For so long as these Regulations are in force such of the provisions of the principal Regulations as are inconsistent with these Regulations shall not be in force, but except as aforesaid the provisions of the principal Regulations remain in force and shall be complied with in addition to those of these Regulations.

5. (1) For the purpose of these Regulations there shall be the following categories of licence -

- (a) An "A" Licence;
- (b) A "B" Licence; and
- (c) A "C" Licence.

(2) An "A" Licence issued under these Regulations shall authorise the catching or taking by the vessel in respect of which it is issued of finfish, that is to say vertebrate fish having a dorsal fin, a ventral or pectoral fin and not in any case including squid of any kind.

(3) A "B" Licence issued under these Regulations shall authorise the catching or taking within the northern area of squid of any species.

Suspension of certain provisions of the principal Regulations.

Types of licences.

Citation and Commencement.

(4) A "C" Licence issued under these Regulations shall authorise the catching or taking within the southern area of squid of any species.

Provided that a "by-catch" which in the reasonable opinion of the Director of Fisheries could not reasonably be avoided shall not be deemed to have been caught or taken without the authority of a licence.

(5) For the purposes of these Regulations —

"northern area" means all that part of the Falkland Islands Interim Conservation and Management Zone which lies to the north of 51° 15' South

"southern area" means all that part of the Falkland Islands Interim Conservation and Management Zone which lies to the south of 51° 15' South

6. (1) Applications for licences in respect of the whole or any part of any fishing season shall be made to the Director of Fisheries at the Falkland Islands Government Office London and shall not be made to him addressed to him at Stanley, Falkland Islands.

(2) Any application to which paragraph (1) of this regulation relates shall be accompanied by an application fee of £200 (which shall not be returnable whether or not the application is granted) and shall be made so as to be recieved thereat by 1500 Universal Time Constant on 17 October 1988.

(3) The Director of Fisheries in his discretion may consider an application lodged after the time and date mentioned in paragraph (2) of this regulation but shall not be bound to do so.

7. (1) Table 1 of the Schedule to these Regulations applies in respect of the fees payable Fees for licences. for "A" Licences.

(2) Table 2 of the Schedule to these Regulations applies in respect of "B" Licences granted to any jigger.

(3) Table 3 of the Schedule to these Regulations applies in respect of "B" Licences granted to any trawler or combination vessel.

(4) Table 4 of the Schedule to these Regulations applies in respect of "C" Licences.

(5) For the purposes of this regulation, a "combination vessel" means a fishing boat which is equipped so as to be able to catch or take fish both by jigging machines and by a trawl or trawls.

(6) All fees payable under this regulation shall be paid in pounds sterling and in accordance with the principal Regulations.

(7) The explanatory notes at the commencement of each Table in the Schedule to these Regulations are for guidance only and shall not have legislative effect.

8. (1) The Director of Fisheries may, if he thinks fit to do so having regard to the interests of conservation and management of squid of the kind known as Loligo, extend or offer to extend type "C" Licences issued for such period beyond 30th June 1989 as he thinks fit.

(2) The Director shall not be bound to offer to extend all licences relevant to paragraph (1) of this regulation or to extend every licence extended for identical periods.

(3) Any offer of extension of a licence under this regulation shall be subject to a payment of such fee as may be prescribed by regulations made before or after such offer.

Applications for

fishing licences.

SCHEDULE

Provision as to fishing licences in respect of the fishing season

TABLE 1

Trawlers: Finfish only, type "A" licences

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. Fees calculated by the Formula set out in this Table apply to trawlers licensed for finfish only.

3. A Finfish Licence does not authorise the catching of squid and is subject to conditions as to gear so as to regulate mesh size and attachments.

4. The season for Finfish Licences is 1st January 1989 to 30th June 1989 and will be subject to certain closed areas.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means "Gross Tonnage" as shown in Tonnage Certificates issued in accordance with the International Tonnage Measurement Rules.

B. A licence is not transferable.

FORMULA

Fee payable per licensed month of fishing is lesser of (a) and (b).

(a) is £6270

(b) is $f(1.1 \times GT) + 3300$

TABLE 2

Jiggers: Squid north, type "B" licences

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. The fees calculated by the Formula set out in this Table applies to jiggers licensed for the northern area, and not to trawlers or combination vessels.

3. The season for type "B" licences will be 15th March 1989 to 30th June 1989.)

Effective text (of legislative effect)

A. In the following Formula, "GT" means "Gross Tonnage" as shown in Tonnage Certificates issued in accordance with International Tonnage Measurement Rules.

B. The following Formula relates to the number of jigging machines but a double jigging machine is to be reckoned as one and a half jigging machines.

C. A licence is not transferable.

FORMULA

Fee payable is the lesser of (a) and (b).

(a) is £171360

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(b) is $\pounds(1.632 \times GT \times number \text{ of jigging machines}) + 63240$ (but a double jigging machine is to be reckoned as one and a half single jigging machines).

TABLE 3

Trawlers: Squid north type "B" licences

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. The fees calculated by the Formula set out in this Table apply to trawlers and combination vessels licensed for the northern area.

3. The season for type "B" licences will be 15th March 1989 to 30th June 1989.)

Effective text (of legislative effect)

A. In the following Formula "GT" means "Gross Tonnage" as shown in a certificate issued in accordance with the International Tonnage Measurement Rules.

B. A licence is not transferable.

FORMULA

Fee payable is lesser of (a) and (b).

(a) is £99562.

(b) is $\pounds(6.075 \times \text{GT}) + 83160$.

TABLE 4

Trawlers: Squid south, type "C" licences

(Explanatory Notes:

1. These notes are not of legislative effect but are for guidance only.

2. The fees calculated by the following Formula apply to trawlers and combination vessels licensed for the southern area.

3. The season for type "C" licences is from 1st February 1989 to 30th June 1989.)

Effective text (of legislative effect)

A. In the following Formula "GT" means "Gross Tonnage" as shown in Tonnage Certificates issued in accordance with the International Tonnage Measurement Rules.

B. A licence is not transferable.

FORMULA

Fee payable is the lesser of (a) and (b).

(a) is £103250

(b) is $\pounds(6.3 \times GT) + 86240$

Made this 16th day of September 1988.

G. W. JEWKES, Governor.





THE FALKLAND ISLANDS GAZETTE

PUBLISHED BY AUTHORITY

Vol. XCVII

31st October 1988

No. 16

Date of Publication

It is hereby notified that this issue of the Gazette, although dated 31st October 1988, was in fact published on 2nd November 1988.

D. G. LANG, Attorney General.

Appointments **Completion of Contract** Dr. Paul McNeilly, B.M., B.S., Medical Officer, Medical Mrs. Linda Lowe, Clerk, Public Service, 1.7.88. Department, 21.10.88. Robert Hugh Bullock Hall, Sheep Husban-dryman/Adviser, Agricultural Research Centre, Resignations 23.9.88. Miss Carol Margaret Adams, Clerk, Public Service, Mrs. Marie Cheek, Chief Clerk, Treasury, 1.10.88. 5.10.88. Miss Sheena Ross, Chief Clerk, Public Works Depart-Mrs. Jeannie Paullina McKay, Assistant Customs ment, 1.10.88. Officer, Customs & Harbour Department, 21.10.88. Miss Barbara Cheek, Clerk, Public Service, 4.10.88. James Peck, Junior Customs Assistant, Customs & Harbour Department, 31.10.88. Marc Robert Alexander, Assistant Lands and Agricultural Officer, Agricultural Department, 4.10.88. NOTICES Miss Claire Russell, Nursing Sister/Midwife, Medical No. 32. 14th October 1988. Department, 11.10.88. **Application For Naturalisation** Stephen Gerard Howlett, Pasture Agronomist/ Notice is hereby that Mrs. Lucia Elizabeth Betts of Adviser, Agricultural Research Centre, 11.10.88. Stanley, Falkland Islands, is applying to His Excell-Jonathan Jeffers Butler, Police Cadet, Falkland ency the Governor for naturalisation, and that any Islands Police Force, 14.10.88 person who knows any reason why naturalisation should not be granted should send a written and Miss Denise Donnelly, Agricultural Assistant, signed statement of the facts to the Government Agricultural Department, 17.10.88. Secretary at the Secretariat, Stanley. David Charles Makin-Taylor, Senior Sheep Husban-Ref: LEG/10/19P. dryman, Agricultural Research Centre, 21.10.88. Michael John Latter, Teacher, Education Department, 25.10.88. Customs Ordinance (Cap. 16) In excercise of the powers conferred by Section 4 of Dr. Andrew Robert Hamilton, Medical Officer, Medical Department, 25.10.88. the Customs Ordinance, I hereby appoint -CORPORAL A.M.M. BALCHIN, W.R.A.F. **Acting Appointments** to be a Temporary Customs Officer with effect from Colin George Davies, Acting Education Officer, 20th September, 1988 to 24th January, 1989. (Camp Education Supervisor), 27.8.88. Transfer R. J. KING,

Miss Linda Margaret Lyse, from Chief Clerk, Treasury, to Executive Officer, Treasury, 1.10.88. R. J. KING, Acting Collector of Customs.

NOTICE

The following are published in this Gazette —

The Finance and Audit Ordinance (Commencement) Order 1988 (S.R. & O. No. 15 of 1988);

The Inshore Fishing Regulations 1988 (S.R. & O. No. 16 of 1988);

The British Nationality Ordinance (Amendment of Schedule) Order 1988 (S.R. & O. No. 17 of 1988);

The Executive Council (Allowances) Order 1988 (S.R. & O. No. 18 of 1988);

The Legislative Council (Allowances) Order 1988 (S.R. & O. No. 19 of 1988);

The Multilateral Investment Guarantee Agency (Overseas Territories) (Amendment) Order 1988 (S.I. 1988 No. 1300);

The Road Traffic (Amendment) No. 2 Bill 1988;

The Interpretation and General Clauses (Amendment) Bill 1988;

The Merchant Shipping (Transfer of Functions) Bill 1988;

Telecommunications Bill 1988.

The Finance and Audit Ordinance 1988 (Section 1)

The Finance and Audit Ordinance (Commencement) Order 1988 (S.R. & O. No. 15 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

13

1. Citation.

2. Commencement of Finance and Audit Ordinance 1988.

The Finance and Audit Ordinance 1988 (No. 11 of 1988) (Section 1)

The Finance and Audit Ordinance (Commencement) Order 1988 (S.R. & O. No. 15 of 1988)

IN EXERCISE of my powers under section 1 of the Finance and Audit Ordinance 1988, I make the following Order -

1. This Order may be cited as the Finance and Audit Ordinance (Commencement) Order Citation. 1988.

2. The Finance and Audit Ordinance 1988 shall be deemed to have come into operation on 1st October 1988.

Commencement of Finance and Audit Ordinance 1988. (No. 11 of 1988)

Made this 12th day of October 1988

G. W. JEWKES, Governor.

The Fisheries Ordinance (Cap 27)

(Section 3)

and

The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

The Inshore Fishing Regulations 1988 (S.R. & O. No. 16 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

-

- I. Citation.
- 2. Application of these Regulations and existing Regulations.
- 3. Licences to catch or take fish in water to which these Regulations extend.
- 4. Conditions in licences.
- 5. Fees for licences.
- 6. Period of licences.
- 7. Revocation of licences.
- 8. Accidental catching or taking of trout or salmon.
- 9. Breach of conditions of licence.

Schedule

The Fisheries Ordinance (Cap 27)

(Section 3)

and

The Fisheries (Conservation and Management) Ordinance 1986

(No. 11 of 1986)

The Inshore Fishing Regulations 1988

(S.R. & O. No. 16 of 1988)

IN EXERCISE of my powers under section 3 of the Fisheries Ordinance and of my powers under section 20 (1) of the Fisheries (Conservation and Management) Ordinance 1986, I make the following Order -

1. These Regulations may be cited as The Inshore Fishing Regulations 1988.

2. (1) Subject to paragraph (3) these Regulations apply to all parts of the fishing (including the internal waters of the Falkland Islands) waters as lie to landward of the outer limit of the territorial waters of the Falkland Islands.

(2) No Regulations heretofore made under the Fisheries (Conservation and Management) Ordinance 1986 shall apply to or extend to waters to which these Regulations extend.

(3) These Regulations do not apply to fishing with rod and line or otherwise than from a boat or vessel.

3. (1) Subject to paragraph (2), the Governor may authorise the Director of Fisheries to grant a licence to any person to catch and take fish within the waters to which these Regulations relate.

(2) Paragraph (1) shall not extend —

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- so as to enable a licence to be granted to catch or take any fish for which (a) a licence is required under the Trout and Salmon Fishing Regulations 1964; and
- (b) so as to permit fish of any species to be taken within three nautical miles of Beauchene Island.

4. (1) A licence granted under Regulation 3 (1) shall be subject -

- (a) to the conditions specified in the Schedule to these Regulations;
- to such conditions as the Governor may direct the Director of Fisheries shall (b) be inserted in the licence; and
- to such further conditions as the Director of Fisheries in his discretion may (c) see fit to impose.

(2) Without prejudice to the generality of paragraph (1), conditions to which that paragraph relates may include conditions that the licensee shall not catch or take any fish in such areas ("closed areas") as may be specified in the licence or which may thereafter be notified to the licensee by the Director of Fisheries.

(3) The Director of Fisheries may from time to time vary, add to or extend any closed area and make a licence which was originally granted without any area being specified as a closed area subject thereafter to a closed area or areas.

5. Licences may be granted subject to the payment of such fee as the Governor may direct the Director of Fisheries shall be charged on the issue thereof.

6. Every licence granted under regulation 3 (1) shall be valid for such period of time as Period of may be stated therein and, if no period is stated in the licence, until such time as the licence is revoked by the Director of Fisheries under Regulation 7.

Citation.

Application of these Regulations and existing Regulations.

Licences to catch or take fish in water to which these Regulations extend.

(S.R. & O. No. 5 of 1964).

Conditions in licences.

350

Fees for licences.

licences.

7. (1) The Director of Fisheries may at any time, and shall if so directed by the Governor, revoke a licence granted under these Regulations.

(2) No compensation shall be payable to any person by reason of the revocation of a licence granted under these Regulations, nor shall any appeal lie to any court against such revocation or the decision to revoke the licence be reviewable by any court.

8. (1) It shall be a defence for any person who holds a licence granted under Regulation 3 (1) of these Regulations and who is charged with an offence under Regulation 6, 7 or 9 of the Trout and Salmon Fishing Regulations 1964 to prove that the trout or salmon were caught or taken accidentally (that is to say while fishing generally and without intention to catch or take trout or salmon).

(2) Notwithstanding regulation 9 (2) of the Trout and Salmon Fishing Regulations 1964, a person holding a licence granted under regulation 3 (1) of these Regulations and who, while acting under the authority of that licence, accidentally catches or takes trout or salmon shall not be obliged to return it to the water, but shall be entitled to retain it.

(3) A person who retains trout or salmon by authority of paragraph (2) of this regulation commits an offence if he sells or otherwise receives value for that trout or salmon.

9. A person commits an offence who contravenes any condition contained in or referred Breach to in his licer ce and, on conviction of any such offence, he is liable to a fine of £5,000.

SCHEDULE

Conditions which must be imposed in every licence granted under these Regulations.

- 1. The Licence is valid only in respect of the vessel mentioned therein and may not be transferred.
- The Licence ceases to be valid in the event that the vessel mentioned therein ceases to be owned or controlled by the applicant for the licence.
- 3. Such catch reports must be supplied to the Director of Fisheries as the Director of Fisheries requires. In the event that any trout or salmon are accidentally taken, and whether or not any other requirement as to catch reports has been made by the Director of Fisheries, the Licensee must not sell them or dispose of them for value and must report in writing to the Director of Fisheries within 7 days of the catching or taking of any such trout or salmon the age, weight and condition of each such trout and salmon and the place and means by which it was taken and the time at which it was taken. The Licensee must, if so directed by the Director of Fisheries, deliver all such trout and salmon to the Director and shall not be entitled to receive any payment from him for them.
- 4. The Licensee must make available aboard the vessel to which the Licence relates and without payment all such facilities as the Director of Fisheries may require for the carriage of an observer or observers and must whenever required by the Director of Fisheries, at all times that the vessel is undertaking any fishing operation, carry an observer or observers nominated by the Director of Fisheries aboard that vessel.

Made this 24th day of October 1988.

D. G. P. Taylor, Acting Governor. Accidental catching or taking of trout or salmon.

Revocation of

licences.

Breach of conditions of licence.

British Nationality Ordinance (Cap. 6)

British Nationality Ordinance (Amendment Of Schedule) Order 1988 (S.R. & O. No. 17 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation.
- 2. Deletion and replacement of Schedule.

British Nationality Ordinance

(Cap. 6)

British Nationality Ordinance (Amendment of Schedule) Order 1988

(S.R. & O. No. 17 of 1988)

IN EXERCISE of the powers conferred on me by section 4 of the British Nationality Ordinance, I make the following Order -

1. This Order may be cited as the British Nationality Ordinance (Amendment of Schedule) Citation. Order 1988 and shall be deemed to have come into force on 1st April 1984.

2. The Schedule to the British Nationality Ordinance is deleted and replaced by the following -

Deletion and replacement of Schedule. (Cap. 6)

"SCHEDULE

FEES PAYABLE UNDER BRITISH NATIONALITY ACT 1981

1. (1) Subject to subparagraphs (4) and (5) of this paragraph, a fee of £10 may be taken in respect of any application made under the British Nationality Act 1981 except an application under section 5 of that Act.

(2) Subject to subparagraphs (4), (5) and (6) of this paragraph, the fees specified in the Table below may be taken in respect of things done in the Falkland Islands:

Provided that no fees shall be taken under this paragraph for administering the Oath of Allegiance in a case where the Oath is administered by a Justice of the Peace.

- (3) (a) The fee payable in respect of --
 - (i) the registration of a person as a British citizen, British Dependent Territories citizen, British Overseas citizen or British subject; or
 - (ii) the grant to a person of a certificate of naturalisation as a British citizen or British Dependent Territories citizen,

together with the fee payable in respect of the application for such a registration or such a certificate, shall be payable on the submission of the application.

(b) The fee payable in respect of the registration of a declaration of renunciation of British citizenship, British Dependent Territories citizenship, British Overseas citizenship or British subject status,

shall be payable on the submission of the declaration of renunciation.

(4) Where a husband and wife apply at the same time for the grant of certificates of naturalisation as British citizens or British Dependent Territories citizens and are residing together at the time of the applications, the total fee payable in respect of the applications shall be the same as that for a single application and the total fee payable in respect of the grant of the certificate shall be the same as that for the grant of a single certificate.

(5) Where an application for the registration of a minor as a British citizen, British Dependent Territories citizen, British Overseas citizen or British subject is made at the same time as an application or applications under the same or any other provision of the British Nationality Act 1981 for the registration of some other minor or minors having the same parent, the total fee payable in respect of the applications shall be the same as that for a single application and the total fee payable in respect of the registrations shall be the same as that for a single registration.

In this sub-paragraph "parent" includes a step-parent and an adoptive parent.

The Executive Council (Allowances) Ordinance 1977

(No. 7 of 1977)

(Section 3)

The Executive Council (Allowances) Order 1988 (S.R. & O. No. 18 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

1. Citation and Commencement.

2. Allowances.

3. Revocation.

The Executive Council (Allowances) Ordinance 1977

(No. 7 of 1977)

(Section 3)

The Executive Council (Allowances) Order 1988

(S.R. & O. No. 18 of 1988)

IN EXERCISE of my powers under section 3 of the Executive Council (Allowances) Ordinance 1977 I make the following Order -

1. This Order may be cited as the Executive Council (Allowances) Order 1988 and shall come into operation on 1st July 1988.

2. With effect from the 1st day of July 1988, the allowances payable to an elected member of the Executive Council shall be £720 a year and proportionately for any part of a year and shall be payable in addition to any allowance payable to such member under the provisions of section 3 of the Legislative Council (Allowances) Ordinance 1977.

3. The Executive Council (Allowances) Order 1987 is revoked.

Made this 24th day of October 1988.

Allowances.

Commencement.

Citation and

(No. 8 of 1977).

Revocation. (S.R. & O. No. 20 of 1987).

D. G. P. Taylor, Acting Governor. 354

The Legislative Council (Allowances) Ordinance 1977

(No 8 of 1977)

(Section 3)

The Legislative Council (Allowances) Order 1988 (S.R. & O. No. 19 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

1. Citation and Commencement.

2. Allowances.

3. Revocation.

The Legislative Council (Allowances) Ordinance 1977

(No 8 of 1977)

(Section 3)

The Legislative Council (Allowances) Order 1988 (S.R. & O. No. 19 of 1988)

IN EXERCISE of my powers under section 3 of the Legislative Council (Allowances) Ordinance 1977 I make the following Order -

1. This Order may be cited as the Legislative Council (Allowances) Order 1988 and shall have effect from 1st July 1988.

2. (1) With effect from 1st July 1988, the allowances payable to an elected member of the Legislative Council shall be as follows -

- (a) members elected to represent the Camp Constituency £1,620 a year and proportionately for any part of a year; and
- members elected to represent the Stanley Constituency £1,080 a year and (b) proportionately for any part of a year,

and the above allowances shall be payable in addition to any allowance payable to such member under the provisions of section 3 of the Executive Council (Allowances) Ordinance (No. 7 of 1977). 1977.

3. The Legislative Council (Allowances) Order 1987 is revoked.

Citation and Commencement.

Allowances.

Revocation. (No. 19 of 1987).

Made this 24th day of October 1988.

D. G. P. Taylor, Acting Governor.

STATUTORY INSTRUMENTS

1988 No. 1300

OVERSEAS DEVELOPMENT AND CO-OPERATION

The Multilateral Investment Guarantee Agency (Overseas Territories) (Amendment) Order 1988

> Made - - -Coming into Force

26th July 1988 1st September 1988

At the Court at Buckingham Palace, the 26th day of July 1988 Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers conferred upon Her in that behalf by section 9(4) of the Multilateral Investment Guarantee Agency Act 1988(a) or otherwise in Her Majesty vested, 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 Multilateral Investment Guarantee Agency (Overseas Territories) (Amendment) Order 1988, and shall come into force on 1st September 1988.

2. The Multilateral Investment Guarantee Agency (Overseas Territories) Order 1988(b) shall be amended by the addition of the British Virgin Islands, St Helena and the Turks and Caicos Islands to the Territories specified in Schedule 2 to that Order.

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends the provision of sections 3, 4, 5 and 6 of the Multilateral Investment Guarantee Agency Act 1988, subject to modifications and exceptions, to the British Virgin Islands, St Helena and the Turks and Caicos Islands.

(a) 1988 c.8. (b) S.I. 1988/791.

The Road Traffic (Amendment) No. 2 Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short title.
- 2. Interpretation.
- 3. Amendment of the principal Ordinance.

Schedule

Part 1 - Repeal and replacement of certain provisions of the principal Ordinance.

Part 2 - Amendment of certain provisions of the principal Ordinance.

Part 3 - Insertion of new sections and a Schedule in the principal Ordinance.

Road Traffic (Amendment) (No. 2) Bill 1988

EXPLANATORY MEMORANDUM

Introductory

The Road Traffic (Amendment) (No. 2) Bill 1988 is a Bill of only three sections but which as detailed in the schedule to it seeks to make a considerable number of amendments to the Road Traffic Ordinance.

The amendments fall into three classes -

- (a) the repeal and replacement of certain provisions of the Road Traffic Ordinance: this is dealt with by Part 1 the of Schedule —
- (b) the amendment of certain provisions of the Road Traffic Ordinance: this is dealt with by Part 2 of the Schedule; and
- (c) the insertion in the Road Traffic Ordinance of new sections: this is dealt with by Part 3 of the Schedule.

Part 1 of the Schedule to the bill

Paragraph 1 of Part 1 of the Schedule would repeal and replace section 3 of the Ordinance which deals with the registration of motor vehicles. There are two changes which would be made by the proposed new section -

- (a) under subsection (2) of that section a motor car dealer displaying imported cars for sale would, in effect, not be abliged to register them if they were otherwise used;
- (b) the persons liable if the requirement to register is broken. Under subsections (3) and (4) of the new section, it would not be simply the owner who would be liable to register but a person who was entitled to possession of the vehicle (a person purchasing under hire purchase might not be the "owner" of the vehicle) and additionally, anybody who drives a motor vehicle which is not registered would be liable for the non-registration unless he proved that he was not aware that the motor vehicle was not registered. Under the existing section 3, there are technical difficulties in prosecution in that, strictly, prosecution would have to prove the ownership of the vehicle (which is not easy to do, when the vehicle has not been registered).

Paragraph 2 of part 1 of the Schedule would replace subsection (2) of section 5 of the Ordinance. The object of the inserting the new subsection is to clarify the law and to reflect the intention which law behind the existing subsection. The existing subsection as it stands can give rise to a nonsensical interpretation.

Section 5(4) of the Road Traffic Ordinance would be repealed and replaced by virtue of paragraph 3 of Part 1 of the Schedule. The purpose of so doing is to clarify the law so as to make it clear that the issue of a provisional licence to a person is subject to his having reached the age where a driving licence of the relevant class could be granted to him, subject to him not suffering from irrelevant disease or physical disability and restricted to the class or classes of vehicle mentioned in the provisional licence.

Paragraph 4 of Part 1 would repeal section 5(5) of the principal Ordinance and replace it with four new subsections. The existing subsection (5) is reflected in the proposed new subsection (5C). The proposed new subsections (5), (5A) and (5B) make new provision in relation to powers of the Chief Police Officer to revoke driving licences and correct errors in driving licences. The proposed new subsections are self explanatory.

Sections 7 and 7A of the existing Ordinance would be repealed and replaced with new sections 7, 7A, 7B and 7C by paragraph 5 of part 1 of the Schedule. The new section 7 would make provision for construction and use regulations. There are some provisions as to construction and use contained in the Road Traffic (Provisional) Regulations 1986 which have been made under section 18 of the existing Ordinance. However paragraph (k) of section 18 (1) which would, in effect, be in part replaced by section 7 is not altogether satisfactory to enable definitive regulations to be made. The new section 7A would also in part replace paragraph (k) of section 18 (1) of the existing Ordinance. Regulations as to testing of vehicles have already been made and they are contained in the Road Traffic (Provisional) Regulations 1986 but these regulations are not satisfactory because they require the Chief Officer Police to select on a discriminatory basis which vehicles should be tested. This is thought to be invidious and only too readily to promote a feeling of victimisation. The provisions of the 1986 regulations as to the testing of vehicles have not been implemented and it will be seen from the proposed new section 7A(6) that regulations for testing will not come into operation until they have been approved by a resolution of the Legislative Council.

Part 2 of the Schedule

Paragragh 1 of part 2 of the Schedule would replace the existing definitions of "Hire car or Taxi" and "public service vehicle" so that, in future, a public service vehicle licence would not be required for any vehicle which did not have at least 13 passenger seats or (if not having that number of seats) was not used for carrying 13 or more passengers.

Paragraph 2 of Part 2 of the Schedule would make a minor amendment to the existing section 5(1) and 5(2) of the Ordinance so as to enable exceptions to be made by regulations to their provisions.

Paragraph 2 would also amend the existing section 5(3)(b) so as to provide that a driving licence might not be granted to a person suffering from a prescribed disability (that is to say one prescribed by regulations).

Paragraph 3 of Part 2 of the Schedule would add a new subsection (4) to section 9N. The existing section 9N(1) refers to subsection (4) but, due to clerical error, that subsection was omitted when the Road Traffic (Amendment) Ordinance 1987 was enacted.

Paragraph 4 would add a new subsection (4) to the existing section 12A of the Ordinance. The provision is possibly of no great practical consequence at present in the Falkland Islands but it would ensure that the requirements of the law as to wearing of safety helmets by motor cycle riders would not contravene the "freedom of religion" provisions of the Constitution.

Section 12B of the Road Traffic Ordinance would be amended by paragraph 4 of Part 2. The amendments would have two principal effects. First of all, they would enable legislation to be made prescribing sorts of goggles, face-plates, visors and the like which could be used (e.g. that they should be shatter proof and not have sharp edges) and secondly they would enable certain statutory defences to be raised to alleged breaches of the safety helmet or applicances requirements.

Any regulations in relation to appliances are, for practical reasons, likely to follow the equivalent regulations in the United Kingdom. Since all such appliances on sale here are at present imported from the United Kingdom it is believed the proposed new law will not create any difficulty.

Part 3 of the Schedule

Paragraph 1 in Part 3 of the Schedule to the Bill would insert new sections 5A and 5B in the Road Traffic Ordinance. The new section 5A would create a new offence of driving with uncorrected defective eye sight.

The new section 5B would require a court which discovered in any proceedings for an offence committed in respect of the driving a motor vehicle that the accused might be suffering from a "relevant disability" to notify the Chief Police Officer of that, and enable the Chief Police Officer on being so notified to exercise his power of revocation of the accused's driving licence under section 5(5C). It should be noted that the duty to notify and the exercise of the power to revoke the licence would not be dependent upon the accused having been convicted. This is because if he suffers from a "relevant disability" it is unsafe for him to drive.

Paragraph 2 of Part 3 would add a new section 12C to the Road Traffic Ordinance which would provide that the wearing of seat belts could be made compulsory by regulations. Under the proposed section 12C(9) no such regulations could come into force until they had been approved by a resolution of the Legislative Council. There are separate provisions as to regulations as to the wearing of seatbelts by adults and the wearing of seatbelts by children. Of course any such regulations would only apply (if made) to vehicles being driven on roads and not to vehicles being driven on camp tracks (although there might be safety reasons for the wearing of seat belt in such vehicles).

Paragraph 3 of Part 3 of the Schedule would add in a new section 13B to the Ordinance creating offences of riding a cycle on a road recklessly, riding a cycle on a road without due care and attention or without reasonable consideration for other persons using the road, and riding a cycle while unfit to ride through drink or drugs. In relationship to the last it should be added that the breath test sections do not apply to cyclists.

Paragraph 4 of Part 3 of the Schedule would add 12 new sections to the Road Traffic Ordinance. The new section 16 (at present there is no section 16) would create two new offences of holding or getting onto a vehicle in order to be towed and holding and getting onto a vehicle in order to be carried.

The new section 16A and the new section 16B would replace regulation 6 of the Road Traffic (Provisional) Regulations Order 1986 which deals with third party insurance. It would alter the cover required by requiring death or bodily injury to any person carried as a passenger to be covered whether or not the vehicle concerned was carrying the passengers for hire or by reason of or in pursuance of a contract of employment.

The new section 16B would provide that certain exceptions would, if contained in a third party policy of insurance, be of no effect as against the claimant (but might enable the insurance company, in certain circumstances, to recover any sum paid out from the insured).

The new section 16C would confer a power on police officers to stop vehicles which were being driven on a road.

The new section 16D would make it an offence for a person who was alleged to have commited certain offences to refuse, if required, to give his name and address or to give a false name and address.

The new section 16E would require a driver of a vehicle involved in an accident which caused personal injury to another person to produce a certificate of insurance. If he was not able to produce it at the time of the accident, he would be able to produce it within five days at the police station.

Forgery of certain documents related to driving of a motor vehicle is dealt with by the new section 16F and making of false statements and withholding of material information in relation to obtaining a driving licence would be dealt with by the new section 16G.

The new section 16H would require drivers to comply with traffic directions given by a police officer and to comply with traffic signs. The new section 16I would render pedestrians who failed to comply with directions to stop given by a police officer guilty of an offence. The new section 16J would create an offence of leaving a vehicle in a dangerous position. The new section 16K would enable pedestrian crossings to be established and regulations to be made as to the use of pedestrian crossings and the actions to be taken by drivers in relation to them.

Paragraph 5 of Part 3 would add a schedule to the existing Ordinance. This schedule would deal in detail with certain special defences which would be available for persons accused of a helmet or head gear offence.

A Bill for An Ordinance to Amend the Road Traffic Ordinance

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Road Traffic (Amendment) (No. 2) Ordinance 1988 Short title. and shall come into force on such date as is notified by the Governor in a notice published in the Gazette; but different dates may be notified in respect of different provisions of this ordinance and more than one notice may be published under this section.

2. In this Ordinance, "the principal Ordinance" means the Road Traffic Ordinance.

3. The principal Ordinance is amended —

- by the repeal and replacement of certain provisions thereof in accordance with (a) and as provided by Part 1 of the Schedule hereto;
- the amendment of certain provisions thereof in accordance with and as pro-(b) vided by Part 2 of the Schedule hereto; and
- by the insertion of a number of new sections and a Schedule therein in ac-(c) cordance with and as provided by Part 3 of the Schedule hereto.

THE SCHEDULE

(section 3)

Part 1

(Repeal and replacement of certain provisions of the principal Ordinance)

1. Section 3 of the principal Ordinance is repealed and is replaced by the following new section 3 -

"Registration of motor vehicles".

3. (1) Every motor vehicle in the Falkland Islands shall within 28 days of its first being used within the Falkland Islands be registered except that -

- any motor vehicle owned by the Crown and used by the (a) Governor; and
- (b) any motor vehicle to which section 4(3)(d) applies,

need not be registered.

Interpretation.

Amendment of the principal Ordinance.

(2) For the purposes of subsection (1), a motor vehicle is not used merely by reason of it being driven from the point of its arrival in the Falkland Islands to a place where it will be kept until sold or otherwise disposed of or by reason of its being driven for purpose of demonstration to a person interested in the acquisition of that vehicle.

(3) The obligation to register a motor vehicle is upon the person who, otherwise than under a contract for hire of the vehicle for a period of less than 14 days, is for the time being in law entitled against all others to the possession and use of that vehicle.

- (4) Any person who -
 - (a) being obliged under subsection (3) to register a motor vehicle, fails to do so; or
 - (b) drives a motor vehicle required to be registered,

unless he proves that he was not aware that the motor vehicle was not registered, commits an offence and is liable on conviction of that offence to a fine of £100?

2. Section 5 (2) of the principal Ordinance is repealed and replaced by the following -

"(2) For the purposes of subsection (1), a person is deemed not to be the holder of a driver's licence in force if he drives a motor vehicle of a class as to which no driver's licence he holds permits him to drive or he holds only a provisional licence in respect of that class of vehicle and he drives the vehicle in contravention of the conditions of that provisional licence"

3. Section 5 (4) of the principal Ordinance is repealed and is replaced by the following —

"(4) For the purpose of enabling a person to drive a motor vehicle with a view to passing a test under subsection (3) the Chief Police Officer may, if he is satisfied -

- (a) that the person is of an age such that a driver's licence of the relevant class could be granted to that person;
- (b) that the person is not suffering from any such disease or physical disability as is mentioned in paragraph (b) of subsection (3), and
- (c) that the prescribed fee has been paid,

grant to that person a provisional licence which said licence shall -

- be granted subject to such conditions as are prescribed;
- be restricted so as to authorise only the driving of vehicles of the classes mentioned in the provisional licence; and
- (iii) shall be valid for a period of 3 months (but may be renewed on or before its expiry)."

4. Section 5 (5) of the principal Ordinance is repealed and is replaced by the following new subsections (5), (5A), (5B) and (5C) -

"(5) Where it appears to the Chief Police Officer —

- (a) that a licence granted by him to any person is required to be endorsed in pursuance of any enactment or was granted in error or with an error or omission in the particulars specified in the licence or required to be so endorsed on it, or
- (b) that the particulars specified in a Licence granted by him to any person do not comply with any requirement imposed since the licence was granted by any provision made by or having effect under any enactment,

the Chief Police Officer may serve notice in writing on that person revoking the licence and requiring him to deliver up the licence forthwith to him.

(5 A) Where the name or address of the licence holder specified in a licence ceases to be correct, its holder shall forthwith surrender the licence to the Chief Police Officer and furnish to him particulars of the alterations falling to be made in the name or address.

(5B) On the surrender of a licence by any person in pursuance of subsection (5) or (5A) the Chief Police Officer —

- (a) shall, except where the licence was granted in error or is surrended in pursuance of the said subsection (5) in consequence of an error or omission appearing to the Chief Police Officer to be attributable to that person's fault or in consequence of a current disgualification, and
- (b) may in such an excepted case which does not involve a current disqualification —

grant to that person free of charge a new licence for such a period that it expires on the date on which the surrendered licence would have expired had it not been surrendered, except that, where the period for which the surrendered licence was granted was based on an error with respect to the licence holder's date of birth such that, if that error had not been made, that licence would have been expressed to expire on a different date, the period of the new licence shall be such that it expires on that different date.

(5C) If the Chief Police Officer has reason to believe that the holder of a driver's licence is suffering from a disease or physical disability likely to cause the driving by him of a motor vehicle to be a source of danger to the public or that he is suffering from a prescribed disability, the Chief Police Officer may revoke that licence."

5. Sections 7, 7A and 7B and paragraph (k) of section 18(1) of the principal Ordinance are repealed and are replaced by the following new sections 7, 7A, 7B and 7C -

"Regulation of construction, weight, equipment and use of vehicles.

c

7. (1) The Governor may make regulations generally as to the use of motor vehicles and trailers on roads, their construction and equipment and the conditions under which they may be so used, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations with respect to any of the following matters -

- (a) the width, height and length of motor vehicles and trailers and the load carried thereby, the diameter of wheels, and the width, nature and conditions of tyres, of motor vehicles and trailers;
- (b) the towing of or drawing of vehicles by motor vehicles;
- (c) the number and nature of brakes, and for ensuring the brakes, silencers and steering gear shall be efficient and kept in proper working order;
- (d) the testing and inspection, by persons authorised by or under the regulations, of the brakes, silencers, steering gear, tyres, lighting equipment and reflectors of motor vehicles and trailers on any premises where they are, subject, however to the consent of the owner of the premises;
- (e) the appliances to be fitted for signalling the approach of a motor vehicle, or enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, or for intimating any intended change of speed or direction of a motor vehicle, and the use of any such appliance, and for ensuring that they shall be efficient and kept in proper working order.

(2) Different regulations may be made under subsection (1) as respects different classes or descriptions of vehicles or as respects the same class or description of vehicle in different circumstances and as respects different places in the Falkland Islands.

(3) Subject to the provisions of this section and section 7A of this Ordinance, a person -

- (a) who contravenes or fails to comply with any regulations made under this section; or
- (b) who uses on a road a motor vehicle or trailer which does not comply with any such regulations or causes or permits a vehicle to be so used,

commits an offence.

Tests of satisfactory condition of vehicles.

c

7A (1) The provisions of this section shall have effect in relation to motor vehicles for the purpose of ascertaining whether the prescribed statutory requirements relating to the construction and condition of motor vehicles or their accessories or equipment are complied with.

(2) The Governor may by regulations make provision for the examination of vehicles submitted for examination under this section and for the issue, where it is found on such an examination that the said requirements are complied with, of a certificate (hereafter in this Ordinance referred to as a "test certificate") that at the date of the examination the requirements were complied with in relation to the vehicle.

(3) Examinations for the purposes of this section shall be carried out by persons authorised for those purposes by the Governor (in this section referred to as "authorised examiners").

(4) Where a test certificate is refused, the examiner shall issue a notification of the refusal stating the grounds thereof.

(5) The Governor may make regulations for the purposes of giving effect to the foregoing provisions of this section and for prescribing anything authorised by this section to be prescribed, and in particular as to -

- (a) the authorisation of examiners, the imposition of conditions to be complied with by authorised examiners and the withdrawal of authorisations;
- (b) the manner in which, conditions under which and apparatus with which examinations are carried out, and the maintenance of that apparatus in an efficient state;
- (c) the manner in which applications may be made for the examination of vehicles under this section, information to be supplied and documents to be produced on such an application or examination;
- (d) the form of, and particulars to be contained in, test certificates and notifications of the refusal thereof; and
- (e) the issue of duplicates of test certificates lost or defaced and the fee to be paid for the issue thereof;
- (f) that where application is made for a licence under section 4 of this Ordinance for a vehicle to which this section applies that licence shall not be granted unless —
 - there is produced such evidence as may be prescribed as to the granting of an effective test certificate or (if it is so prescribed) there is produced such certificate or there is furnished to the Chief Police Officer a copy thereof, or

(ii) the owner of the vehicle proves to the satisfaction of the Chief Police Officer that the vehicle has not been used on roads (whether in the Falkland Islands or elsewhere) for a period or periods exceeding 12 months in aggregate since the date of its manufacture.

- (6) Regulations to which paragraph (f) of subsection (5) apply -
 - (a) shall not come into operation until they have been approved by a resolution of the Legislative Council; and
 - (b) may be made so as to apply to such classes only of vehicles as may be specified in those regulations.

(7) For the purposes of this section, the date of manufacture of a vehicle shall be taken to be the date on which its final assembly is completed.

(8) In this section "effective test certificate" means, in relation to an application for a licence for a vehicle under section 4 of this Ordinance, a test certificate relating to the vehicle and issued within a period not exceeding four weeks before the date on which the application for the licence is made or the date on which the licence is to come into force, which ever of those dates is the later.

7B A person who promotes or takes part in a race or trial of speed between motor vehicles on a road commits an offence.

7C (1) The Governor shall cause to be prepared and published a code ("the Road Code") comprising directions for the guidance of persons using roads.

(2) A failure on the part of a person to observe a provision of the Road Code shall not of itself render that person liable to criminal proceedings but any such failure may in any proceedings (whether civil or criminal) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings."

Part 2

(Amendment of certain provisions of the principal Ordinance)

1. Section 2(1) of the principal Ordinance is amended -

(a) by deleting the existing definition of "Hire car or Taxi" and replacing it with the following new definition —

"Hire car or Taxi" means a motor vehicle which -

- (a) plies for hire; or
- (b) not being constructed or adapted for the carriage of more than twelve persons in addition to the driver —
 - (i) is hired at an entire and separate fee including the services of the driver; or
 - (ii) carries passengers for hire or reward at separate fares for each passenger,

and in either case in the course of a buisiness a substantial part of the activities of which consist of the provision of transport facilities; and

(b) by deleting the existing definition of "public service vehicle" and replacing it with the following new definition —

"public service vehicle" means a motor vehicle constructed or adapted or in fact used for the carriage of more than twelve persons in addition to the driver (but so that nothing in this definition shall preclude it from being also a Hire car or Taxi in the event that the vehicle plies for hire);"

2. Section 5(1) and section 5(3) of the principal Ordinance are each amended by the insertion at the commencement thereof of the words and punctuation "Except as may be provided by regulations," and paragraph (b) of section 5(3) is amended by the insertion therein, immediately before the full stop appearing at the end thereof, of the following words —

"or from a prescribed disability."

3. Section 9N of the principal Ordinance is amended by the addition thereto, immediately after subsection (3) thereof, of the following new subsection (4) -

Racing on roads prohibited. Road Code.

1

"(4) No offence under subsection (1) is committed by a person who being a police officer drives a police vehicle, being a member of the fire service drives a fire appliance or other vehicle belonging to the fire service or being an ambulance driver drives an ambulance and in any such case at a speed in excess of that permitted under subsection (1) if, in all the circumstances, the reasonable performance of his duty required him so to do."

4. Section 12A of the principal Ordinance is amended by the addition thereto immediately after subsection (3) thereof of the following new subsection (4)

"(4) A requirement imposed by regulations under this section (whenever made) shall not apply to any follower of the Sikh religion while he is wearing a turban."

- 5. Section 12B of the principal Ordinance is amended -
 - (a) by the insertion in subsection (1) thereof, immediately preceding the full stop at the end of that subsection, of the words —

"and may also make regulations prescribing (by reference, construction, or any other quality) types of appliance of any description to which this section applies as authorised for use by persons driving or riding (otherwise than in side cars) on motor cycles of any class specified in the regulations."

(b) by the insertion therein, immediately after subsection (1) thereof, of the following new subsections (1A) and (1B) -

"(1A) Regulations made under subsection (1) in relation to applicances other than helmets -

- (a) may impose restrictions or requirements with respect to the circumstances in which appliances of any type prescribed by the regulations may be used; and
- (b) may make different provision in relation to different circumstances.

(1B) If a person driving or riding on a motor cycle on a road uses an appliance (here including a helmet) of any description for which a type is prescribed under this section he shall be guilty of an offence if that appliance is not of a type so prescribed or is otherwise used in contravention of regulations under this section."

(c) the additon thereto, immediately following subsection (2) thereof, of the following subsections (3),
 (4) and (5) —

"(3) If a person sells, or offers for sale, an appliance (other than a helmet) of any such description as authorised for use by persons on or in motor cycles, or motor cycles of any class, and that appliance is not of a type prescribed under this section as authorised for such use, he commits an offence.

(4) The provisions of Schedule 1 to this Ordinance shall have effect in relation to contraventions of section 12A and to contraventions of this section but references to helmets shall be construed as extending to references to appliances which are not helmets and any reference to a type of helmet which could be lawfully sold or offered for sale shall extend to a reference to a type of appliance (not being a helmet) which could be lawfully sold or offered for use in the manner in question.

(5) In this section, any reference to an appliance other than a helmet means an appliance of any description designed or adapted for use —

- (a) with any head gear; or
- (b) by being attached to or placed upon the head (as, for example, eye-protectors or ear-phones), and
- (c) references to selling or offering for sale include respectively references to letting on hire and offering to let on hire?

Part 3

(Insertion of new sections and a Schedule in the principal Ordinance)

1. The principal Ordinance is amended by the insertion therein, immediately after section 5 of the following new sections 5A and 5B -

Driving with uncorrected, defective eye sight. **5A** (1) If a person drives a motor vehicle on a road while his eyesight is such (whether through a defect which cannot be or one which is not for the

time being sufficiently corrected) that he cannot comply with any requirement as to eyesight prescribed under this Ordinance for the purposes of tests of competence to drive, he commits an offence.

(2) A police officer having reason to suspect that a person driving a motor vehicle may be guilty of an offence under subsection (1) may require that person to submit to a test for the purpose of ascertaining whether, using no other means of correction than he used at the time of driving, he can comply with the said requirement as to eyesight; and if that person refuses to submit to the test he commits an offence."

5B (1) If, in any proceedings for an offence committed in respect of a motor vehicle, it appears to the court that the accused may be suffering from any relevant disability, the court shall notify the Chief Police Officer in writing with such particulars as to the name and address and description of the accused as may be necessary.

(2) On receipt of a notification to which subsection (1) relates the Chief Police Officer may revoke the licence pursuant to section 5 (5C) of this Ordinance?'

2. The principal Ordinance is further amended by the insertion therein, immediately after section 12B, of the following new section 12C -

Wearing of seat belts.

12C (1) The Governor may make regulations requiring, subject to such exceptions as may be prescribed, persons who are driving or riding in motor vehicles on a road to wear seat belts of such descriptions as may be prescribed.

- (2) Regulations under this section
 - (a) may be expressed so as to apply only to vehicles imported into the Falkland Islands on or after the date specified therein;
 - (b) may make different provision in relation to different classes of vehicles, different descriptions of persons and different circumstances;
 - (c) shall include exceptions for
 - the users of vehicles constructed or adapted for the delivery of goods to consumers or addressees, as the case may be, while engaged in making local rounds of deliveries;
 - (ii) the drivers of vehicles while performing a manoeuvre which includes reversing; and
 - (iii) any person holding a valid certificate signed by a medical practitioner to the effect that it is inadvisable on medical grounds for him to wear a seat belt;
 - (d) may make any prescribed exceptions subject to such conditions as may be prescribed; and
 - (e) may prescribe cases in which a fee of a prescribed amount may be charged on an application for any certificate required as a condition of any prescribed exception.

(3) Any person who drives or rides in a motor vehicle in contravention of regulations under this section commits an offence; but notwithstanding any enactment or rule of law no person other than the person actually committing the contravention shall be guilty of an offence by reason of the contravention.

(4) Regulations under the previous provisions of this section requiring the wearing of seat belts by persons riding in motor vehicles shall not apply to children under the age of 14 (to whom the following subsections of this section apply).

(5) Except as provided by regulations made under subsection (7) a person shall not, without reasonable excuse, drive a motor vehicle on a road when there is in the front of the vehicle a child under the age of 14 years who is not wearing a seat belt in conformity with regulations made under that subsection.

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Notification of disease or disability. (6) A person who drives a motor vehicle in contravention of subsection (5) commits an offence.

- (7) The Governor may by regulations -
 - (a) except from the prohibition in subsection (5) children of any prescribed description, vehicles of a prescribed class or the driving of vehicles in such circumstances as may be prescribed;
 - (b) define in relation to any class of vehicle what part of the vehicle is to be regarded as the front of the vehicle for the purposes of that subsection;
 - (c) prescribe for the purposes of that subsection the description of seat belt to be worn by children of any prescribed description and the manner in which such a belt is to be fixed and used.

(8) In subsections (5) and (7) 'seat belt' includes any description of restraining device for a child and any reference to wearing a seat belt shall be construed accordingly.

(9) No regulations made under any provision of this section shall come into operation until those regulations have been approved by a resolution of the Legislative Council."

3. The principal Ordinance is further amended by the insertion therein, immediately after section 13 A thereof of the following new section 13 B -

"Offences connected with riding of pedal cycles. 13B (1) A person commits an offence who rides a cycle, not being a motor vehicle, on a road recklessly.

(2) A person commits an offence who rides a cycle, not being a motor vehicle, on a road without due care and attention or without reasonable consideration for other persons using the road.

(3) A person commits an offence who, when unfit to ride through drink or drugs, rides a cycle, not being a motor vehicle, on a road or other public place.

(4) A person liable to be charged with an offence under subsection (3) shall not be liable to be charged under section 12 of the Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage. A police officer may arrest without warrant a person committing an offence under subsection (3).

(6) In this section —

 "unfit to ride through drink or drugs means, as regards a person riding a cycle, under the influence of drink or a drug to such an extent as to be incapable of having proper control of it;

(b) "road" includes a footpath within the boundaries of Stanley."

4. The principal Ordinance is further amended by the insertion therein, immediately after section 15, of the following new sections 16, 16A, 16B, 16C, 16D, 16E, 16F, 16G, 16H, 16I, 16J and 16K —

16. (1) A person commits an offence who, otherwise than with lawful authority or reasonable cause, takes or retains hold of, or gets onto, a motor vehicle or trailer while in motion on a road, for the purpose of being carried.

(2) A person commits an offence who, takes or retains hold of a motor vehicle or trailer while in motion on a road for the purpose of being drawn.

16A (1) A policy of insurance required by section 6 (1) of this Ordinance must satisfy the provisions of this section.

(2) A policy must be issued by an insurer who, in respect of policies to which Part VI of the Road Traffic Act 1972 relates is in the United Kingdom an authorised insurer within the meaning given in the expression "authorised insurer" by section 145(2) of that Act.

(3) Subject to subsection (4), the policy must insure such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by, or arising out of, the use of the vehicle on a road, including the payment or repayment of all charges by any Government hospital for emergency medical treatment for any such injury

(4) The policy shall not, merely be virtue of subsection (3), be required to cover -

Penalisation of holding or getting onto vehicle in order to be towed or **Raspiste**ments in respect of policies of insurance.

- (a) liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of an in the course of his employment; or
- (b) Any contractual liability.

Avoidance of certain exceptions to policies of insurance. 16B (1) Where a policy of insurance to which section 6(1) relates or a certificate of insurance has been delivered by whom such a policy has been affected so much of the policy as purports to restrict the insurance of the persons insured by the policy by reference to any of the following matters, that is to say —

- (a) the age or physical or mental condition of the person driving the vehicle, or
- (b) the condition of the vehicle, or
- (c) the number of persons that the vehicle carries, or
- (d) the weight or physical charicateristics of the goods that the vehicles carries, or
- (e) the time at which or the areas within which the vehicle is used, or
- (f) the horse-power or cylinder capacity or value of the vehicle, or,
- (g) the carrying on the vehicle of any particular apparatus, or
- (h) the carrying on the vehicle of any particular means of identification other than plates prescribed by or under the provisions of this Ordinance, bearing the registered number of the vehicle

shall, as respects such liabilities as are required to be covered by a policy under section 16A, be of no effect -

Provided that nothing in this subsection shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this subsection shall be recoverable by the insurer or giver of the security from that person.

(2) A condition in a policy issued or given for the purposes of section 6(1) providing that no liability shall arise under the policy, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security, shall be of no effect in connection with such liabilities as are required to be covered by a policy under section 16A of this Ordinance —

Provided that nothing in this subsection shall be taken to render void any provision in a policy requiring the person insured to pay to the insurer or the giver of the security any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

(3) Where a person uses a motor vehicle in circumstances such that under section 6 (1) of this Ordinance there is required to be in force in relation to his use of it a policy of insurance of the kind mentioned in that provision, then, if any other person is carried in or upon the vehicle while the user is so using it, any antecedent agreement or understanding between them (whether intended to be legally binding or not) shall be of no effect so far as it purports or might be held —

- (a) to negative or restrict any such liability of the user in respect of persons carried in or upon the vehicle as is required by section 16A of this Ordinance to be covered by a policy of insurance; or
- (b) to impose any conditions with respect to the enforcement of any such liability of the users.

and the fact that a person so carried has willingly accepted as his the risk of negligence on the part of the user shall not be treated as negativing any such liability of the user.

For the purposes of this subsection, references to a person being carried in or upon a vehicle include references to a person entering or getting onto, or alighting from, the vehicle, and the reference to an antecedent agreement is to one made at any time before the liability arose.

(4) Notwithstanding anything in any enactment, a person issuing a policy of insurance to which section 16 A (2) relates shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons?

16C (1) A person driving a motor vehicle on a road and a person riding a cycle, not being a motor vehicle, on a road shall stop the same on being so required by a police officer in uniform.

(2) A person who fails to comply with a requirement to which subsection (1) relates commits an offence.

- 16D (1) Any such person as the following, namely -
 - (a) the driver of a motor vehicle who is alleged to have committed an offence against section 9, 9A, or 9C of this Ordinance, or
 - (b) the rider of a cycle who is alleged to have committed an offence against section 13B (1) or (2) of this Ordinance,

who refuses, on being so required by any person having reasonable ground for so requiring, to give his name and address, or gives a false name or address, commits an offence.

- (2) A police officer may
 - (a) arrest without warrant the driver of a motor vehicle who within his view commits an offence to which paragraph (a) of subsection (1) of this section relates unless the driver either gives his name and address or produces for examination his licence to drive a motor vehicle;
 - (b) arrest without warrant the rider of a cycle who within his view commits an offence to which paragraph (b) of subsection (1) relates unless the rider gives his name and address.

16E (1) If in a case where, owing to the presence on a road of a motor vehicle an accident occurs involving personal injury to another person, the driver of the vehicle does not at the time produce to a police officer or some person who, having reasonable grounds for so doing has required its production, a certificate of insurance or other evidence of insurance in accordance with section 6 (1) of this Ordinance, the driver shall as soon as possible, and in any case within 24 hours of the occurence of the accident, report the accident at a police station or to a police officer and thereupon produce such a certificate or other evidence as aforesaid, and if he fails to do so he shall, subject to subsection (2), be guilty of an offence.

Penalisation of failure to give name and address, and power of arrest, in case of alleg-

ed offences.

Power of police to stop

vehicles.

Duty of driver in case of accident involving injury to another. (2) A person shall not be convicted of an offence under subsection (1) by reason only of a failure to produce a certificate or other evidence if, within 5 days after the occurence of the accident, the certificate or other evidence is produced at such a police station as may be specified by him at the time the accident was reported.

Forgery of documents.

- 16F (1) A person commits an offence who, within intent to deceive
 - (a) forges, or alters, or uses or lends to, or allows to be used by, any other person, a document or other thing to which this section applies, or
 - (b) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this section applies as to be calculated to deceive.

(2) This section applies to the following documents and other things, namely -

- (a) any driver's licence and any vehicle test certificate;
- (b) any driver's or driving licence issued by any authority overseas;
- (c) any policy or certificate of insurance.

16G (1) A person commits an offence who knowingly makes a false statement for the purpose —

- (a) of obtaining the grant of a licence under any provision of this Ordinance to himself or any other person, or
- (b) of preventing the grant of any such licence, or
- (c) of procuring the imposition of a condition or limitation in relation to any such licence.

(2) A person commits an offence who makes a false statement or withholds any material information for the purpose of obtaining the issue of any policy of insurance to which section 6 (1) of this Ordinance relates.

16H (1) Where a police officer is for the time being engaged in the regulation of traffic in a road, or where a traffic sign, being a sign authorised under the provisions of any regulations made under this Ordinance has been lawfully placed on or near a road, a person driving or propelling a vehicle commits an offence if -

- (a) he neglects or refuses to stop the vehicle or to make it proceed in, or keep to, a particular line of traffic when directed to do so by the police officer in the execution of his duty, or
- (b) he fails to comply with the indication given by the sign.

(2) A traffic sign shall not be treated for the purposes of this section as having been lawfully placed unless either -

- (a) the indication given by the sign is an indication of a prohibition, restriction or requirement, or
- (b) it is expressly provided by or under any provision of this Ordinance that this section shall apply to the sign or signs of a type which the sign is one;

and where the indication mentioned in paragraph (a) of this subsection is of a general nature only of the prohibition, restriction or requirement to which the sign relates, a person shall not be convicted of failing to comply with the indication unless he has failed to comply with the said prohibition restriction or requirement.

False statements and withholding material information.

Drivers to comply with traffic directions. (3) For the purposes of this section a traffic sign placed on or near a road shall be deemed to be one authorised by the Governor and to have been lawfully so placed unless the contrary is so proved.

161 Where a police officer in uniform is for the time being engaged in the regulation of vehicular traffic in a road, a person on foot who proceeds across or along the carriageway in contravention of a direction to stop given by the police officer in the execution of his duty, either to persons on foot or to persons on foot and other traffic, commits an offence.

16J A person commits an offence who, being in charge of a vehicle, causes or permits the vehicle or a trailer drawn thereby to remain at rest on a road in such a position or in such condition or in such circumstances as to be likely to cause danger to other persons using the road.

Pedestrian crossings. 16K (1) The Governor may make regulations providing for

- (a) the establishment on (and removal from) roads of crossings for pedestrians to be indicated in manner prescribed by regulations under this section and
- (b) the precedence of motor vehicles, carts, carriages and pedestrians respectively, and generally with respect to the movement of traffic (including pedestrians), at and in the vicinity of crossings.

(2) Without prejudice to the generality of section 1 above, regulations made thereunder may be made with respect to the indication of the limits of a crossing, or of any other matter whatsoever relating to the crossing by marks or devices on or near the road or otherwise.

(3) Different regulations may be made under this subsection in relation to different conditions, and in particular, but without prejudice to the generality of the foregoing words, different regulations may be made in relation to crossings in the vicinity of, and at a distance from, a junction of roads, and to traffic which is controlled by the police, and by traffic signals, and by different kinds of traffic signals.

(4) Regulations may be made under this section applying only to a particular crossing or particular crossings specified in the regulations.

(5) A person commits an offence who contravenes any regulations made under this section.

(6) In this section "crossing" means a crossing for pedestrians established by the Governor in accordance with the provisions hereof and indicated in accordance with the regulations having effect as respects that crossing; and for the purposes of the prosecution of a contravention of any of the provisions of a regulation having effect as respects a crossing the crossing shall be deemed to be established and indicated as aforesaid unless the contrary is proved."

5. The principal Ordinance is further amended by the addition thereto, so as to appear therein after the last section thereof, of the following Schedule.

"SCHEDULE

Supplementary provisions in connection with proceedings for offences relating to helmets and head gear.

1. (1) A person against whom proceedings are brought for an offence under section 12A of this Ordinance (hereinafter referred to as "the relevant section") shall, upon information duly laid by him and on giving to the prosecution not less than three clear days notice of his intention, be entitled to have any person to whose act or default he alleges that the contravention of that section was due brought before the court in the proceedings; and if, after the contravention has been proved, the original accused proves that the contravention was due to the actual default of that other person, that other person may be convicted of the offence, and, if the original accused further proves that he has used all due diligence to secure that that section was complied with, he shall be acquitted of the offence.

Pedestrians to comply with directions to stop given by police officer.

Leaving vehicles in dangerous position.

- (2) Where an accused seeks to avail himself of the provisions of sub-paragraph (1) above -
 - (a) the prosecution, as well as the person whom the accused charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
 - (b) the court may make such orders as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears that an offence under the relevant section has been committed in respect of proceedings which might be taken against some person (hereinafter referred to as "the original offender"), and a person proposing to take proceedings in respect of the offence is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person, being an act or default which took place in the Falkland Islands, and that the original offender could establish a defence under sub-paragraph (1) above, the proceedings may be taken against that other person without proceedings first being taken against the original offender.

In any such proceedings the accused may be charged with, and on a proof that the contravention was due to his act or default be convicted of, the offence with which the original offender might have been charged.

2. (1) Where proceedings are brought against a person (hereafter in this paragraph referred to as "the accused") in respect of a contravention of the relevant section, and it is proved -

- (a) that the contravention was due to the act or default of some other person, being an act or default which took place outside the Falkland Islands, and
- (b) that the accused used all due diligence to secure compliance with that section,

the accused shall, subject to the provisions of this paragraph, be acquitted of the offence.

(2) The accused shall not be entitled to be acquitted under this paragraph unless within 7 days from the date of service of the summons on him he has given notice in writing to the prosecution of his intention to rely upon the provisions of this paragraph specifying the name and address of the person to whose act or default he alleges that the contravention was due, and has sent a like notice to that person.

(3) The person specified in a notice served under this paragraph shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to so do.

(4) Subject to the provisions of this paragraph, in any proceeding for an offence under the relevant section it shall be a defence for the accused to prove -

- (a) that he purchased the helmet in question as being of a type which under the relevant section could be lawfully sold or offered for sale, and with a written warranty to that effect,
- (b) that he had no reason to believe that at the time of the commission of the alleged offence that it was not of such a type, and
- (c) that it was then in the same state as when he purchased it.

(5) The warranty shall only be a defence in any such proceedings if —

- (a) the accused -
 - (i) has, not later than 3 clear days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and
 - (ii) has also sent a like notice of his intention to that person, if that person is within the Falkland Islands, and
- (b) in the case of a warranty given by a person resident outside the Falkland Islands, the accused proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(6) Where the accused is an employee of the person who purchased the helmet in question under a warranty, he shall be entitled to rely on the provisions of this paragraph in the same way as his employer would have been entitled to do if he had been the accused.

(7) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

3. (1) An accused who in any proceedings for an offence under the relevant section wilfully applies to a helmet a warranty not given in relation to that helmet, commits an offence.

(2) A person commits an offence who, in respect of a helmet sold by him, being a helmet in respect of which a warranty might be pleaded under paragraph 2 above, gives to the purchaser a false warranty in writing (but for the purposes of this sub-paragraph) a warranty shall be deemed not to be false if the accused proves that when he gave the warranty he had reason to believe that the statements or description contained therein were accurate?

The Interpretation and General Clauses (Amendment) Bill 1988 (No. of 1988)

Arrangement of Provisions

Clause

- 1. Short title.
- 2. "The principal Ordinance"
- 3. Repeal and replacement of section 81A of the principal Ordinance.

A Bill For

An Ordinance

to amend the Interpretation and General Clauses Ordinance 1977

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Short title. Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Interpretation and General Clauses Ordinance 1977.

"The principal Ordinance". (No. 14 of 1977). Repeal and

replacement of

of the principal

section 81A

Ordinance.

3. Section 81A of the principal Ordinance is repealed and the following new sections 81 A to 81C are substituted therefor —

(a)

"Application of English law.

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81 A. (1) In this section —

 all statutes of general application in force in England on 22nd May 1900; and

"the 1900 English law" means

- (ii) all subsidiary legislation of general application which is for the time being in force and which was made under any statute referred to in subparagraph (i);
- (b) the "current English law" means any imperial enactment for the time being in force in England; and
- (c) "specific legislation" means -

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- (i) any imperial enactment which expressly or by necessary implication applies to the Falkland Islands independently of this section (and whether such application is by virtue of any imperial enactment or by virtue of any Ordinance or subsidiary legislation made under any Ordinance), and
- (ii) any Ordinance or subsidiary legislation made thereunder.

(2) Subject to this section and to section 76 the 1900 English law shall apply in the Falkland Islands unless it has been repealed in relation to England.

(3) Subject to this section and to section 76, if a provision of the current English law deals with the same or substantially the same subject matter as a provision of the 1900 English law which it repeals, amends or augments, that provision of the current English law shall apply in the Falkland Islands instead of or in addition to that provision of the 1900 English law.

(4) If any specific legislation is inconsistent with any law to which subsection (2) or subsection (3) relates, then to the extent of the inconsistency that specific legislation shall apply instead of that law.

81 B. (1) The common law and the rules and doctrines of equity for the time being applying in England shall apply in the Falkland Islands except insofar as they are inconsistent with -

- (a) any imperial enactment for the time being applying in the Falkland Islands; or
- (b) any Ordinance or subsidiary legislation made thereunder.

(2) Where the common law conflicts with the rules and doctrines of equity or either of them, equity shall prevail.

Specific application of certain imperial enactments. 81 C. The imperial enactments specified in the Schedule to this Ordinance shall continue to apply in the Falkland Islands"

OBJECTS AND REASONS

This Bill is intended to replace section 81A of the Interpretation and General Clauses Ordinance with more satisfactory provision.

Application of English Common law and Equity.

The Merchant Shipping (Transfer of Functions) Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short title.
- 2. Commencement.
- 3. Registrar to be Registrar of British Ships for the Falkland Isands.
- 4. Transfer of Register, books and other papers.

A Bill for

An Ordinance

to transfer the functions of the Collector of Customs as Registrar of British Ships under section 4(1) of the Merchant Shipping Act 1894 to the Registrar General.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Merchant Shipping (Transfer of Functions) Short title. Ordinance 1988.

2. This Ordinance shall come into force on such date as may be notified by the Governor by notice published in the Gazette but that date may not be earlier than the date of commencement of an Order in Council under section 735(1) of the Merchant Shipping Act 1894 confirming this Ordinance.

3. (1) Subject to subsection (2), the Registrar General shall be the Registrar of British Ships in respect of every port in the Falkland Islands approved by the Governor for the registry of ships and accordingly so much of section 4(1) of the Merchant Shipping Act 1894 as would otherwise require the Chief Officer of Customs to be the Registrar of British Ships at that port shall cease to have effect in the Falkland Islands.

(2) If the office of Registrar General is at any time vacant or the holder of it is for the time being unable for any reason to discharge the functions of that office, the Governor may appoint another person to be Registrar of British Ships in place of the Registrar General until such time as the office of Registrar General is again filled or the Registrar General is again able to discharge the functions of the office of Registrar General, whichever in the circumstances of the case is appropriate.

4. The Collector of Customs shall forthwith on the commencement of this Ordinance deliver to the Registrar General all registers and other papers whatsoever which, immediately before such commencement, were in his possession as Registrar of British Ships.

OBJECTS AND REASONS

The object of this Bill is to transfer the functions of Registrar of British Ships in the Falkland Islands from the Collector of Customs to the Registrar General. The reason for doing so is that it is administratively convenient to transfer the registry to the specialist registry section particularly since the Companies Registry (which the Registrar General already maintains) and the Registry of Ships are necessarily both involved in any transaction involving mortgage of a ship owned by a company registered in the Falkland Islands. The Companies Registry is also to some extent involved in the qualification for registration of a ship on the Port Stanley Register having regard to the provisions of the Merchant Shipping (Registry) Ordinance 1987. Registrar

Commencement

General to be Registrar of British Ships for the Falkland Islands.

Transfer of Register, books and other papers.

Telecommunications Bill 1988

(No. of 1988)

ARRANGEMENT OF PROVISIONS

PART I

PRELIMINARY

Clause

- 1. Short title.
- 2. Interpretation.

PART II

LICENCES

- 3. Telecommunications services not to be provided without licence.
- 4. No licence required for certain Crown et cetera purposes.
- 5. Agreement with telecommunications utility.
- 6. Broadcasting without broadcasting station licence prohibited.
- 7. Other licences.
- 8. Private telecommunications systems.
- 9. Criminal offence.

PART III

TELECOMMUNICATIONS UTILITIES

- 10. Functions and powers of telecommunications utility.
- 11. Company to provide Government with information.
- 12. Inspection of telecommunications utilities installations.
- 13. Compulsory acquisition of land.
- 14. Right of entry and to construct lines across land.
- 15. Telecommunications utility to pay compensation.
- 16. Lines may be laid under streets etc.
- 17. Damage to property or injury to persons.
- 18. Alteration of works at request of another person.
- 19. Trees obstructing telegraph lines.
- 20. Height and depth of lines.

WORKS ON SHORE AND ON SEA BED AND SUBMARINE CABLES

- 21. Company not to carry out certain works without the consent of the Crown or of the Government.
- 22. International obligations to be complied with.

PART V

TELEGRAMS

- 23. Offensive language in telegrams.
- 24. Theft, destruction, forging or alteration of telegrams.
- 25. Secrecy of telecommunications.

PART VI

TELEPHONES, TELEX, FACSIMILE AND DATA TRNSMISSION SEVICES

- 26. Meaning of "telephone or telex service".
- 27. Application for telephone or telex service.
- 28. Liability of applicant for payment for work done.
- 29. Liabilities of telecommunications utility.
- 30. Telecommunications utility to offer to sell equipment.
- 31. Liability for maintenance of installation.
- **32.** Subscriber to protect telecommunication utility's employees and property at premises at risk.
- 33. Damage to telecommunication utility's property on subscriber's premises.
- 34. Limitation of subscribers rights to recover damages.
- 35. Minimum period of service.
- 36. Termination of service by telecommunications utility.
- 37. Service not to be assigned or disposed of.
- 38. Payments in advance.
- 39. Telecommunications utility may alter telephone or telex number et cetera.
- 40. Subscriber's right to provide own equipment.
- 41. Indecent calls.
- 42. Access to subscribers' premises.
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- 44. Subscriber to provide power.
- 45. Subscriber to pay tariff and other listed charges.
- 46. Arbitration as to tariff.
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PART VII

REVOCATION OF BROADCASTING AND

TELECOMMUNICATIONS UTILITY LICENCES

- 49. Circumstances in which broadcasting or telecommunications utility licence may be revoked.
- 50. Prior notice of breach.
- 51. Powers of the Supreme Court on application for leave to revoke licence.

52. Revocation of licence.

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PART VIII

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54. Right to compensation.

PART IX

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55. Power to make regulations.

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61. Adoption of the Marine & Broadcasting (Offences) Act 1967.

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Schedule - Initial tariff.

A Bill for

An Ordinance

to provide for the issue of licences for wireless telegraphy operations and installations and in particular the licensing of a telecommunications utility in the Falkland Islands and for the provision, development, operation and management of the Falkland Islands internal and external public telecommunications services and for matters connected therewith or incidental to any of the foregoing matters.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

PART I

PRELIMINARY

1. This Ordinance may be cited as the Telecommunications Ordinance 1988.

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

"amateur" means a person who is interested in radio techniques solely with a personal aim and without pecuniary interest;

"amateur radio station" means a radio station operated by an amateur;

"broadcast" means the transmission by wireless telegraphy of aural or visual material dedicated for reception by the public at large;

"broadcasting station licencee" means a person licenced to operate a broadcasting station;

"construct" means to erect, set up, lay down, or place;

"Crown" includes Her Majesty's Government in the United Kingdom;

"exchange line" means a circuit provided as part of an installation for the purpose of connecting that installation with a telex or telephone exchange, not being a circuit provided as a private circuit or part of a private circuit;

"fixed station" means -

- (a) a station intended to be operated from a fixed point to a fixed point or points; or
- (b) a headquarters station intended to be operated solely for the purpose of communicating with land mobile stations;

"installation" means equipment or apparatus supplied by the telecommunications utility to a subscriber for the purpose of providing telecommunications;

"ITU Convention" means the International Convention of Nairobi 1982 and any later Convention amending or replacing the same to which the United Kingdom or the Falkland Islands

Interpretation.

Short title.

is a party and includes the General and Administrative Regulations from time to time in force under any such Convention to the extent that such General and Administrative Regulations extend to the Falkland Islands;

"message" means any communication, whether oral, written, printed or displayed or conveyed by the system or by any other means;

"mobile station" means a land station intended to be operated while in motion or during halts at unspecified points;

"public system" means the public telecommunications system;

"radio" means the transmission or reception over any distance without connecting wires of images and other visual matter and of sounds, signs or signals by electrical means;

"radio communications equipment" means any apparatus or article, or any part thereof, intended for or capable of transmitting or receiving images, signs, signals or visual matter by radio;

"sender", in relation to a telegram, means the person from whom that telegram purports to have come, unless such person proves that he is not the sender thereof;

"service" means any service or facility provided by telecommunications utility as a means of supplying telecommunications;

"subscriber" means a person on whose application the telecommunications utility provides service by means of an installation and includes, where the context so requires, an applicant for service to be provided by the telecommunications utility;

"subscriber's premises" means any premises in or on which an installation or part of an installation is situated, being premises in the possession or occupation or under the control of the person who is a subscriber in respect of the installation or of a person for whose use the installation or part thereof is provided on the application of the subscriber, or premises connected by telecommunications with such premises by means of an extension or private wire comprised in the installation;

"telecommunications services" includes telephone, telex, telegraph, data, facsimile and leased circuit services, together with appropriate terminal equipment;

"telecommunication" means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems;

"telecommunications utility" means a person or body corporate licensed under section 3(2) to provide telecommunications services to the public;

"telegram" means any communication transmitted or intended to be transmitted by telegraph or delivered or intended to be delivered as a communication transmitted in whole or in part by telegraph;

"telegraph" means any system or means of conveying signs, signals, images, sounds or communications by the agency of electricity, magnetism or electromagnetism or any agency of a like nature, whether with or without the aid of wires, and includes wireless telegraphy, radio and visual transmission by the system commonly known as television and telephone;

"telegraph lines" includes any apparatus, instrument, pole, mast, standard, wire, pipe, tunnel, pneumatic or other tube thing or means which is or may be used in connection with or for the purpose of sending, transmitting, conveying or receiving telegraphic signs, signals, sounds or communications;

PART II

LICENCES

3. (1) Except as provided by this Ordinance it is unlawful for any person or body corporate to provide within the Falkland Islands any telecommunications system or to provide telecommunications services to any other person.

Telecommunications services not to be provided without licence.

(2) The Governor may grant to any person or body corporate a licence to provide to other persons telecommunications services upon such terms and conditions, not inconsistent with this Ordinance, as the Governor thinks fit.

- (3) A licence under subsection (2) may be granted -
 - (a) so as to be valid for an indefinite period until determined by a period of notice which shall not exceed five years;
 - (b) so as to be valid for a fixed period of years, not exceeding twenty years; or
 - (c) so as to be valid for a fixed period of years not exceeding twenty, and then to continue indefinitely unless and until determined on the expiration of the fixed period of years or at any later time by a period of notice, not to exceed five years.

(4) If a licence granted under this section licences the provision of all public telecommunications services, both internal and external, for the Falkland Islands, the licence may be expressed to be an exclusive licence, in which case no further licence shall be granted under subsection (2) which takes effect before the expiry or sooner determination of that licence.

4. (1) Nothing in section 3 shall in any way effect or preclude the right of the Crown to establish, extend, maintain, or work any telecommunications apparatus or station, or authorise any other person to establish, extend, maintain or work any telecommunications apparatus or substation on behalf of the Crown —

No licence required for certain Crown et cetera purposes.

- (a) for any Crown purpose of a non-commercial nature;
- (b) for experimental purposes;
- (c) for broadcasting;
- (d) for aeronautical services;
- (e) for purposes associated with the navigation of ships or the safety of shipping; or
- (f) for scientific purposes,

if any such telecommunications apparatus or station is not used to provide telecommunications services to the public of a kind or nature which are provided by a licensee licenced under section 3(2).

(2) For the purposes of subsection (1) the operation of any telecommunications apparatus station by Her Majesty's armed forces or by the British Antarctic Survey, is subject to the proviso to that subsection, deemed to be a Crown purpose of a non-commercial nature.

(3) Nothing in Section 3 shall apply so as to prevent any person doing anything within the territorial sea that he is permitted to do under any treaty convention or agreement relating to international maritime satellite communications.

5. (1) The Government may at any time (whether before or after the granting of a licence under section 3 (2)) enter into an agreement in writing with a telecommunications utility on terms not contrary to this Ordinance and providing (inter alia) for obligations to be observed by the telecommunications utility in or in connection with the provision of telecommunication services.

(2) A telecommunications utility shall perform and observe each and all of its obligations under any such agreement as is refered to in subsection (1) and if it shall fail or neglect at any time to do so, it shall be deemed to be in breach of its obligations under this Ordinance and notice may be given to it under section 49 of intention to revoke its licence.

6. (1) Subject to this section, it is unlawful for any person or body corporate to operate a broadcasting station except under the authority of a licence granted under this Ordinance.

(2) The Governor may grant to any person or body corporate, upon such conditions as he thinks fit, a broadcasting station licence.

(3) The provisions of section 5 apply in respect of broadcasting station licences and holders of such licences as they do to telecommunication utility licences with such modifications and adaptations as may be necessary in the circumstances.

Agreement with telecommunications utility.

Broadcasting without broadcasting station licence prohibited.

- (4) A broadcasting station licence is not required -
 - (a) in respect of any broadcasting station operated by the Government;
 - (b) in respect of any broadcasting station operated by the Services Sound and Vision Corporation substantially for the benefit of members of Her Majesty's regular armed forces and their dependents.
 - (c) in respect of the supply of programmes by the Services Sound and Vision Corporation for rebroadcast by any broadcasting station operated by the Government.

(5) Nothing in subsection (1) shall render it unlawful for any person to do what an amateur may lawfully do in relation to an amateur radio station (without prejudice however to any requirement under regulations made under section 7 that he shall possess a licence for the operation of an amateur radio station).

7. (1) The Governor may make regulations providing that no person shall erect, maintain, or have in his possession any radio communications equipment or transmit by radio any sound, image, sign or signal unless he is a person who does so by authority of a licence granted under a preceding provision of this Part or exempted by virtue of a preceding provision of this Part from possessing such a licence, he is authorised to do so by a licence granted under such regulations.

(2) Regulations to which subsection (1) relate may exempt from their provisions the establishment, installation, or uses of stations of such classes or descriptions as may be therein specified, either absolutely or subject to such terms, provisions and limitations as may be so specified.

(3) Regulations made under subsection (1) may provide that licences granted under such regulations may be issued subject to such terms, provisions and limitations as the Governor may think fit, including in particular in the case of a licence to establish a station, limitations as to the position and nature of the station, the purposes for which, the circumstances in which, and the persons by whom the station may be used, and the apparatus which may be installed or used therein, and in the case of any other licence, limitations as to the apparatus which may be installed or used, and the places where, the purposes for which, the circumstances in which, the circumstances in which and the persons by whom the apparatus may be used.

(4) Regulations made under subsection (1) may further -

- (a) provide for the period or periods of validity of any class or category of licence issued under authority of such regulations;
- (b) provide for the revocation or variation of the terms, provisions or limitations of a licence issued under authority of the said regulations;
- (c) provide for the payment of fees for the issue or renewal of a licence granted thereunder and the exemption of any class or category of person specified therein from the payment of such fees;
- (d) provide for the things which are to be done or are not to be done in connection with the use of any station licenced thereunder for wireless telegraphy or wireless telegraphy apparatus, obligations as to permitting and facilitating the inspection of any such station and it apparatus, as to the condition in which such station and any such apparatus are to be kept and, in the case of a station or apparatus for the establishment, installation or use of which such a licence is necessary, as to the production of the licence, or of such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations;
- (e) contain such other provisions as are necessary or convenient in relation to the erection, maintenance, possession or operation of any radio communications equipment other than any radio communications equipment erected, maintained possessed or used under authority of a licence granted under any proceeding provision of this Part.

Other licences.

(5) Regulations made under this section may provide that a contravention of any provision of any regulation as shall be specified shall constitute an offence punishable on conviction by a fine to be specified by such regulations (but so that in respect of any such offence the amount of the fine so specified shall not exceed £500).

8. (1) A person may establish and operate a private telecommunications system without a licence under this Ordinance if that private telecommunications system -

- (a) is operated only within a single area of that person's property; and
- (b) is independent of any telecommunications system operated by any other person.

(2) For the purpose of subsection (1), a telecommunications system is a system which includes telephone, telex, telegraph, data, facsimile or one or more of the foregoing things.

(3) Notwithstanding that a private telecommunications system is operated otherwise than with a view to profit, and except as provided by this section, it shall be unlawful for a person to establish or operate a private telecommunications system other than under the authority of licence granted under section 3(2).

9. (1) A person who does anything declared by any provision contained in this Part to Criminal be unlawful commits an offence and is liable on conviction thereof to a fine not exceeding Offence. £1,000.

(2) If a person is convicted of an offence under this Part on a second or other subsequent occasion and, in the opinion of the court so convicting him, the circumstances of that offence are similar to an offence under this Part of which he has previously been convicted, the court may on convicting him on such second or subsequent occasion of an offence under this Part order that any telecommunications equipment or apparatus in his possession and used or operated by him in or in connection with the offence of which he is then convicted shall be forfeit to the Crown.

PART III

TELECOMMUNICATIONS UTILITIES

10. (1) It shall be lawful for any telecommunications utility to provide all public telecommunications services, both internal and external, for the Falkland Islands, and to carry on such other activities as may reasonably be carried on in conjunction with the provision of public telecommunication services, not being activities which are prohibited by or require a licence under any law other than this Ordinance.

(2) If a charge for any service has been prescribed by the Schedule to this Ordinance it shall be unlawful for the telecommunications utility to demand or receive in respect of the provision of that service to any person any sum greater than that so prescribed.

(3) In respect of any telecommunications service in relation to which a charge or fee has not been prescribed by the Schedule, a telecommunications utility may recover such charge as may have been agreed with it by the person to whom it has supplied the relevant service.

11. (1) A telecommunications utility shall within such time as may be reasonable after receiving a written request from the Government so to do, provide to the Government in writing all such particulars of the traffic passing over its system of telecommunications and originating in or destined for the Falkland Islands as the Government may from time to time reasonably require.

(2) For the purposes of subsection (1) "reasonable time" means such period of time as is reasonable having regard for the ordinary staff and administrative capacity of the public utility, the volume of statistics to be supplied and all the other circumstances of the case.

(3) The Government shall not except for the purposes of arbitration under section 46, without the consent of the telecommunications utility, publish or make known any information received by it by virtue of a request to which subsection (1) relates.

Functions and powers of telecommunications utility.

Private telecommunication systems.

Company to provide Government with infomation. 12. (1) The Government and any public officer or agent duly authorised by the Government may at all reasonable times enter upon all or any of the stations, offices and installations in the Falkland Islands in the possession or occupation of a telecommunications utility (either solely or jointly with any other person or persons) for the purpose of inspecting any of the apparatus used in telecommunications of the utility and the working and use of such apparatus provided that any information thereby gained with regard to such apparatus shall not be published or publicly made known by the Government or such officer or servant without the prior consent of the telecommunications utility.

(2) If in the opinion of the Government any telecommunications apparatus is causing interference with any other apparatus (including in particular but without limitation of the generality of the foregoing, any apparatus operated by Her Majesty's armed forces) the Government may serve notice upon the operator of the telecommunications apparatus requiring him to take such steps or do such things as may be necessary to prevent such interference, and that telecommunications utility shall, within such period of time as may be reasonable in all the circumstances, take all steps as are necessary to comply with any such notice.

13. (1) For the purposes of any law of the Falkland Islands relating to the compulsory acquisition of land for public purposes, the functions and operations of a telecommunications utility shall be deemed to be public purposes.

(2) It shall be lawful for the Government to exercise its powers under any law relating to the compulsory acquisition of land for public purposes for the purpose of acquiring land or of rights over or in connection with land with the intention of enabling the telecommunications utility to enjoy that land or those rights in connection with land for the purpose of its functions and operations as a telecommunications utility.

14. (1) Subject to this section, a telecommunications utility may, for the purpose of its functions and operations under its licence, after giving at least 48 hours prior notice in writing, enter upon any land, including land reserved for public purposes, street, road or footpath and construct and maintain thereon any telegraph, telegraph lines, or conduct work upon, under, over, along or across any land, street, road or footpath and for that purpose may attach wires, stays or any other kind of support to any building or other structure, and may remove or alter any such line, work, wires, stays or support.

(2) Nothing in subsection (1) shall be construed or interpreted as permitting a telecommunications utility to do anything mentioned in that subsection without the consent of the owner, and where appropriate also the consent of the occupier, of the land in question, unless the telecommunications utility has served such notice in writing detailing the works it intends to carry out and the owner, or as the case may be, the occupier, has not within the period of 14 days following the service of such notice, by notice to the Summary Court requested that court to consider whether or not the telecommunications utility should be permitted without his consent to construct or maintain on the land in question the things mentioned in the telecommunications utility's notice to him to which subsection (1) refers.

(3) On notice being given to it by an owner or occupier of land pursuant to subsection (2) the Summary Court shall issue a summons requiring the telecommunications utility and the owner, or, as the case may be, the occupier, who gave the notice pursuant to subsection (2) to attend before it on a day and time fixed by the court (without prejudice, however, to the power of the Summary Court (whether of its own motion or on the application of any party) to adjourn the matter to another day and time).

(4) If on the hearing of a summons to which subsection (3) applies, the telecommunications utility in question satisfies the Summary Court that the works in question -

- (a) are reasonable having regard to the functions and operations of the telecommunications utility under its licence; and
- (b) ought reasonably be permitted to be undertaken on the land in question; and
- (c) that the said works will not seriously interfere with the present enjoyment, for the purposes for which the land in question is at present used, of the said land,

Inspection of telecommunications utilities instalations.

Compulsory acquisition of land.

Right of entry and to construct lines across land. the Summary Court shall declare that the telecommunications utility shall be entitled at any time thereafter, after giving such notice as is required by subsection (1) to enter upon the land in question for the purpose of construction or, as the case may be, maintenance of works the subject of its notice under subsection (2) of this section, but an appeal lies to the Supreme Court at the instance of a party aggrieved by a decision of the Summary Court under this section.

(5) Notwithstanding the foregoing provisions of this section, a telecommunications utility may enter upon any land, on, under or over which there is any thing to which subsection (1) relates for the purpose of carrying out urgent repairs or urgent maintenance to any such thing either without notice or after a period of notice less than 48 hours and whether or not the owner or occupier of the land consents thereto.

15. (1) If a telecommunications utility constructs any telegraph line upon the land of any other person it shall, if the owner, or as the case may be, the occupier of the land so requires pay to such owner and, as the case may be, the occupier of such land adequate compensation.

Telecommunications utility to pay compensation.

(2) In subsection (1), "adequate compensation" means such lump sum payment or periodic payment as may be agreed between the parties to be adequate compensation or, in default of such agreement, such lump sum payment or periodic payment as is determined by the Summary Court, on the application of any party, to be adequate compensation.

(3) An application to the Summary Court to which subsection (2) refers may be made by notice in writing by the telecommunications utility or the owner of the land or, as the case may be, the occupier of the land concerned which specifies the works to which the notice relates and any such notice shall be delivered to the office of the Summary Court.

(4) On receipt of a notice to which subsection (3) relates, the Summary Court shall issue a summons requiring the telecommunications utility and the owner, or as the case may be, the occupier of the land in question, to appear before it on a day and at a time specified in the summons (provided that nothing in the foregoing shall preclude the Summary Court of its own motion or on the application of any party from adjourning the matter) when the Summary Court shall determine the amount of compensation which shall be paid by the telecommunications utility to the owner, or as the case may be, occupier, of the land in question.

(5) Any person aggrieved by a decision of the Summary Court under subsection (4) as to the amount of compensation to be paid by the telecommunications utility may, by notice in writing delivered to the office of the Supreme Court within 21 days from the date of such determination, appeal to the Supreme Court.

(6) The telecommunications utility shall be obliged to pay the compensation determined by the Summary Court or, as the case may be, on appeal therefrom by the Supreme Court, and if it shall fail to do so the person to whom such compensation is to be paid may recover the same by civil proceedings in any court of competent jurisdiction.

> Lines may be laid under streets etc.

16. (1) After reasonable notice in writing to the Director of Public Works, a telecommunications utility may construct, maintain, alter or remove in the manner specified in that notice any telegraph or telephone line, pipe tunnel or tube required for telegraphic or telephone purposes beneath such street, road or footpath and may for such a purpose break or open up any street, road or footpath and alter the position thereunder of any pipe, not being a sewer, drain or mains for the supply of water, gas or electricity.

(2) The Director of Public Works and any public officer or other person appointed by him for the purpose shall be entitled at all times, while work in connection with the alteration in the position of that pipe is in progress, to supervise that work, and the telecommunications utility shall pay all reasonable expenses of the Director of Public Works incurred in connection with the supervision of any alteration or removal to which subsection (1) applies or in connection with the supervision of work relating to any such alteration or renewal. 17. (1) A telecommunications utility shall carry out any work required for the purposes of its licence with due regard to the safety and convenience of persons and with the minimum of damage to property, and shall make good all roads, streets or footpaths disturbed by such work.

(2) A telecommunications utility shall not be liable for compensation for injury or damage caused by the execution of works by it unless that such injury or damage was caused by the negligence of the telecommunications utility, its employees or agents.

18. (1) Where, as a result of any works undertaken by another person, it becomes necessary, in the reasonable opinion of a telecommunications utility, to alter any pre-existing telegraph or telephone line belonging to such utility, the cost of such alteration shall be borne by the person who undertook those works.

(2) Where any telegraph or telephone line passing over land interferes or may interfere with any building about to be erected on that land, the owner of that land may require the telecommunications utility to cause the line to be diverted or altered in such a manner as will remove any obstacle to building operations.

(3) A requirement under subsection (2) shall be made by notice in writing delivered to the telecommunications utility not less than 28 days before the diversion or alteration is required to be effected.

(4) The cost of any diversion or alteration required by a notice under subsection (3) shall be borne by the person at whose request the diversion or alteration is effected.

19. Where a telegraph or telephone line may be interfered with or endangered by any tree or undergrowth, a telecommunications utility may, after giving such notice to the owner and as the case may be, occupier, of the land in question as may be reasonable in all the circumstances, cut down or trim such tree or undergrowth -

Provided that whenever reasonably possible in the circumstances the telecommunications utility shall permit the owner or occupier of the land upon which such tree or undergrowth grows a reasonable opportunity of himself carrying out the necessary cutting down or trimming.

20. (1) The height of aerial wires or cables along the boundary of any land or on any street, road, or footpath shall be at least three metres, and every aerial wire or cable which crosses any land, steet, road, or footpath shall be at least five metres above the surface of the ground beneath it -

Provided that nothing in this subsection shall oblige any telecommunications utility to alter the height of any aerial wire or cable constructed or erected by the Government prior to 31 May 1988.

(2) A telecommunications utility shall not construct or lay any underground telegraph or telephone line at a depth of less than thirty centimetres below the surface of the ground.

PART IV

WORKS ON SHORE AND ON SEA BED AND SUBMARINE CABLES

21. (1) Notwithstanding any foregoing provision of this Ordinance, it shall be unlawful for a telecommunications utility to carry out any works whatsoever upon the shore or on the bed of the sea without the prior consent of the Crown in writing. (2) It shall be lawful for the Crown or the Government and any person authorised by the Crown at any time to remove from the shore and the bed of the sea any buildings, works or material which may have been placed there by any telecommunications utility without the consent of the Crown or which by reason of having been abandoned or suffered to fall into decay may be in such a condition as, in the opinion of the Crown, to prejudice or obstruct or cause reasonable apprehension that they may prejudice or obstruct navigation, or be or become injurious to any person or property and to restore the shore and bed of the sea to the former or proper condition thereof.

Company not to carry out certain works without the consent of the crown or of the Government,

Damage to property or injury to persons.

Alteration of works at request of another person.

Trees obstructing telegragh lines.

Height and depth of lines. (3) The Crown may recover from the telecommunications utility responsible for the placing on the shore or bed of the sea any building works or materials removed under subsection (2) the cost of their removal and may do so by civil action.

22. (1) Whenever a telecommunications utility constructs or lays any submarine communications cable of any type on or along any shore or on the bed of the sea or in any other place within the Falkland Islands, the telecommunications utility shall in respect thereof at all times comply with and observe the provisions of the Submarine Telegraph Act 1885 in its application to the Falkland Islands under section 11 of that Act.

(2) A telecommunications utility shall at all times observe and comply with all provisions of the International Telecommunications Union Convention which are applicable to or relate in any way to the telecommunication utility's operations and functions within the Falkland Islands.

(3) Without prejudice to the generality of subsection (2), a telecommunications utility shall promptly comply with all its obligations relating to the settlement of international telecommunications accounts with other administrations and to pay for goods and services imported for the purposes of the telecommunications utility.

(4) No exchange control restrictions shall be imposed the effect of which would be unreasonably to restrict a telecommunications utility transferring money from the Falkland Islands.

PART V

TELEGRAMS

23. A telecommunications utility is not obliged to accept for transmission, nor shall it knowingly transmit, any telegram which reasonably appears to contain anything of a blasphemous, indecent, obscene, offensive or defamatory nature.

24. Any person who -

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- (a) with fraudulent intent takes from the possession of any employee of a telecommunications utility or from a person having the custody thereof for the telecommunications utility, or from any telecommunications office, or steals, secretes or destroys, any telegram or any part thereof or fraudulently receives any such telegram or part thereof;
- (b) forges a telegram or alters a telegram knowing the same to be forged or false or transmits as a telegram any message or communication purporting to be a telegram which he knows to be forged or false; or
- (c) knowingly sends, delivers or causes to be sent or delivered to any person for the purpose of being transmitted as a telegram any message or communication which has been wilfully and without due authority altered, or which purports to be signed or sent by any other person without that person's consent or who wrongfully signs any telegram with the name of any other person without that person's consent, or with the name of some fictious person, or who wilfully and without the consent of the sender alters any telegram, or writes, issues or delivers any message or communication which purports to be a telegram received through a telegraph office but which was not so received,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months, or both such fine and such imprisonment.

25. (1) It shall be the obligation of every telecommunications utility to bring to the attention of all its staff the rules of secrecy relating to telecommunications contained in the ITU Convention.

(2) Any employee of the Corporation who, except as he may be permitted to do so under any other law, without the consent of the sender or addressee, or otherwise than in pursuance of his duty, opens or tampers with or divulges the contents or substance of any telegram or discloses its existence otherwise than by delivering it or giving a copy thereof to the person to whom he is authorised to deliver it or to give such copy, or who maliciously language in telegrams.

Offensive

Theft, destruction, forging or alteration of telegrams.

International obligations to be complied with.

Secrecy of tele-communications. or wilfully misdelivers, mistimes, secretes, intercepts, destroys, makes away with, alters or omits to transmit or deliver or prevents or delays the transmission or delivery of any telegram, or makes use for his own purposes of any knowledge he may acquire of the contents of any telegram, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding £1,000 or a term of imprisonment not exceeding six months or to both such fine and such imprisonment.

PART VI

TELEPHONES, TELEX, FACSIMILE AND DATA TRANSMISSION SERVICES

26. In every subsequent provision of this Part, the expression "telephone or telex service" includes any service whereby by equipment at the subscriber's premises and by use of any service provided by the telecommunications utility any transmission, emission, or reception of signs, signals, writing, images and sounds or intelligence of any nature whether by wire, radio, optical or other electrical or electro-magnetic system takes place.

27. (1) A telecommunications utility may require any person who wishes a telephone or telex service to be provided to him to make application in writing on an application form provided for the purpose by the telecommunications utility.

(2) Where it appears to a telecommunications utility that an applicant for a telephone or telex service is not the occupier of the building or premises to which he has requested the service to be provided, the telecommunications utility may require the applicant to produce to it such evidence as the telecommunications utility may reasonably request to satisfy it that the occupier is aware of the application and consents to the installation of the necessary apparatus and the provision to the premises or building of that service.

(3) A telecommunications utility shall not unreasonably refuse to provide a telephone or telex service in accordance with an application (but, for the purposes of this subsection a refusal by a telecommunications utility to provide such service is reasonable if, without prejudice to any other reason by virtue of which it may be reasonable, the ground on which it refuses to provide such service is that the applicant has failed to discharge within a reasonable period any account submitted to him by the telecommunications utility for any telecommunications services and is still indebted to the utility in respect thereof).

28. (1) If an applicant withdraws his application for a telephone or telex service or, as a result of anything done or omitted by the applicant, any apparatus or service specified in his application is not provided, and the work relating to such service is in progress or has been completed then the applicant shall pay to the telecommunications utility the cost of the work carried out by the telecommunications utility with a view to providing him with telephone or telex service together with the amount of the periodic rental or charge for the minimum period of service for which, in accordance with the telecommunication utility's standard terms of business, it is prepared to provide such service.

(2) In addition to any cost which he is obliged to pay by virtue of subsection (1), the applicant shall pay the cost of the removal by the telecommunications utility of any of its apparatus or equipment which is upon his premises.

29. (1) A telecommunications utility which has installed apparatus or equipment at a subscriber's premises and has agreed to supply service to him shall subject to the provisions of this Ordinance, maintain such apparatus and equipment in good working order

(2) A telecommunications utility shall not be liable to any person, and a subscriber shall not be entitled to any repayment of rental, for or on account of or in respect of any loss or damage suffered by that person or by any other person by reason of or in connection with -

- (a) a failure to provide or delay in providing service, any apparatus equipment or service ancillary thereto;
- (b) a failure, interruption, suspension or restriction of service or a service ancillary thereto;
- (c) a delay of or fault in communications by way of service provided; or
- (d) an error in or omission from a directory or other document relating to such service.

Meaning of "telephone or telex service?"

Application for telephone or telex service.

Liability of applicant for payment for work done.

Liabilities of telecommunications utility.

Telecommunications utility to offer to sell equipment.

- (a) the rental of any equipment supplied to him in connection with any service; or
- (b) the purchase from the telecommunications utility of that equipment at a reasonable price.

(2) In subsection (1), "a reasonable price" means such price as is reasonable having regard to the cost to the telecommunications utility of the equipment and its transport to the Falkland Islands and a reasonable profit margin to the utility above such cost.

(3) Where a subscriber purchases any equipment from a telecommunications utility, the telecommunications utility shall offer to maintain that equipment for a reasonable period of time after its purchase at reasonable charges.

(4) Nothing in subsection (1) above shall -

- (a) apply to telex machines; or
- (b) prevent a telecommunications utility making a periodic standing charge to a subscriber for the provision of any telephone or telex service to him.

31. (1) Notwithstanding section 29 (1), a telecommunications utility shall not be liable to maintain any part of such installation which has been sold by it to a subscriber where the subscriber has not accepted the offer of the telecommunications utility under subsection (3) of the last foregoing section to maintain the same.

(2) For the purpose of maintaining any installation it is obliged to maintain (and insofar as the installation is its own property, at its own expense) a telecommunications utility shall supply all necessary spare parts and replace such installation or any part thereof where it becomes unserviceable or otherwise inoperative due to fair wear and tear.

(3) Every part of an installation provided by a telecommunications utility shall, except insofar as the same has been sold by the telecommunications utility to the subscriber, remain the property of the telecommunications utility and the subscriber shall be reponsible for the safety of all such parts thereof as are in or on a subscribers premises, fair wear and tear excepted.

32. (1) If at any time a telecommunications utility serves notice in writing upon a subscriber informing that subscriber that, in the opinion of the telecommunications utility, the premises at which a telephone or telex service is or is to be provided by the telecommunications utility are subject to abnormal risk of fire, flood or explosion, or that the telecommunication utility's employees or property on that subscribers premises are subject to abnormal risks of injury or damage, the subscriber shall take such steps to protect all telephone or telex apparatus and equipment installed or to be installed on the premises as the telecommunication utility may reasonably require.

(2) If a subscriber, without reasonable excuse, fails or refuses to take any step which a telecommunications utility has reasonably required him to take pursuant to subsection (1), the telecommunications utility may terminate the telephone or telex service to that subscriber and may enter upon the subscriber's premises for the purpose of disconnecting and recovering all or any telephone or telex apparatus and equipment belonging to the telecommunications utility.

33. (1) If by any cause other than the negligence or default of the telecommunications utility's employees, servants or agents or fair wear and tear, any damage or loss is occasioned on the subscriber's premises to any property of the telecommunications utility, the subscriber shall pay to the telecommunications utility the amount of any cost or expense incurred by the telecommunications utility in repairing or replacing any such property.

(2) If by any cause other than the negligence or default of the telecommunications utility its employees, servants or agents any injury or death is occasioned to any person on the subscriber's premises the subscriber shall, as and when called upon by the telecommunications utilities so to do, indemnify the telecommunications utility against all actions, proceedings, claims, demands or any costs or expenses incidental thereto arising out of or in connection with such injury or death.

maintenance of installation.

Liability for

Subscriber to protect telecommunication utilitie's employees and property at premises at risk.

Damage to telecommunication utilitie's property on subscriber's premises.

Limitation of subscriber's right to recover damages.

34. (1) Subject to subsection (2), a person shall not be entitled to recover damages from a telecommunications utility in respect of any loss, damage, injury or death sustained or suffered by that person through, as a result of or consequential upon any explosion or fire or electric potential attributable directly or indirectly -

- (a) to anything done or omitted by any person engaged in the business of the telecommunications utility; or
- (b) any property of the utility on or joined to any person's premises.

(2) Subsection (1) shall not apply so as to prevent a person recovering damages he would otherwise be entitled to recover from a telecommunications utility if the loss, damage, injury or death was caused or contributed to by the negligence or default of the telecommunications utility, its servants employees or agents.

35. (1) The minimum period of service in respect of any telephone or telex service provided by a telecommunications utility to any subscriber shall be such period of service as is agreed between the telecommunications utility and that subscriber.

(2) If a subscriber requests a change in that subscriber's installation requiring the supply of additional apparatus or equipment either in the subscriber's premises or elsewhere or both, the telecommunications utility may require the subscriber to agree to such of the following as the telecommunications utility may in its discretion require —

- (a) a minimum period of service in respect of the added apparatus or equipment only; or
- (b) a fresh minimum period of service in respect of the whole installation including the added apparatus or equipment.

(3) A subscriber shall be obliged to pay periodic charges or service rental however described in respect of the minimum period of service in relation to the installation provided to him.

(4) Except where a telecommunications utility, under any other provision of this Ordinance, itself terminates the provision of service to a subscriber, a subscriber shall continue to pay periodic charges or rental however described in respect of services provided to him by telecommunications utility until the later of -

- (a) the expiration of the minimum period of service applicable to that service; or
- (b) the expiry of one month's notice in writing given by the subscriber to the telecommunications utility,

Provided that if the telecommunications utility enters into an agreement with another person to provide at the same premises the same service to that other person as was provided to the subscriber, the subscriber shall not be liable to pay periodic charges or rental to the telecommunications utility in respect of that installation in relation to any period of time falling after the date on which the telecommunications utility commences to provide service to that other person.

36. (1) A telecommunications utility may cease to provide a service to a subscriber -

- (a) in the circumstances provided by section 41 (3) (indecent calls etc); or
- (b) in the circumstances provided by section 43 (2) (failure to pay sums due to the telecommunications utility etc.)

(2) Where in any circumstances mentioned in subsection (1), a telecommunications utility terminates service to a subscriber, that subscriber shall not be entitled to any refund or reduction in any periodic charge or rental (however described) for the minimum period of service which has been paid or is payable under this Ordinance.

37. (1) A subscriber shall not, except with the written consent of a telecommunications utility assign, dispose of or part with a service provided by the telecommunications utility to that subscriber.

(2) A subscriber who contravenes subsection (1) shall, without prejudice to any other right or remedy of the telecommunications utility, continue to be liable for all rental charges and sums due or which may become due in respect of the installation, the use thereof and the services and facilities rendered at the request or with the authority of the person using the installation.

Termination of service by telecommunications utility.

disposed of.

Minimum period of service. (3) A subscriber shall be liable to pay all charges for calls made from any telephone or telex installation at his premises to which services are provided by the telecommunications utility, notwithstanding that such calls were made without his knowledge or authority, and it shall be presumed in favour of the telecommunications utility that every call made using any such service was made with the subscriber's authority.

38. (1) If, at the request of an applicant, a telecommunications utility provides service for a period of less than one year, it may require the applicant to pay in advance the rental and a sum on account of call charges.

(2) Without prejudice to subsection (1), a telecommunications utility may on agreeing to provide service to a subscriber require that subscriber to pay by way of deposit such amount, not exceeding three months periodic charge or rental together with £100 or such other greater sum as may be prescribed by regulations on account of call charges to become payable by that subscriber.

(3) The telecommunications utility may retain any of the deposit to which subsection (2) relates until the liability of the subscriber in respect of charges for service has been discharged or for as long as service continues to be provided to that subscriber.

(4) The fact that a telecommunications utility holds a deposit under subsection (1) shall not reduce a subscriber's liability to pay bills rendered to him by the telecommunications utility and no sum held as a deposit under subsection (1) or (2) shall be applicable in discharge of any charge or fee until the provision to the subscriber of service is terminated by the subscriber or by the telecommunications utility.

(5) In the event of the final amount payable to a telecommunications utility upon termination of service being less than the amount of any deposit held by the telecommunications utility, the amount by which the deposit exceeds the final amount payable shall be repaid to the subscriber.

39. A telecommunications utility may —

- (a) at any time after at least fourteen days notice in writing to a subscriber alter the telephone or telex number alloted to that subscriber and shall not be responsible for any loss or damage to that subscriber which may be caused thereby;
- (b) at any time without notice change or alter apparatus, equipment or facilities provided by the telecommunications utility other than upon the subscriber's premises.

40. (1) A telecommunications utility shall not unreasonably refuse to connect or allow a subscriber to connect for use with that telecommunications utility's telecommunications systems and services equipment or apparatus intended for subscriber use and obtained by the subscriber other than from the telecommunications utility —

Provided that a telecommunications utility shall not be obliged to connect or allow a subscriber to connect a telex machine not owned by the utility and rented to the subscriber.

(2) For the purposes of subsection (1), a telecommunications utility's refusal to allow a subscriber to use his own equipment or apparatus is reasonable (without prejudice to any other circumstances in which it may be reasonable) if that equipment or apparatus is not compatible with or may do damage or harm of any kind to the telecommunication utility's telecommunications systems, equipment or apparatus.

(3) A subscriber shall not use any equipment or apparatus in or in connection with any service provided to him by a telecommunications utility unless —

- (a) the telecommunications utility has provided him with that equipment or apparatus; or
- (b) he has given reasonable notice to the telecommunications utility of his intention to use that equipment or apparatus in connection with a service provided to him by the utility and either —
 - the utility has consented to the use by him for that purpose of the equipment or apparatus; or

Telecommunications utility may alter telephone or telex number et cetera.

Subscriber's right to provide

own equipment.

Payments in advance.

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(ii) the utility has not, within such time as may be reasonable, informed the subscriber that it will not allow the use of that equipment or apparatus.

(4) A subscriber who contravenes subsection (3) commits an offence and is liable on conviction to a fine of $\pounds 200$.

(5) A subscriber shall not without the consent express or implied of the telecommunications utility, make or permit to be made any alteration or addition to any equipment or apparatus connected to or capable of being connected to the public system or attach anything to an installation or connect, place or use anything in connection therewith, electrically by induction or mechanically, unless it is approved by or provided by the telecommunications utility for that purpose, nor shall he without the consent of the telecommunications utility attach or cause or permit to be attached any equipment or apparatus belonging to the telecommunications utility to anything, and any person contravening this subsection commits an offence and is liable on conviction to a fine of £200.

41. (1) Any person who uses the public system for —

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Indecent calls.

- sending to any other person against that person's will any message or communication of an indecent or obscene nature; or
- (b) persistently making telecommunications calls for the purpose of causing annoyance or inconvenience or needless anxiety to any other person,

commits an offence and is liable on conviction to a fine of £500 or to imprisonment for three months or both such fine and such imprisonment.

(2) A telecommunications utility may interrupt any message or refuse to give service to a person who it believes is transmitting or causing to be transmitted any message or signal contravening subsection (1).

(3) A telecommunications utility may, without notice, terminate the provision of telephone or telex services to any subscriber where it reasonably believes that with the knowledge of the subscriber the services provided to the subscriber's premises are persistently being used in breach of any provision of this section and the subscriber has refused or neglected to take steps which he has been reasonably requested by the telecommunications utility to take to prevent further contraventions of any provision of this section.

42. (1) A subscriber shall permit authorised employees of the telecommunications utility to have access at all reasonable times to any land or building in the possession or control of the subscriber for the purpose of inspecting, installing, maintaining, recovering or altering any telecommunications apparatus or equipment provided by the telecommuncations utility and situated in, on, over or under any such land or building.

(2) A subscriber shall at the request of any employee of a telecommunications utility upon any land or building pursuant to subsection (1) inform that employee to the best of the knowledge and belief of the subscriber of the location of any hazard to that employee or any apparatus or equipment of the utility caused or likely to be caused by any matter or thing upon such land or building.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine of ± 200 .

43. (1) If the supply of service by the telecommuncations utility is terminated either by the subscriber or by the telecommunications utility, the subscriber shall surrender to the telecommunications utility the installation upon his premises and together with all fixtures and accessories thereof (except such as may belong to him) in as good condition as when received, fair wear and tear accepted.

(2) Whenever a subscriber fails within thirty days of its receipt by him to pay or discharge any account rendered to him by a telecommunications utility or has a receiving order made against him or becomes insolvent or makes any composition or arrangement with or assignment for the benefit of his creditors, or, being a company goes into liquidation, whether voluntary or otherwise, or a receiver is appointed of the whole or any part of the property of a subscriber, or a subscriber fails to observe or perform any provision of this Part then, and in any such case, the telecommunications utility may (without prejudice to any other

Access to subscribers' premises.

Supplementary provisions related to termination of service. right or remedy it may have) without notice terminate or suspend wholly or in part any service provided by it to that subscriber and, where it thinks fit to do so, disconnect any installation upon that subscriber's premises.

44. (1) A subscriber shall, if reasonably required so to do by a telecommunications utility, provide at his premises at his own expense a continuous supply, at a pressure not exceeding 240 volts and a nominal frequency of 50 Hertz, of electricity required by the telecommunications utility for the installing, operation and maintenance of the installation and any part thereof.

(2) Electricity supplied pursuant to subsection (1) shall be supplied at such point or points and by such means of connection and connection to earth and with such protective devices as the telecommuncations utility may from time to time require.

(3) A subscriber who is obliged to supply a continuous supply of electricity pursuant to subsection (1) shall pay any cost incurred by the telecommunications utility from time to time in making any alteration to an installation required to conform to any change made otherwise than by the telecommunications utility and the method of supplying utility to the installation or in the electric current used, or to prevent injurious affection to the installation by any electric line or plant erected on the subscribers premises.

(4) Where a public supply of electricity is available at the premises a request by the telecommunications utility under subsection (1) shall be deemed to be reasonable.

45 (1) A subscriber in respect of an installation and any service provided thereto and any other person supplied other than at the cost of a subscriber with any service shall pay the appropriate rentals, charges and fees set out in the Schedule to this Ordinance ("the tariff") and in respect of any installation or service not referred to or described in the tariff such rental charge or fee as may from time to time be made in respect of such installation or service by the telecommunications utility.

(2) The Governor may by regulations amend add to or otherwise vary the Schedule and may do so -

- (a) by increasing or decreasing any rental, charge or fee to which the tariff relates;
- (b) by including or inserting in the tariff a rental, charge or fee to be paid to a telecommunications utility in respect of a matter or thing not previously provided by the tariff; and
- (c) inserting in the tariff provisions for the payment in the circumstances therein specified, of such specially reduced or increased rental, charges and fees therein specified.
- (3) The Governor shall not by exercise of his powers under subsection (2)
 - (a) reduce any rental, charge or fee provided for in the Schedule as originally enacted or as from time to time in force by any previous regulations made under subsection (2); or
 - (b) amend the tariff so as to include therein any matter or thing for which provision is not presently made by the Schedule either as originally enacted or as amended from time to time by regulations previously made under subsection (2),

unless the Governor shall at least six weeks prior to making such regulations have given notice in writing of his intention so to do to the telecommunications utility and

- (i) the telecommunications utility has consented thereto in writing; or
- (ii) the matter has been referred to arbitration in accordance with the provisions of the next following section and it has been determined as a result of such arbitration that, having regard to the provisions of subsection (3) of that section that, it is reasonable for the Governor so to do.

(4) A telecommunications utility may at any time by notice in writing request the Governor by regulations under subsection (2) to vary the tariff for the time being in force. 396

Subscriber to pay tariff and other listed charges. (5) If the Governor on receipt of a request under subsection (4) is not willing within six weeks from the date thereof to vary the tariff in the manner requested by a telecommunications utility shall, if the telecommunications utility so requests him refer the matter to arbitration under the provisions of the next succeeding section.

46. (1) Whenever the Governor wishes to alter in any manner the tariff contained in the Schedule or a public utility wishes the Governor to vary that tariff and the Governor and the public utility are not able to agree on such variation, then the difference between them so arising shall be submitted to arbitration in accordance with this section.

(2) The difference shall be referred to and determined by arbitration in London under the International Arbitration Rules of the London Court of International Arbitration and having regard to the provisions of subsection (3).

(3) For the purposes of arbitration under this section and the making of regulations under the last forgoing section, it is declared that the tariff shall be fixed and from time to time reviewed in such manner as to enable the telecommunications utility to operate and maintain national and international telecommunications systems and services in the Falkland Islands on an economic basis with a reasonable return on its investment after allowing for all costs (including the payment of amounts equal to 5% of net revenue within the islands to the head office of the telecommunications utility outside the said islands in respect of the provision of central support services).

47. (1) A telecommunications utility, unless otherwise required by the subscriber, shall make an entry, in a telephone or telex directory published by it or on its behalf, in respect of every exchange line and every entry shall be made on such terms and in such form, manner and order as, in the absence of any provision by regulations under this Ordinance, the telecommunications utility thinks fit.

(2) A subscriber may apply to a telecommunications utility (or, where so required, to a publisher acting on behalf of the telecommunications utility) for a special entry, in respect of a specified exchange line provided for him, to be made in a directory —

- (a) in bold type;
- (b) containing supplementary information;
- (c) in a section other than the appropriate section of the directory at such charge as may from time to time be fixed in relation thereto by the telecommunications utility.

(3) "Directory" in subsections (1) and (2) includes in relation to a subscriber who is engaged in any trade, profession or business and as such pays any such rental as is payable by a person who rents an installation for business purposes, a section in which the entries are classified according to the trade profession or business of subscribers.

48. (1) A telecommunications utility shall not be held liable or deemed to be in default in respect of any obligation to any subscriber in respect of any failure to perform its obligations under this Part, insofar as such failure results directly or indirectly from force majeure, nor shall a subscriber be entitled to any abatement of rental for the period of any failure so resulting.

(2) For the purposes of subsection (1) "force majeure" means any law or order or direction of the Government with which the telecommunications utility is required to comply, any failure or delay of transportation, inability to obtain or delay in obtaining any necessary labour, manufacturing facilities, materials or other component parts, a strike or other labour difficulty, insurrection, riot, national emergency, Act of God, act or omission of a subscriber or any other like cause beyond the control of the telecommunications utility.

Arbitration as to tariff.

Directory entries.

Force maieure.

PART VII

REVOCATION OF BROARDCASTING AND TELECOMMUNICATIONS

UTILITY LICENCES

49. (1) A broadcast licence or a telecommunications utility licence may, notwithstanding anything contained therein or anything contained in any agreement between the Government and the licencee, be revoked in accordance with the provisions of this Part.

(2) A licence to which subsection (1) relates may only be revoked if the licencee is in substantial and continuing breach of -

(a) any of the provisions of the licence; or

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- (b) any agreement to which section 5 (1) refers; or
- (c) any of its obligations under any proceeding provision of this Ordinance, or two or more of the circumstances referred to in subparagraphs (a) to (c) of this subsection apply in the circumstances of the case, and (in any event) the Governor has obtained the leave of the Supreme Court under this Part to determine the licence.

50. (1) The Governor shall not be entitled to make application to the Supreme Court for leave to determine a broadcasting licence or telecommunications utility licence unless at least six weeks before making such application, the Governor has caused to be served upon the licensee a notice in writing specifying in sufficient detail the grounds upon which the Governor claims to be entitled to revoke the licence.

(2) A licence is entitled to such further particulars of any ground referred to in a notice which subsection (1) relates as are reasonably necessary to enable it to oppose the application by the Governor to the Supreme Court for leave to revoke the licence.

(3) Subject to subsection (1), the Governor may apply to the Supreme Court for leave to determine a broadcasting licence or telecommunications licence.

51. (1) The Supreme Court shall not grant leave to the Governor to revoke a broadcasting or telecommunications utility licence unless the Supreme Court is of opinion that in all the circumstances of the case it is just and equitable so to do.

(2) Upon the hearing of any application for leave to revoke a broadcasting or telecommunications utility licence, the Supreme Court may, on the application of any party or of its own motion, adjourn the hearing of the application for such time as it thinks fit in order to afford to the licensee such opportunity as to the Supreme Court seems reasonable to rectify or remedy any breach of the licence which it appears to the Supreme Court may exist.

(3) On determination of an application for leave to revoke a licence, the Supreme Court may either grant or deny such leave and the determination of the Supreme Court shall be final and conclusive and shall not be subject to appeal or otherwise be called into question in any court or tribunal whatsoever.

52. The Governor may, in accordance with any leave granted by the Supreme Court, determine any licence to which such leave relates by causing to be served upon the licensee at its principal place of business in the Falkland Islands a notice in writing revoking such licence.

53. (1) The revocation of a licence in accordance with this Part shall not in any way prejudice or prevent the former licensee from recovering (and if necessary by action) any debt or charge due to it from any person in respect of telecommunications services provided to the person before the revocation of the licence.

(2) A former licensee under a telecommunications utility licence shall not, on revocation of its licence in accordance with this Part, be entitled to remove from any premises belonging to it any of its property to which the licence relates but shall be entitled in accordance with Part VIII to be paid compensation in respect of such property.

PART VIII

COMPENSATION FOR ASSETS OF FORMER LICENSEE

54. (1) Whenever a telecommunications utility licence comes to an end and is not renewed for a period commencing with the expiry of that licence, the Government shall pay to the former licensee compensation in accordance with the provisions of this section.

Circumstances in which broardcasting or telecommunications utility licence may be revoked.

Prior notice of breach.

Powers of the Supreme Court on application for leave to revoke licence.

Revocation of licence.

Effect of revocation.

Right to compensation. (2) Subsection (1) applies regardless of whether the licence of the telecommunications utility came to an end by reason of a effluxion of time or by revocation.

(3) Where a telecommunications utility's licence has come to an end by revocation, then notwithstanding subsequent provisions of this section, the amount payable to the former licensee by way of compensation shall be abated or reduced by any damage or loss suffered by the Government arising out of or in connection with the breaches of the obligations of the licensee which resulted in the revocation of the licence.

(4) The obligation of the Government under this section to pay, subject to this section, compensation to a former licensee is to pay to the former licensee the fair value of its telecommunications assets in the Falkland Islands.

(5) In subsection (4) -

"assets" means ---

- (a) the land, buildings (and contents thereof), including staff quarters (if any), plant, apparatus, spares, stores and other articles in the Falkland Islands belonging to and reasonably used or intended to be used by the former licensee in the provision or operation of the national and international telecommunications systems and services the subject of its licence; and
- (b) all reasonable outstanding commitments incurred by the former licensee in respect of the carrying on of the operations which it was authorised to carry on by the former licence in the Falkland Islands;

"the fair value" means the fair value at the time of purchase by the Government due regard being had to -

- (i) to the replacement value of the asset;
- (ii) the age and standard life expectency of the asset; and
- (iii) the condition of the asset.

(6) If the licence of the former licensee was determined by the Government under any provision of the licence enabling the Government to determine the licence by written notice, the Government shall not by virtue of any provision of this section be obliged to pay any compensation to the former licensee in respect of any major extension or major renewal of any of the equipment, plant, apparatus or buildings in the Falkland Islands of the licensee effected after the service of such notice of determination unless, prior to such major extension or major renewal the former licensee served notice in writing upon the Government applying to the Government for its consent thereto and either —

- (a) the Government gave consent to such major extension or renewal; or
- (b) the withholding of such consent was, in the circumstances of the case, unreasonable.

(7) If the Government and the former licensee are unable to agree together the amount of compensation to be paid to the former licensee under the provisions of this section then, at the instance of either the Government or the former licensee the matter shall be referred to arbitration in accordance with the arbitration law of the Falkland Islands for the time being in force and the determination in such arbitration subject to any right of appeal shall be binding on the Government and the former licensee.

(8) Any compensation payable by the Government to a former licensee under the provisions of this section shall subject to any right of appeal be paid forthwith upon the amount thereof being agreed between the Government and the former licensee or, if not agreed, determined by arbitration under subsection (7) and shall stand charged upon the Consolidated Fund until paid.

PART IX

GENERAL

55. (1) The Governor may make regulations prescribing anything necessary or convenient to be prescribed for the purposes of this Ordinance.

(2) Without prejudice to the generality of the Governor's powers under subsection (1) regulations made under that subsection may provide —

- (a) for fees to be paid on the issue or renewal of any licence to which the regulations relate; and
- (b) the amount of such fees (and different provision may be made in relation to different licences, according to the nature, terms, provisions, limitations and duration of such licences).

(3) Notwithstanding any previous provision of this section, no regulations made under this section may require the payment of any fees by any person ordinarily resident in the Falkland Islands in respect of the issue or renewal of any amateur radio licence.

56. (1) The Governor may make regulations —

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- (a) prescribing the things which are to be done or are not to be done in connection with the use of any station for wireless telegraphy or wireless telegraphy apparatus, and, in particular, requiring the use of any such station or apparatus to cease on the demand in that behalf of any such persons as may be prescribed by or under the regulations;
- (b) imposing on the person to whom a wireless telegraphy licence is issued with respect to any station for wireless telegraphy or wireless telegraphy apparatus, or who is in possession or control of any station for wireless telegraphy or wireless telegraphy apparatus, obligations as to permitting and facilitating the inspection of the station and apparatus, as to the condition in which the station and apparatus are to be kept and, in the case of a station or apparatus for the establishment, installation or use of which a wireless telegraphy licence is necessary, as to the production of the licence, or of such other evidence of the licencing of the station or apparatus as may be prescribed by the regulations;
- (c) requiring the person to whom a wireless telegraphy licence authorising the establishment or use of a station has been issued to exhibit at the station such notices as may be specified in the regulations,

and different provisions may be made by any such regulations for different classes of case.

(2) Regulations to which subsection (1) relate may provide that any contravention of such regulations shall be an offence punishable on conviction by such fine as is precribed by such regulations (but such fine shall not exceed £500).

- 57. A person is guilty of an offence who
 - (a) by means of wireless telegraphy, sends or attempts to send, any message which, to his knowledge, is false or misleading and is, to his knowledge, likely to prejudice the efficiency of any safety of life service or endanger the safety of any person or of any vessel, aircraft or vehicle and, in particular, any message which, to his knowledge, falsely suggests that a vessel or aircraft is in distress or in need of assistance or nor in distress or not in need of assistance; or
 - (b) otherwise than under the authority of the Governor or in the course of his duty as a servant of the Crown or of a telecommunications utility licenced under this Ordinance, either —
 - (i) uses any wireless telegraphy apparatus with intent to obtain information as to the contents, sender or addressee of any message (whether sent by means of wireless telegraphy or not) which neither the person using the apparatus nor any person on whose behalf he is acting is authorised by the Governor to receive; or
 - (ii) except in the course of legal proceedings or for the purpose of any report thereof, discloses any information as to the contents, sender or addressee of any such message, being information which would not have come to his knowledge but for the use of wireless telegraphy apparatus by him or by another person,

Misleading messages and interception of messages.

Regulations as to use etc. of wireless telegraghy apparatus. and is liable on conviction thereof to a fine not exceeding £1,000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

58. A person is guilty of an offence who uses any apparatus whatsoever for the purpose of interfering with any wireless telegraphy and is liable on conviction thereof to a fine not exceeding £500 or to imprisonment for three months or both such fine and such imprisonment.

59. (1) If a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Part 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, vessel or aircraft so specified, he may grant a search warrant authorising any person or persons authorised in that behalf by the Governor and named in the warrant, with or without any police officer, to enter, at any time within one month from the date of the warrant, the premises specified in the information or, as the case may be, the vehicle, vessel or aircraft so specified and any premises upon which it may be, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) Where under subsection (1) a person has a right to examine and test any apparatus on any premises or in any vessel, aircraft or vehicle, it shall be the duty of any person who is on the premises, or is in charge of, or in or in attendance on, the vessel, aircraft or vehicle, to give him any such assistance as he may reasonably require in the examination or testing of the appartus.

- (3) A person who
 - (a) obstructs any person in the exercise of the powers conferred on him under this section; or
 - (b) fails or refuses to give to any such person any assistance which is under this section under a duty to give him; or
 - (c) discloses, otherwise than for the purposes of this part or of any report of proceedings thereunder, any information obtained by means of the exercise of powers under this Part, being information with regard to any manufacturing process or trade secret,

commits an offence and is liable on conviction thereof to a fine not exceeding £1,000 or to imprisonment for three months or both such fine and such imprisonment.

60. (1) In this Part, except where the context otherwise requires, every expression has the same meaning as it has for the purpose of the Wireless Telegraphy Act 1949 by virtue of the provisions of section 19 of that Act.

(2) In considering for any of the purposes of this Part whether, in any particular case, any interference with any wireless telegraphy caused or likely to be caused by the use of any apparatus, is or is not undue interference, regard should be had to all the known circumstances of the case and the interference shall not be regarded as undue interference if so to regard it would unreasonably cause hardship to the person using or desiring to use the apparatus.

61. The Marine, &c, Broadcasting (Offences) Act 1967 is adopted as law of the Falkland Islands.

62. The Senior Magistrate and the Summary Court shall each have jurisdiction in respect of any offence under any provision of this Ordinance and may impose any sentence authorised by this Ordinance to be imposed on the conviction of any person of any offence created thereby.

63. The Wireless Telegraphy Ordinance (Cap. 78) is repealed.

Deliberate interference.

Entry and search of premises etc.

Interpretation of this Part.

Adoption of the Marine &c Broardcasting (Offences) Act 1967.

Jurisdiction in relation to offences under this Ordinance.

Repeal.

SCHEDULE

(Tariff)

- 1. Rental of Lines -
 - (a) Residential Stanley £4.00 per month;
 - (b) Business Stanley £8.00 per month;
 - (c) Camp £12.50 per month.

2. Telephone Call Charges -

- (a) within the Falkland Islands
 - (i) Dialled calls 5p per minute or part thereof;
 - (ii) Operator connected calls 8p per minute or part thereof;
- (b) International calls -
 - (i) United Kingdom ---
 - (A) Dialled direct 15p for each 5 seconds or part thereof;*
 - (B) Person to person or other operator connected calls $\pounds 6.00$ and 15 pence for each 6 seconds or part thereof in excess of three minutes;

(* Note this rate only applies using "02" International call routing: for "01" routing, item 2 (b) (ii) (A) is applicable)

- (ii) Rest of World -
 - (A) Dialled calls 18p for each 6 seconds or part thereof;
 - (B) Person to person or other operator connected calls £7.20 and 18 pence for each six seconds or part thereof in excess of three minutes.
- 3. Alarm Calls, Advise Duration and Charge of calls and Reverse Charges Fees 20p.
- 4. Telex call charges -
 - (a) within the Falkland Islands 25p per minute or part thereof;
 - (b) International calls -
 - (i) to United Kingdom £1.95 per minute or part thereof;
 - (ii) rest of Europe £2.47 per minute or part thereof;
 - (iii) rest of World £2.73 per minute or part thereof.
- 5. Facsimile Calls -
 - (a) within the Falkland Islands 75p per A4 sheet or part thereof;
 - (b) International transmission as per subcriber dialled (IDD) calls.
- 6. Installation Fees -
 - (a) Telephone £15.00;
 - (b) Telex or Facsimile -
 - (i) Stanley £30.00;
 - (ii) Camp £150.00.

Note

8 5

Any charge not mentioned above is not presently regulated under the Ordinance.

Printed by the Government Printer, Stanley, Falkland Islands. Price : Eight Pounds & Seventy Pence.



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THE

FALKLAND ISLANDS GAZETTE (Extraordinary) PUBLISHED BY AUTHORITY

Vol. XCVII

\$

4th November 1988

No. 17

NOTICE

The following Bill is Published in this Gazette -

The Licensing (Amendment) Bill 1988.

The Licensing (Amendment) Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short title.

2. Amendment of Cap. 38.

Schedule

Part I - Section 13A(1) is amended.

Part II - Repeal and Replacement of Provisions of the Licensing Ordinance. Part III - Repeals of Provisions of the Licensing Ordinance without replacement.

A Bill for An Ordinance to amend the Licensing Ordinance.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Licensing (Amendment) Ordinance 1988.

2. The Licensing Ordinance is amended in the manner specified in the Schedule hereto.

Short Title.

Amendment of Cap. 38.

SCHEDULE

Part I

AMENDMENT OF PROVISIONS OF THE LICENSING ORDINANCE

- 1. Section 13A(1) is amended -
 - (a) by the addition thereto of the following new paragraph (c)

"(c) authorises the holder to sell on the premises intoxicating liquor in any quantity between the hours of 10.00 a.m and 11.30 p.m. on any day"

(b) by the addition of the following two subsections immediately after subsection (2) thereof -

"(3) Nothing in section 21 applies in respect of intoxicating liquor supplied under authority of a restaurant licence.

(4) For the purposes of this section, intoxicating liquor is not consumed as an ancillary to a meal if it is consumed more than an hour after the conclusion of the meal."

2. Section 22 is amended by the addition thereto, immediately after subsection (2) of the following new subsection (3) -

"(3) Nothing in subsection (2) applies in respect of intoxicating liquor to be supplied under the authority of a residential licence or a restaurant licence."

3. Section 23 is amended by the addition thereto, immediately after subsection (2) of the following new subsection (3) -

"(3) Nothing in the foregoing provisions of this section shall render it unlawful for a person under the age of 18 years to enter or remain in a bar in licensed premises where a residential restaurant licence held in respect of the premises extends to that bar."

- 4. Section 35 is amended
 - (a) by constituting the existing section 35 as subsection (1) of the section;

(b) by deleting all words before "On weekdays" presently appearing in that subsection and substituting the following words —

"Intoxicating liquor may be sold under authority of a Publican's retail licence"

(c) by adding the following subsection immediately after subsection (1) —

"(2) Intoxicating liquor may be sold under authority of a wholesaler's licence between the hours of 8 a.m. and 8 p.m. on any day"

- 5. Section 69(1) is amended by
 - (a) inserting in the third line thereof, after the word "provided" the words "and unless by some other provision of this Ordinance a different fine or term of imprisonment applies in respect of such offence"
 - (b) by deleting the figures "£20" appearing in paragraph (a) therof and replacing them with the figures "£250"; and
 - (c) by deleting the figures "£50" appearing in paragraph (b) thereof and replacing them with the figures "£500".

Part 🛙

REPEAL AND REPLACEMENT OF PROVISIONS OF THE LICENSING ORDINANCE

1. Section 15 of the Licensing Ordinance is repealed and replaced with the following new section 15 -

"Certain Licensed premises not to be used for other purposes. 15. (1) It shall be unlawful for any premises in respect of which any licence other than a wholesaler's licence or club licence, is held authorising the sale of intoxicating liquor to be used for the sale or supply by way of business of any other goods but nothing in this subsection shall apply to -

- (a) the sale or supply of any goods usually offered for sale at an hotel for the convenience of persons frequenting that hotel;
- (b) the sale or supply of food for consumption upon the premises or cooked meals for consumption off such premises;
- (c) the sale or supply of tobacco confectionery and smokers requisites;
- (d) the sale or supply of any goods suitable for the purpose of playing any game usually played upon the licensed premises.
- (2) A person who contravenes subsection (1) commits an offence?"
- 2. Section 22(1) of the Licensing Ordinance is repealed and is replaced by the following -

"(1) Intoxicating liquor shall not be sold or supplied under authority of a Publican's retail licence upon credit, nor shall payment therefor be made other than by cash or by cheque. Any pledge or any property by way of security for payment for or as payment for intoxicating liquor supplied under authority of a Publican's retail licence is unlawful and voidable at the instance of the person pledging the property, and the licensee, if the pledge was taken with his consent, and any person accepting the pledge commits an offence."

3. Sections 26, 27, 28 and 29 of the Ordinance are repealed and replaced by the following new sections -

Supply of intoxicating liquor prohibited persons. 26. (1) If a court is satisfied by evidence given on oath (whether in proceedings or an application for an order under this section or otherwise) that a person is by reason of his excessive consumption of intoxicating liquor —

- (a) severely prejudicing his health;
- (b) failing to make adequate provision for his wife or any dependent child;
- (c) neglecting his person or to provide himself sufficiently with the necessities of life;

the court may make an order under this section ("a prohibition order").

- (2) The effect of a prohibition order shall be to render if unlawful -
 - (a) for the person the subject of the order -
 - (i) subject to subsection (3) to consume intoxicating liquor;
 - (ii) subject to subsection (3) to obtain or attempt to obtain intoxicating liquor;
 - (iii) subject to subsection (4), to enter or remain in any bar in any premises in respect of which a Publican's retail licence is held during any time during which it is lawful for intoxicating liquor to be sold upon those premises or to enter or remain upon any premises in respect of which a club licence is held during any time during which intoxicating liquor is being sold at those premises; or
 - (b) for any person who is aware of the order -
 - subject to subsection (3) to supply to the person the subject of the order any intoxicating liquor;
 - (ii) being the licensee of or otherwise concerned in the management of or employed (whether or not for reward) in connection with any premises in respect of which a Publican's retail licence or Club licence is held, subject to subsection (4), knowingly and voluntarily to permit the person the subject of the order to enter upon or remain in any bar contrary to paragraph (a) (ii) of this section.

(3) Paragraphs (a) (i) and (ii) and (b) (i) of subsection (2) do not apply in respect of the obtaining and supply of intoxicating liquor in the course of Holy Communion or Mass in accordance with the rites of any religious denomination.

(4) Paragraphs (a) (iii) and b(ii) of subsection (2) do not apply in respect of any bar in respect of which a residential or restaurant licence applies, notwithstanding that that bar may also be licensed under a publican's retail licence.

(5) A prohibition order shall be made so as to be valid for a period of not more than twelve months, but may be extended for a period not exceeding twelve months by any court upon its convicting the person the subject of such an order of any offence an element of which is the consumption by that person of intoxicating liquor or of an offence under subsection (6).

(6) A person commits an offence who contravenes any provision of subsection (2) and is liable on conviction thereof to a fine of $\pounds 200$ and, on a second or subsequent conviction of such an offence, also to imprisonment for one month.

27. (1) Any court making a prohibition order under section 26 or under that section extending such an order shall transmit a copy of the prohibition order or the order for extension, as the case may be, to the Chief Police Officer who shall in writing inform every licensee in the Falkland Islands of the effect of the order.

(2) Every licensee shall bring to the attention of all persons employed or engaged in the sale or supply of intoxicating liquor on any premises in respect of which he is a licensee every notification he has received from the Chief Police Officer pursuant to subsection (1): Provided that he need not do so where the prohibition order concerned has expired by effluxion of time.

Notification of prohibition order. (3) In any proceedings for an offence under section 26 in which knowledge of a prohibition order is relevant, the accused shall be deemed to be aware of the order unless he proves the contrary on the balance of probabilities.

Offences by licensees and others of supply of intoxicating liquor etc. 28 (1) A person who is the holder of a licence authorising him to sell intoxicating liquor and any other person who is employed by or engaged by any such licensee commits an offence if he -

- (a) sells or supplies upon licensed premises any intoxicating liquor to any person who, at the time of such sale or supply, is drunk; or
- (b) permits any violent, quarrelsome or riotous conduct to take place in the licensed premises,

and an conviction of any such offence he is liable to a fine of £200.

(2) If any person procures or attempts to procure any intoxicating liquor for -

- (a) a drunken person; or
- (b) a person in respect of whom to his knowledge, a prohibition order under section 26 is in force

he commits an offence and is liable on conviction thereof to a fine of £200.

Drunken behaviour in public place: offence.

- 29. (1) A person commits an offence who --
 - (a) in any public place, while drunk, is disorderly in his behaviour;
 - (b) is, in any public place, found incapable through drunkeness.

(2) A person convicted of an offence under this section is liable to a fine of £200 and imprisonment for seven days.

(3) In this section, "public place" includes any road, footpath, car park or track and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

(4) A person reasonably suspected of having committed an offence under this section may be arrested without a warrant by any person."

Part III

REPEALS OF PROVISIONS OF THE LICENSING ORDINANCE WITHOUT REPLACEMENT

1. Sections 46(1), 49 and 62 of the Licensing Ordinance are repealed.



THE

FALKLAND ISLANDS GAZETTE

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30th November 1988

No. 18

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Appointments

Miss Mhari Ashworth, Clerk, Public Service, 1.7.88. No. 32.

Tyssen John Richard Smith, Junior Technical Assistant, Public Works Department, 1.7.88.

Iain Alexander Dickson, Director of Aricultural Research, Agricultural Research Centre, 1.11.88.

Mrs. Rose Mary McIlroy, Senior Magistrate, Justice Department, 3.11.88.

Mrs. Susan Carol Gregory, Teacher, Education Department, 11.11.88.

Philip Andrew Gregory, Teacher, Education Department, 11.11.88.

Acting Appointments

Michael Luxton, Acting Chief Finance Officer, Treasury, 8.9.88. - 6.11.88.

Robert John King, Acting Collector of Customs and Harbour Master, Customs and Harbour Department, 28.5.88. - 3.11.88.

Dr. Robert James McIlroy, M.B. C.H.B., Acting Chief Medical Officer, Medical Department, 5.11.88.

Colin George Davies, Acting Education Officer, (Camp Education Supervisor), 27.8.88. - 24.10.88.

Vernon Robert Steen, Acting General Manager, F.I.G.A.S. 24.9.88. - 24.10.88.

Completion of Contract

Dr. Paul McNeilly, B.M., B.S., Medical Officer, Medical Department, 21.10.88.

Resignations

Miss Diana Mary Berntsen, Clerk, Public Service, 5.10.88.

Termination of Appiontment

Robin George Jaffray, Gaoler/Handyman, Falkland Islands Police Department, 21.11.88.

NOTICES

14th October 1988.

(second Publication)

Application For Naturalisation

Notice is hereby given that Mrs. Lucia Elizabeth Betts of Stanley, Falkland Islands, is applying to His Excellency the Governor for naturalisation, and that any person who knows any reason why naturalisation should not be granted should send a written and signed statement of the facts to the Government Secretary at the Secretariat, Stanley.

Ref: LEG/10/19P.

2nd November 1988

Public Health Ordinance Section 54

The following persons have been appointed to be the Hospital Visiting Committee for the period 1st November 1988 to 30th April 1989 —

Father J. Doran, (Chairman), Mrs. J. L. Cheek, Mr. W. E. Bowles.

Ref: MED/19/2.

No. 34

21st November 1988

The Buildings of Architectural and Historic Interest Ordinance 1987

In accordance with Section 3 of the Buildings of Architectural and Historic Interest Ordinance 1987 His Excellency the Governor has Appointed the following persons to serve on the Historic Buildings Committee for a period of three years with effect from 21st November 1988 —

> Mr. M. Keenleyside, (Chairman), Mr. R. Browning, Mr. L. S. McGill, Mrs. Joan Spruce.

Ref: LEG/10/60.

NOTICE

In accordance with Section 7 (1) of the Licensing Ordinance, Mr. Kevin Barry Connolly has applied for a Restaurant licence in respect of Monty's Restaurant.

Any objection to the granting of this licence must be made to the Treasury not later than 4th December 1988.

H. T. ROWLANDS, Financial Secretary.

The Treasury, Stanley. 14th November 1988.

NOTICE

The following are published in this Gazette --

The Application of Enactments (Amendment) Bill 1988;

The Customs (Amendment) Bill 1988;

The Education (Amendment) Bill 1988;

The Executive Council Allowances (Amendment) Bill 1988;

The Income Tax (Amendment) Bill 1988.

The Application of Enactments (Amendment) Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

2. Amendment of Application of Enactments Ordinance 1954. Schedule.

A Bill for An Ordinance

to amend the Application of Enactments Ordinance 1954.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Application of Enactments (Amendment) Bill 1988. Short title.

2, The Application of Enactments Ordinance 1954 is amended in the Schedule thereto by deleting paragraph 53 (which relates to the Crown Floceedings Act 1947) and replacing it with the new paragraph 53 set out in the Schedule to this Ordinance.

Amendment of Application of Enactments Ordinance 1954.

SCHEDULE

(New paragraph 53 in Schedule to Application of Enactments Ordinance 1954)

53.

Crown Pro-

Geo. 6 c. 44)

The whole Act, except sections 10, 12, 17(1), 19, 23(3)(b) to (f) (inclusive) 24(4), ceedings Act 34, 39 and 41 to 53 (inclusive). 1947 (11 & 12

> References to "the Crown" shall, except where the context otherwise requires, be construed as references to Her Majesty the Queen in right of the Falkland Islands and acting through Her Government of the Falkland Islands";

References to "the United Kingdom" shall be construed as references to the Falkland Islands;

References to "the High Court" shall be construed as references to the Supreme Court; references to "a county court" shall be construed as references to the Magistrate's Court; references to the Attorney General shall be construed as references to the Attorney General of the Falkland Islands: references to Parliament shall be construed as references to the Legislative Council;

References to any fund other than the Consolidated Fund shall be omitted; references to "the Treasury" shall be construed as references to the Financial Secretary; references to any "Minister", "Secretary of State", "the Admiralty" shall be construed as references to the Governor; and references to "Her Majesty's Stationery Office" shall be construed as references to the Government Printer.

For section 17(2), (3) and (4) shall be substituted the following subsections -

"(2) Civil proceedings against the Crown shall be instituted —

(a) against The Crown (so described) as defendant; or

- (b) against The Attorney General (so described) as defendant.
- (3) Civil proceedings by the Crown shall be instituted -
 - (a) by The Crown (so described) as plaintiff; or
 - (b) by The Attorney General (so described) as plaintiff,

and all civil proceedings instituted by the Attorney General other than in his private capacity shall be deemed to be brought by The Crown.

(4) Save where specifically provided to the contrary civil proceedings may not be brought naming any public officer in his official capacity, the Government (so described) or any government department as a party to those proceedings and in any case where proceedings otherwise might have been so brought, they may be brought by or against the Crown or the Attorney General."

For section 18 shall be substituted the following section -

"18. All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings brought by or against the Crown shall be served on the Attorney General."

OBJECTS AND REASONS

The provision sought to be replaced by this Bill is outdated because it deals with a situation in which the Governor was the Judge of the Supreme Court and there was no Attorney General or Senior Magistrate. The Bill seeks to make more appropriate provision.

Ref: LEG/10/13.

Customs (Amendment) Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

2. Amendment of the Customs Ordinance.

Schedule.

A Bill for An Ordinance to amend the Customs Ordinance

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Customs (Amendment) Ordinance 1988.

2. The Customs Ordinance is amended as specified in the Schedule to this Ordinance. A

Amendment of the Customs Ordinance. (Cap. 16).

Short title.

SCHEDULE

The Customs Ordinance is amended by the insertion therein, immediately after section 6, of the following section -

Crown etc. exemption. 6A (1) Notwithstanding any other provision of this Ordinance there are exempt from all import or export duties of customs -

- (a) all goods imported or exported by the Governor for his personal use;
- (b) all goods imported or exported for use by Her Majesty's armed forces;
- (c) all goods imported or exported for his personal use by any person who
 - not being a person who belongs to the Falkland Islands, is a serving member of Her Majesty's armed forces, an employee of the Navy Army and Air Force Institute or of the Services Sound and Vision Corporation or the spouse or dependent of any such person;
 - (ii) not being a person who belongs to the Falkland Islands, is in connection with the defence of the Falkland Islands in the service of Her Majesty in right of Her government in the United Kingdom or is the spouse or dependent of such a person;
 - (iii) not being a person who belongs to the Falkland Islands is a person or a member of a class of persons declared by the Governor after consultation with the Executive Council to be so closely associated with other persons

in the service of Her Majesty in Her armed forces or otherwise in connection with the defence of the Falkland Islands that he (or as the case may be, that class of persons) ought fairly to have the benefit of an exemption under this paragraph;

- (d) all goods imported or exported by -
 - (i) the Navy Army and Air Force Institute; or
 - (ii) the Services Sound and Vision Corporation,

and not intended for resale or other disposal to any person not entitled to the benefit of an exemption under this section.

(2) Notwithstanding any other provision of this Ordinance goods may be supplied within the Falkland Islands without the prior payment, or payment on such supply, of duty otherwise payable if the supply is to a person entitled to the benefit of an exemption from duty under subsection (1) above.

(3) In this section a person belongs to the Falkland Islands if he belongs to the Falkland Islands for the purpose of Chapter 1 of Schedule 1 to the Falkland Islands Constitution Order 1985.

(SI 1985 No. 444).

OBJECTS AND REASONS

To provide customs duty exemptions for persons present in the Falkland Islands for defence purposes.

Ref: CUS/10/1: INC/10/6.

The Education (Amendment) Bill 1988

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

2. Amendment of Education Ordinance 1967. Schedule.

3.4

A Bill for An Ordinance to amend the Education Ordinance 1967.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Educations (Amendment) Ordinance 1988.

2. The Education Ordinance 1967 is amended in the manner specified in the Schedule to this Ordinance.

Amendment of Education Ordinance 1967. (No. 14 of 1967)

(Section 2)

Short title.

SCHEDULE

Amendments to the Education Ordinance 1967

1. Section 3(1) is amended by the deletion of the word "on" appearing therein and by the substitution in its place of the words "with effect from".

2. Section 3(2) is repealed and replaced by the following subsection -

"(2) For the purposes of this section -

- (a) "term" includes any subsequent holiday period falling before the commencement of the next following term;
- (b) the first term in every calendar year (regardless of when it actually begins) shall be deemed to begin on 1st February in that year."
- 3. Section 6(2) is repealed and replaced by the following subsection -

"(2) Subsection (1) shall apply to and in respect of a child from the day with effect from which he is required by section 3 of this Ordinance to be entered as a pupil until the last day of the term in the academic year in which he attains the age of fifteen years (and for the purposes of this subsection every academic year shall be deemed to commence on 1st February and to end on the next following 31st January)."

OBJECTS AND REASONS

The Bill provides for a fixed date in each calendar year in relation to school attendance in place of the variable date at present applying. (Under the present law the date in relation to which school attendance is regulated is the first day of the first term in each calendar year and thus varies from year to year).

Ref: EDU/10/1.

The Executive Council Allowances (Amendment) Bill 1988 (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

- 1. Short Title.
- 2. Amendment of No.7 of 1977.

A Bill for

An Ordinance

to amend the Executive Council (Allowances) (Amendment) Ordinance 1977

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Executive Council (Allowances) (Amendment) Sh Ordinance 1988.

2. The Executive Council (Allowances) Ordinance 1977 is amended by the insertion therein, immediately after section 3, of the following new section 3A.

"Allowances to temporary members. **3A** (1) Where an elected member of the Legislative Council attends a meeting of the Executive Council pursuant to section 54(1) of the First Schedule to the Falkland Islands Constitution Order 1985 (temporary members of the Executive Council) he shall be entitled to receive in respect of that meeting one twelfth of any annual allowance payable to elected members of the Executive Council pursuant to any order under section 3 above for the time being in force.

(2) For the sake of avoidance of doubt it is hereby declared that for the purposes of subsection (1) where a meeting of the Executive Council is adjourned from day to day, all days on which the business of the Executive Council is as a result transacted together constitute a single meeting."

Ref: EXCO/10/1.

Short title.

Amendment of No.7 of 1977.

The Income Tax (Amendment) Bill 1988 (No. of 1988)

Arrangement of Provisions

Clause

n

- 1. Short Title and commencement.
- 2. The principal Ordinance.
- 3. Amendment of principal Ordinance.
- 4. Amendment of 1987 amending Ordinance.

Schedule - Amendment of principal Ordinance.

A Bill for An Ordinance to amend the Income Tax Ordinance.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance 1988 and shall come into force on 1st January 1989.

2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

3. The principal Ordinance is amended in the manner specified in the Schedule hereto.

4. (1) The Income Tax (Amendment) (No. 2) Ordinance 1987 is amended by constituting section 3 thereof as subsection (2) of that section and by inserting immediately preceding it the following new subsection (1) of that section -

"(1) The principal Ordinance is amended by constituting sections 32A and 32B thereof as sections 32I and 32J thereof?"

(2) Subsection (1) of this section shall be deemed to have come into operation on 22nd December 1987.

SCHEDULE

Amendment of the principal Ordinance

1. In section 2(1) of the principal Ordinance -

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(a) the existing definition of "housing loan" is deleted and replaced by the following definition —

"housing loan" means such part of any principal sum advanced for the purpose of purchasing, building, adding to or altering a dwelling house in the Colony as does not exceed £50,000;"; and

- (b) in the definition of "maintenance payments" the words "or the United Kingdom" are inserted immediately after the words "Falkland Islands."
- 2. Section 6 of the principal Ordinance is amended
 - (a) by deleting, in subsection (1), the parentheses and numeral "(1)"; and
 - (b) by repealing subsection (2).

3. Section 8 of the principal Ordinance is amended -

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The principal

Ordinance Amendment of

principal Ordinance. Amendment of

1987 amending Ordinance. (No. 24 of 1987).

- (a) by substituting for paragraph (f) thereof the following new paragraph (f) -
- "(f) any emoluments paid out of United Kingdom Government funds by way of remuneration to
 - (i) any person serving in Her Majesty's armed forces;
 - (ii) any person in the service of Her Majesty in a civil capacity under Her Government in the United Kingdom;"
- (b) by deleting paragraph (i) and inserting the following new paragraph (i) -
 - "(i) insofar as relates to income received for the provision of services connected with the defence of the Falkland Islands any person being an institution, corporation or contractor to the Majesty's Government in the United Kingdom notified to the Commissioner by the Governor as being entitled to exemption under this paragraph and every employee not ordinarily resident in the Falkland Islands of an institution, corporation or contractor so notified but so far only as relates to income received by him by reason of employment in the provision of such services;"
- (c) by deleting paragraph (k) thereof and substituting the following new paragraph (k) -
- "(k) the income of the Falkland Islands Development Corporation or any company wholly owned by the Falkland Islands Development Corporation"
- (d) by inserting in the proviso thereto immediately after the words "Provided that" the words "except where inconsistent with the context".
- 4. Section 9A of the principal Ordinance is repealed.

5. Section 10 (3)(aa) of the principal Ordinance is repealed and replaced by the following new subsection (aa) -

"(aa) sums payable by such person by way of interest upon any housing loan, provided that the Commissioner shall have discretion to disallow the same, in whole or in part in respect of any period that the house is unoccupied".

6. Section 14 of the principal Ordinance is amended by the substitution of " $\pounds 2,750$ " for " $\pounds 2,500$ " as the amount to be allowed pursuant thereto.

7. Section 15(1) of the principal Ordinance is amended by the substitution of "£1,750" for "£1,500" as the amount of the deduction to be made thereunder.

8. Section 15(2) of the principal Ordinance is amended by the substitution of " \pounds 920" for " \pounds 800" as the amount of the deduction to be made thereunder.

9. Section 15(3) of the principal Ordinance is amended in paragraph (a) of the proviso by the substitution of " $\pounds 2,000$ " for " $\pounds 1,700$ " as the permitted total income for the purposes of that paragraph and by the substitution of " $\pounds 200$ " for " $\pounds 800$ " as the deduction a person is entitled to make thereunder.

10. Section 15 (4) is amended by the substitution of "£2,750" for "£2,500".

11. Section 16A (1) and (2) of the principal Ordinance is amended by the deletion of the symbol and figures "£5,000" wherever appearing therein and by the substitution for them in every case of the symbol and figures "£6,000".

12. Section 21(1) is repealed and replaced by the following new section 21(1).

"21 (1) The tax upon the chargeable income of every person other than a company shall be charged at the following rates -

"On every pound of -

the first £10,000 of chargeable income 25 per cent;

the next £10,000 of chargeable income 30 per cent; and

the remainder 40 per cent."

13. Section 22(1) is amended by the addition of the following words -

"in relation to years of assessment commencing before 1st January 1988 and twenty-five seventy-fifths in relation to years of assessment commencing on or after that date: but no credit shall be allowed unless the income of the company out of which the dividend is paid suffered tax under the provisions of this Ordinance."

Ref: INC/10/5.

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THE

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6th DECEMBER 1988

No. 19

NOTICE

The following are published in this Gazette -

Supplementary Appropriation Ordinance 1988 (No. 12 of 1988);

The Immigration Ordinance (Remaining Provisions)(Commencement) Order 1988 (S.R. & O. No. 20 of 1988);

The Supplementary Appropriation (1986-1987) Bill 1988;

The Supplementary Appropriation (1987-1988) Bill 1988;

The Supplementary Appropriation (1988-1989) (No. 2) Bill 1988;

The Medical Services Levy (Amendment) Bill 1988;

The Old Age Pensions (Amendment) (No. 2) Bill 1988.

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Supplementary Appropriation Ordinance 1988 (No 12 of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

2. Appropriation of £2,150,000 for the services of the year 1988-1989. Schedule

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERION, Governor.

Supplementary Appropriation Ordinance 1988.

(No. 12 of 1988)

An Ordinance to appropriate and authorise the withdrawal from the Consolidated Fund of additional sums totalling £2,150,000 for the service of the financial year ending on 30th June 1989.

(assented to: 6th December 1988) (commencement: on publication) (published: 6th December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Supplementary Appropriation (1988-1989) Ordinance Short title. 1988.

2. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the service of the year commencing 1st July 1988 and ending on 30th June 1989 ("the financial year") sums not exceeding in aggregate the sum of two million, one hundred and fifty thousand pounds, which sum is granted and shall be appropriated for the purposes expressed and particularly mentioned in the Schedule hereto and which will come in course of payment during the financial year.

Appropriation

of £2,150,000 for the services of the year 1988-1989.

SCHEDULE

Number	Head of Service	£
PART 1 - OPERATING BUDGI	ET	
600	Secretariat, Treasury and Central Store	
	ACCOUNTS CODE 601 638 Inquiry expenses and professional fees relating to Seamount Limited	150,000
PART 2 - CAPITAL BUDGET		
951	Expenditure to be met from Local Funds	
	ACCOUNTS CODE 951 996 Loan to Stanley Fisheries Limited	2,000,000
		£2,150,000

Passed by the Legislature of the Falkland Islands this 6th day of September 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Assented to in Her Majesty's name and on Her Majesty's behalf this 6th day of December 1988.

> W. H. FULLERTON, Governor.

The Immigration Ordinance 1987.

(No. 15 of 1987)

(Section 1)

The Immigration Ordinance (Remaining Provisions) (Commencement) Order 1988.

(S.R. & O. No. 20 of 1988)

Arrangement of Provisions

Paragragh

1. Citation.

2. Commencement of sections of the Ordinance not already in force.

The Immigration Ordinance 1987.

(No. 15 of 1987)

(Section 1)

The Immigration Ordinance (Remaining Provisions) (Commencement) Order 1988.

(S.R. & O. No. 20 of 1988)

IN EXERCISE of my powers under section 1 of the Immigration Ordinance 1987, I make the following Order -

1. This Order may be cited as the Immigration Ordinance (Remaining Provisions) (Com- Citation. mencement) Order 1988.

2. All those sections of the Immigration Ordinance 1987 which are not already in force as at the date of this Order shall come into operation on the 1st January 1989.

Commencement of sections of the Ordinance not already in force.

Made this 6th day of December 1988.

W. H. FULLERTON, Governor.

Ref: IMM/10/1.

The Supplementary Appropriation (1986-1987) Ordinance 1988.

Arrangement of Provisions

Clause

- 1. Short Title.
- 2. Appropriation in excess of expenditure.

Schedule

A Bill for

An Ordinance

to allow and confirm certain expenditure incurred in the year 1986-1987.

WHEREAS expenditure was incurred during the financial year 1986-1987 on certain services although not provided for in the Appropriation (1986-1987) Ordinance 1986.

BE IT ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Supplementary Appropriation(1986-1987) Ordinance Short title. 1988.

2. The expenditure during the financial year 1986-1987 to the amount of six million four hundred and thirteen thousand six hundred and fifty eight pounds set forth in the Schedule hereto and not provided for or fully provided for by the Appropriation (1986-1987) Ordinance 1986 is hereby allowed and confirmed.

Appropriation in in excess of expenditure for the year 1986-1987.

SCHEDULE

Number	Head of Service	£
250	Education	19,968
320	Fisheries	2,401,377
600	Secretariat	8,648
650	Pensions & Gratuities	4,245
870	Transfer to Development Fund	3,000,000
951	Development Expenditure to be met from Colony	
	Funds	979,420
		£6,413,658
*		

Ref: TRE/14/23.

The Supplementary Appropriation (1987-1988) Bill 1988. (No. of 1988)

Arrangement of Provisions

Clause

1. Citation.

2. Appropriation in excess of expenditure for the year 1987-1988. Schedule

A Bill for An Ordinance

to allow and confirm certain expenditure incurred in the year 1987-1988.

WHEREAS expenditure was necessarily incurred during the financial year 1987-88 on certain services although not provided for in the Appropriation (1987-1988) Ordinance 1987.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited for all purposes as the Supplementary Appropriation Citation. (1987-1988) Ordinance 1988.

2. The expenditure during the financial year 1987-1988 to the amount of six million three hundred and thirty six thousand one hundred and nineteen pounds set forth in the Schedule hereto and not provided for or fully provided for by the Appropriation (1987-88) Ordinance 1987 is hereby allowed and confirmed.

Appropriation in excess of expenditure for the year 1987-1988.

SCHEDULE

Number	Head of Service	£
100	Aviation	215,312
300	Customs and Harbour	79,889
390	Fox Bay Village	126,435
600	Secretariat, Treasury and Central Store	296,416
700	Welfare	13,315
800	Legislature	4,030
850	Falkland Island Government Office	42,300
870	Transfer to Development Fund	4,500,000
900	Income Tax Refunds	89,188
951	Development Expenditure to be met from Colony	
	Fund	969,234
		£6,336,119

OBJECTS AND REASONS

To provide for supplementary expenditure during the financial year 1987-1988.

The Supplementary Appropriation (1988-1989) (No.2) Bill 1988. (No. of 1988)

Arrangement of Provisions

Clause

- 1. Short Title.
- 2. Establishment of Fisheries Development Fund.
- 3. Appropriation to Fisheries Development Fund.
- 4. Other Appropriation.
- 5. Expenditure out of Fisheries Development Fund.

Schedule

A Bill for

An Ordinance

to establish the Fisheries Development Fund and to appropriate moneys from the Consolidated Fund for the purposes of the Fisheries Development Fund and for supplementary expenditure during the financial year ending 30th June 1989.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Supplementary Appropriation (1988-1989)(No. 2) S Ordinance 1988.

2. (1) Pursuant to section 11 of the Finance and Audit Ordinance 1988 (which provides that a Special Fund, not forming part of the Consolidated Fund, may be established by an appropriation Ordinance) there is hereby established a special fund to be known as the Fisheries Development Fund.

(2) For the sake of avoidance of doubt, it is declared that those provisions of the Finance and Audit Ordinance 1988 which apply to special funds to which section 11 of that Ordinance relates shall apply to the Fisheries Development Fund.

3. There is appropriated to the Fisheries Development Fund the sum of three million pounds which shall be paid into that Fund forthwith out of the Consolidated Fund.

4. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the service of the year ending on 30th day of June 1989 the sums set out in Part 2 of the Schedule to this Ordinance and totalling three million one hundred and fifty-nine thousand three hundred and five pounds, which sums may be expended for the purposes of the Heads of Service against which they respectively appear therein.

5. (1) No money may be expended out of the Fisheries Development Fund except for the following purposes -

- (a) the development of the fishing industry in the fishing waters of the Falkland Islands;
- (b) purposes reasonably incidental to the purpose mentioned in paragraph (a) above; and
- (c) the expenses of the administration of the Fund,

and, in any case, unless the expenditure in question has been authorised by the Governor on the advice of the Executive Council.

(2) In paragraph (a) of subsection (1) above "fishing waters" has the same meaning as it has under section 2 of the Fisheries (Conservation and Management) Ordinance 1986.

Short title.

Establishment of Fisheries Development Fund.

Appropriation to Fisheries Development Fund.

Other Appropriation.

Expenditure out of Fisheries Development Fund.

SCHEDULE Part 1 Fisheries Development Fund

Number	Head of Service	1
OPERATING BUDGE	<u>T</u>	
870	Transfer to Fisheries Development Fund	3,000,000
	Part 2	
	Other expenditure provided for.	
Number	Head of Service	£
PART A - OPERATIN	G BUDGET	
100	Aviation	16,000
150	Posts and Telecommunications	29,400
200	Medical	20,400
250	Education and Training	16,600
300	Customs and Harbour	1,565
320	Fisheries	480,920
350	Public Works	180,950
390	Fox Bay Village	11,970
400	Agriculture	20,000
450	Justice	205,250
550	Police Fire and Rescue Service	3,810
600	Secretariat, Treasury and Central Store	298,300
650	Pensions and Gratuities	5,540
800	Legislature	2,500
850	Falkland Islands Government Office	2,060
860	Agricultural Research Centre	6,750
TOTAL OPERATING	SUPPLEMENTARY EXPENDITURE	£1,302,015
PART B - CAPITAL I	BUDGET	
951	Expenditure to be met from Local Funds	£1,857,290
TOTAL SUDDIEMEN	ITARY EXPENDITURE	£3,159,305

OBJECTS AND REASONS

To establish the Fisheries Development Fund and to provide for supplementary expenditure during the financial year.

Ref: FIS/29/31.

The Medical Services Levy (Amendment) Bill 1988. (No. of 1988)

Arrangement of Provisions

Ciause

1. Short Title.

2. Amendment of the Medical Services Levy Ordinance 1979. Schedule

A Bill For An Ordinance to amend the Medical Services Levy Ordinance 1979.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as a Medical Services Levy (Amendment) Ordinance 1988. Short Title.

2. The Medical Services Levy Ordinance 1979 is amended in the manner specified in the Schedule to this Ordinance.

Amendment of the Medical Services Levy Ordinance 1979. (No. 13 of 1979).

SCHEDULE

The Medical Services Levy Ordinance 1979 is amended in section 7 thereof by the deletion of paragraph (o) and the substitution of the following new paragraph (o) —

"(o) The emoluments paid to any a person by any institution, corporation or contractor engaged in the provision of services connected with the defence of the Falkland Islands to the United Kingdom Government but only so far as such emoluments are exclusively referable to employment in the provision of such services."

Ref: TRE/10/9.

OBJECTS AND REASONS

The objects of this Bill are to extend the exemptions of Medical Services Levy to contractors engaged in the provision of services to the United Kingdom Government connected with the defence of the Falkland Islands. Previously such exemptions have been granted to contractors by name under provisions of an Ordinance which has now been repealed and these exemptions would expire on 31st December 1988.

The Old Age Pensions (Amendment) (No. 2) Bill 1988. (No. of 1988)

ARRANGEMENT OF PROVISIONS

Clause

1. Short Title.

2. Amendment of the Old Age Pensions Ordinance 1952. Schedule

A Bill for An Ordinance to amend the Old Age Pensions Ordinance 1952.

BE IT ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Old Age Pensions (Amendment) (No. 2) Ordinance Short title. 1988.

2. The Old Age Pensions Ordinance 1952 is amended in the manner specified in the Schedule hereto.

Amendment of the Old Age Pensions Ordinance 1952. (No. 3 of 1952).

SCHEDULE

The Old Age Pensions Ordinance 1952 is amended by the insertion therein, immediately after section 6E thereof of the following new section 6F -

"Exemptions from liability to make contributions **6F** (1) An employed person whose emoluments fall exclusively within the description set out in subsection (3) below is not obliged to make contributions under section 5 of this Ordinance.

(2) An employer is not obliged to make contributions under section 6 of this Ordinance in respect of an employed person who is himself exempted from contributions under subsection (1) above.

(3) The description referred to in subsection (1) is emoluments falling within any of paragraphs (a) to (g), (l) or (o) of the Medical Services Levy Ordinance 1979."

OBJECTS AND REASONS

In practice, and by virtue of exemptions granted under the Taxes and Duties (Special Exemptions) Ordinance 1983 (which was repealed in late 1987) employees of military contractors, and the contractors themselves, were exempt (and are exempt until 31 December 1988) from Old Age Pension Contributions or Old Age Pension Contributions have not, in practice, been levied. This Bill seeks to exempt from Old Age Pension Contributions those persons who are exempted from Medical Services Levy under the Medical Services Levy Ordinance 1979. Those persons will also be exempt from income tax by virtue of the Income Tax Ordinance.

Ref: TRE/2/1.





THE

FALKLAND ISLANDS GAZETTE

(Extraordinary)

PUBLISHED BY AUTHORITY

Vol. XCVII

15th DECEMBER 1988

No. 20

No. 35

9th December 1988.

Appointment of Temporary Registrar

In exercise of the powers conferred upon me by Section 4 of the Marriage Ordinance I, William Hugh Fullerton, Governor of the Falkland Islands and its Dependencies —

Hereby Appoint -

Rose Mary Mcllroy a Registrar for the purpose of the marriage at 15 Jeremy Moore Avenue, Stanley, Falkland Islands, of John James Sullivan and Susan Vera Ampuero.

Given under my hand at Stanley this 9th day of December 1988.

W. H. FULLERTON, Governor.

No. 36

15th December 1988

School Terms 1989

Stanley Schools

1st Term9th February to 24th May2nd Term8th June to 30th August3rd Term21st September to 20th December.

Recognised Camp Schools

Term dates for recognised Camp Schools may be modified to suit the convenience of the farms, provided that the days worked are not fewer than those in Stanley Schools, and that the Education Office is notified of alterations in dates.

Holidays

Good Friday	24th March
Her Majesty the Queen's Birt	hday 21st April
Liberation Day	14th June
Spring Holiday	2nd October
Battle Day	8th December
Camp Sports (1st term)	27th February to 3rd March inclusive.

Holidays for Travelling Teachers

Tuition shall take place except during Public Holidays and the following periods:

16th December 1988 to 5th January 1989; Three additional days (to be taken by arrangement with the Chief Education Officer);

nber. 20th December 1989 to 10th January 1990.

440

The Fisheries (Conservation and Management) Ordinance 1986 (No. 11 of 1986)

The Fishing Licences (Applications and Fees) (Amendment) Regulations Order 1988 (S.R. & O. No. 9 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

1. Citation and commencement.

2. Meaning of the "the principal Regulations".

3. Amendment of Schedule to the principal Regulations.

The Fisheries (Conservation and Management) Ordinance 1986

(No. 11 of 1986)

The Fishing Licences (Applications and Fees) (Amendment) Regulations Order 1988

(S.R. & O. No. 9 of 1988)

IN EXERCISE of his powers under section 20 of The Fisheries (Conservation and Management) Ordinance 1986 the Governor in Council makes the following Order -

1. This Order may be cited as The Fishing Licences (Applications and Fees) (Amendment) Regulations Order 1988 and shall be deemed to have come into force on the day the principal Regulations came into force under paragraph 1 of those Regulations.

2. In this Order, "the principal Regulations" means the Fishing Licences (Application and Fees) Regulations Order 1988.

Meaning of the "principal Regulations" (S.R. & O. No. 7 of 1988).

3. The Schedule to the principal Regulations is amended by the insertion therein, immediately after paragraph 3 thereof, of the following new paragraph ----

"4. If a licence to which Scale 2 or Scale 3 applies is granted so as to be valid for a period exceeding four months then the fee payable in respect of that licence shall be the same as would be payable for a licence of the same kind of four months in duration?"

Made this 16th day of September 1988.

G. W. JEWKES, Governor.

Ref: FIS/29/6.

Printed by the Government Printer, Stanley, Falkland Islands. Price : One Pound.

Citation and Commencement.

Amendment of Schedule of the principal Regulations.



THE FALKLAND ISLANDS GAZETTE

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Vol. XCVII

23rd December 1988

No. 21

Appointments

Kenneth Benjamin John McLeod, Customs Assistant, Customs & Harbour Department, 28.11.88.

Ramon Miranda, Gardener, Government House, 1,12.88.

Transfers

Norman Phillip Plumb, from Police Constable, Falkland Islands Police Force, to Gaoler/Handyman, Police Department, 24.11.88.

Mrs. Amy Rose Pole-Evans, from Clerk, Posts & Telecommunications Department, to Clerk, Agricultural Research Centre, 25.11.88.

Resignation

Mrs. Linda Lowe, Clerk, Public Service, 2.12.88.

NOTICE

Customs Ordinance (Cap. 16)

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

MRS. CHARLENE ROWLAND.

to be a Temporary Customs Officer with effect from 26th December, 1988 to 4th February, 1989.

L. J. HALLIDAY, Collector of Customs.

NOTICE

The following are published in this Gazette —

The Supplementary Appropriation (1986-1987) Ordinance 1988 (No. 13 of 1988);

The Supplementary Appropriation (1987-1988) Ordinance 1988 (No. 14 of 1988);

The Supplementary Appropriation (1988-1989) (No. 2) Ordinance 1988 (No. 15 of 1988);

The Income Tax (Amendment) Ordinance 1988 (No. 16 of 1988);

The Executive Council Allowances (Amendment) Ordinance 1988 (No. 17 of 1988);

The Licensing (Amendment) Ordinance 1988 (No. 18 of 1988);

The Old Age Pensions (Amendment) (No. 2) Ordinance 1988 (No. 19 of 1988);

The Medical Services Levy (Amendment) Ordinance 1988 (No. 20 of 1988);

The Law of Contract Ordinance 1988 (No. 22 of 1988);

The Interpretation and General Clauses (Amendment) Ordinance 1988 (No. 23 of 1988);

The Telecommunications Ordinance 1988 (No. 24 of 1988);

The Education (Amendment) Ordinance 1988 (No. 25 of 1988);

The Customs (Amendment) Ordinance 1988 (No. 26 of 1988);

The Road Traffic (Amendment) (No. 2) Ordinance 1988 (No. 27 of 1988);

The Merchant Shipping (Transfer of Functions) Ordinance 1988 (No. 28 of 1988);

The Application of Enactments (Amendment) Ordinance 1988 (No. 29 of 1988);

The Swimming Pool (Trust Fund) Ordinance 1987 (Commencement) Order 1988 (S.R. & O. No. 21 of 1988);

The Deductions (Employees) (Amendment) Regulations 1988 (S.R. & O. No. 22 of 1988);

The Road Traffic (Priority in Stanley) Order 1988 (S.R. & O. No. 23 of 1988).

The Supplementary Appropriation (1986-1987) Ordinance 1988 (No. 13 of 1988)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.

2. Appropriation in excess of expenditure.

Schedule.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Supplementary Appropriation (1986-1987) Ordinance 1988

(No. 13 of 1988)

An Ordinance to allow and confirm certain expenditure incurred in the year 1986-1987.

> (Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

WHEREAS expenditure was incurred during the financial year 1986-1987 on certain services although not provided for in the Appropriation (1986-1987) Ordinance 1986.

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Supplementary Appropriation (1986-1987) Ordinance Short title. 1988.

2. The expenditure during the financial year 1986-1987 to the amount of six million four hundred and thirteen thousand six hundred and fifty eight pounds set forth in the Schedule hereto and not provided for or fully provided for by the Appropriation (1986-1987) Ordinance 1986 is hereby allowed and confirmed.

Appropriation in in excess of expenditure for the year 1986-1987.

SCHEDULE

Number	Head of Service	£
250	Education	19,968
320	Fisheries	2,401,377
600	Secretariat	8,648
650	Pensions & Gratuities	4,245
870	Transfer to Development Fund	3,000,000
951	Development Expenditure to be met from Co	olony
	Funds	979,420
		£6,413,658

Ref: TRE/14/23.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

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P. T. KING, Clerk of Councils.

The Supplementary Appropriation (1987-1988) Ordinance 1988 (No. 14 of 1988)

ARRANGEMENT OF PROVISIONS

Section

.

1. Citation.

2. Appropriation in excess of expenditure for the year 1987-1988. Schedule.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Supplementary Appropriation (1987-1988) Ordinance 1988

(No. 14 of 1988)

An Ordinance to allow and confirm certain expenditure incurred in the year 1987-1988.

(Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

WHEREAS expenditure was necessarily incurred during the financial year 1987-88 on certain services although not provided for in the Appropriation (1987-1988) Ordinance 1987

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited for all purposes as the Supplementary Appropriation Citation. (1987-1988) Ordinance 1988.

2. The expenditure during the financial year 1987-1988 to the amount of six million three hundred and thirty six thousand one hundred and nineteen pounds set forth in the Schedule hereto and not provided for or fully provided for by the Appropriation (1987-88) Ordinance 1987 is hereby allowed and confirmed.

Appropriation in excess of expenditure for the year 1987-1988.

SCHEDULE

Number	Head of Service	£
100	Aviation	215,312
300	Customs and Harbour	79,889
390	Fox Bay Village	126,435
600	Secretariat, Treasury and Central Store	296,416
700	Welfare	13,315
800	Legislature	4,030
850	Falkland Island Government Office	42,300
870	Transfer to Development Fund	4,500,000
900	Income Tax Refunds	89,188
951	Development Expenditure to be met from Colo	ny
	Fund	969,234
		£6,336,119

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Supplementary Appropriation (1988-1989) (No. 2) Ordinance 1988

(No. 15 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short Title.
- 2. Establishment of Fisheries Development Fund.
- 3. Appropriation to Fisheries Development Fund.
- 4. Other Appropriation.
- 5. Expenditure out of Fisheries Development Fund.

Schedule.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Supplementary Appropriation (1988-1989) (No. 2) Ordinance 1988

(No. 15 of 1988)

An Ordinance to establish the Fisheries Development Fund and to appropriate moneys from the Consolidated Fund for the purposes of the Fisheries Development Fund and for supplementary expenditure during the financial year ending 30th June 1989.

> (Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Supplementary Appropriation (1988-1989)(No.2) Sh Ordinance 1988.

2. (1) Pursuant to section 11 of the Finance and Audit Ordinance 1988 (which provides that a Special Fund, not forming part of the Consolidated Fund, may be established by an appropriation Ordinance) there is hereby established a special fund to be known as the Fisheries Development Fund.

(2) For the sake of avoidance of doubt, it is declared that those provisions of the Finance and Audit Ordinance 1988 which apply to special funds to which section 11 of that Ordinance relates shall apply to the Fisheries Development Fund.

3. There is appropriated to the Fisheries Development Fund the sum of three million pounds which shall be paid into that Fund forthwith out of the Consolidated Fund.

4. The Financial Secretary may cause to be issued out of the Consolidated Fund and applied to the service of the year ending on 30th day of June 1989 the sums set out in Part 2 of the Schedule to this Ordinance and totalling three million three hundred and fifty-nine thousand three hundred and five pounds, which sums may be expended for the purposes of the Heads of Service against which they respectively appear therein.

5. (1) No money may be expended out of the Fisheries Development Fund except for the following purposes -

- (a) the development of the fishing industry in the fishing waters of the Falkland Islands;
- (b) purposes reasonably incidental to the purpose mentioned in paragraph (a) above; and
- (c) the expenses of the administration of the Fund,

and, in any case, unless the expenditure in question has been authorised by the Governor on the advice of the Executive Council.

(2) In paragraph (a) of subsection (1) above "fishing waters" has the same meaning as it has under section 2 of the Fisheries (Conservation and Management) Ordinance 1986.

Short title,

Establishment of Fisheries Development Fund.

Appropriation to Fisheries Development Fund.

Other Appropriation.

Expenditure out of Fisheries Development Fund. 6. No monies may be expended on Agricultural Grants or loans (for which provision is made in Head of Service 951 in Part 2 of the Schedule to this Ordinance) except in favour of persons who are ordinarily resident in the Islands or companies the majority of the shares of which carrying voting rights are beneficially owned by persons ordinarily resident in the Falkland Islands.

Restriction of expenditure on Agricultural Grants.

SCHEDULE Part 1

Fisheries Development Fund.

Number	Head of Service £	
OPERATING BUDGE	T	
870	Transfer to Fisheries Development Fund	3,000,000
	Part 2	
	Other expenditure provided for.	
Number	Head of Service	£
PART A - OPERATIN	G BUDGET	
100	Aviation	16,000
150	Posts and Telecommunications	29,400
200	Medical	20,400
250	Education and Training	16,600
300	Customs and Harbour	1,565
320	Fisheries	480,920
350	Public Works	180,950
390	Fox Bay Village	11,970
400	Agriculture	20,000
450	Justice	205,250
550	Police Fire and Rescue Service	3,810
600	Secretariat, Treasury and Central Store	298,300
650	Pensions and Gratuities	5,540
800	Legislature	2,500
850 860	Falkland Islands Government Office Agricultural Research Centre	2,060 6,750
TOTAL OPERATING	SUPPLEMENTARY EXPENDITURE	£1,302,015
PART B - CAPITAL F	NUDGET	
951	Expenditure to be met from Local Funds	£2,057,290
	r	. ,

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Cierk of Councils.

The Income Tax (Amendment) Ordinance 1988 (No. 16 of 1988)

Arrangement of Provisions

Section

- 1. Short Title and commencement.
- 2. The principal Ordinance.
- 3. Amendment of principal Ordinance.
- 4. Amendment of 1987 amending Ordinance.

Schedule - Amendment of principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Income Tax (Amendment) Ordinance 1988 (No. 16 of 1988)

An Ordinance to amend the Income Tax Ordinance.

(Assented to: 21st December 1988) (Commencement: 1st January 1989) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Income Tax (Amendment) Ordinance 1988 and shall come into force on 1st January 1989.

2. In this Ordinance, "the principal Ordinance" means the Income Tax Ordinance.

3. The principal Ordinance is amended in the manner specified in the Schedule hereto.

4. (1) The Income Tax (Amendment) (No. 2) Ordinance 1987 is amended by constituting section 3 thereof as subsection (2) of that section and by inserting immediately preceding it the following new subsection (1) of that section -

"(1) The principal Ordinance is amended by constituting sections 32A and 32B thereof as sections 321 and 32J thereof."

(2) Subsection (1) of this section shall be deemed to have come into operation on 22nd December 1987.

SCHEDULE

Amendment of the principal Ordinance

1. In section 2(1) of the principal Ordinance -

(a) the existing definition of "housing loan" is deleted and replaced by the following definition —

"housing loan" means such part of any principal sum advanced for the purpose of purchasing, building, adding to or altering a dwelling house in the Colony as does not exceed £50,000;"; and

(b) in the definition of "maintenance payments" the words "or the United Kingdom" are inserted immediately after the words "Falkland Islands"

Section 6 of the principal Ordinance is amended -2.

- by deleting, in subsection (1), the parentheses and numeral "(1)"; and (a)
- (b) by repealing subsection (2).

3. Section 8 of the principal Ordinance is amended -

Short title and commencement.

The principal Ordinance

Amendment of principal Ordinance.

Amendment of 1987 amending Ordinance. (No. 24 of 1987).

- (a) by substituting for paragraph (f) thereof the following new paragraph (f) -
- "(f) any emoluments paid out of United Kingdom Government funds by way of remuneration to
 - (i) any person serving in Her Majesty's armed forces;
 - (ii) any person in the service of Her Majesty in a civil capacity under Her Government in the United Kingdom;"
- (b) by deleting paragraph (i) and inserting the following new paragraph (i) -
 - "(i) insofar as relates to income received for the provision of services connected with the defence of the Falkland Islands any person being an institution, corporation or contractor to Her Majesty's Government in the United Kingdom notified to the Commissioner by the Governor as being entitled to exemption under this paragraph and every employee not ordinarily resident in the Falkland Islands of an institution, corporation or contractor so notified but so far only as relates to income received by him by reason of employment in the provision of such services;"
- (c) by deleting paragraph (k) thereof and substituting the following new paragraph (k) —
- "(k) the income of the Falkland Islands Development Corporation or any company wholly owned by the Falkland Islands Development Corporation"
- (d) by inserting in the proviso thereto immediately after the words "Provided that" the words "except where inconsistent with the context".
- 4. Section 9A of the principal Ordinance is repealed.

5. Section 10 (3)(aa) of the principal Ordinance is repealed and replaced by the following new subsection (aa) -

"(aa) sums payable by such person by way of interest upon any housing loan, provided that the Commissioner shall have discretion to disallow the same, in whole or in part in respect of any period that the house is unoccupied".

6. Section 14 of the principal Ordinance is amended by the substitution of " $\pounds 2,750$ " for " $\pounds 2,500$ " as the amount to be allowed pursuant thereto.

7. Section 15(1) of the principal Ordinance is amended by the substitution of "£1,750" for "£1,500" as the amount of the deduction to be made thereunder.

8. Section 15(2) of the principal Ordinance is amended by the substitution of "£920" for "£800" as the amount of the deduction to be made thereunder.

9. Section 15(3) of the principal Ordinance is amended in paragraph (a) of the proviso by the substitution of "£2,000" for "£1,700" as the permitted total income for the purposes of that paragraph and by the substitution of "£920" for "£800" as the deduction a person is entitled to make thereunder.

10. Section 15 (4) is amended by the substitution of "£2,750" for "£2,500".

11. Section 16A (1) and (2) of the principal Ordinance is amended by the deletion of the symbol and figures "£5,000" wherever appearing therein and by the substitution for them in every case of the symbol and figures "£6,000".

12. Section 21(1) is repealed and replaced by the following new section 21(1).

"21 (1) The tax upon the chargeable income of every person other than a company shall be charged at the following rates -

"On every pound of —

the first £10,000 of chargeable income 25 per cent;

the next £10,000 of chargeable income 30 per cent; and

the remainder 40 per cent"

13. Section 22(1) is amended by the addition of the following words -

"in relation to years of assessment commencing before 1st January 1988 and twenty-five seventy-fifths in relation to years of assessment commencing on or after that date: but no credit shall be allowed unless the income of the company out of which the dividend is paid suffered tax under the provisions of this Ordinance?"

Ref: INC/10/5.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Executive Council Allowances (Amendment) Ordinance 1988 (No. 17 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short Title.
- 2. Amendment of No. 7 of 1977.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Executive Council Allowances (Amendment) Ordinance 1988

(No. 17 of 1988)

An Ordinance to amend the Executive Council (Allowances) Ordinance 1977.

(Assented to: 21st December 1988) (Commencement: 1st July 1988) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Executive Council (Allowances) (Amendment) Short title and Ordinance 1988, and shall be deemed to have come into force on 1st July 1988.

2. The Executive Council (Allowances) Ordinance 1977 is amended by the insertion therein, Amendment of immediately after section 3, of the following new section 3A: No. 7 of 1977.

"Allowances to temporary members. **3A** (1) Where an elected member of the Legislative Council attends a meeting of the Executive Council pursuant to section 54(1) of the First Schedule to the Falkland Islands Constitution Order 1985 (temporary members of the Executive Council) he shall be entitled to receive in respect of that meeting one twelfth of any annual allowance payable to elected members of the Executive Council pursuant to any order under section 3 above for the time being in force.

(2) For the sake of avoidance of doubt it is hereby declared that for the purposes of subsection (1) where a meeting of the Executive Council is adjourned from day to day, all days on which the business of the Executive Council is as a result transacted together constitute a single meeting."

Ref: EXCO/10/1.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

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The Licensing (Amendment) Ordinance 1988

(No. 18 of 1988)

Arrangement of Provisions

Section

1. Short title.

2. Amendment of Cap. 38.

Schedule

Part I - Section 13A(1) is amended.

Part II - Repeal and Replacement of Provisions of the Licensing Ordinance.

Part III - Repeals of Provisions of the Licensing Ordinance without replacement.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Licensing (Amendment) Ordinance 1988

(No. 18 of 1988)

An Ordinance to amend the Licensing Ordinance.

(Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Licensing (Amendment) Ordinance 1988.

Short Title.

2. The Licensing Ordinance is amended in the manner specified in the Schedule hereto.

Amendment of Cap. 38.

SCHEDULE

Part I

AMENDMENT OF PROVISIONS OF THE LICENSING ORDINANCE

- 1. Section 13A(1) is amended -
 - (a) by the addition thereto of the following new paragraph (c)

"(c) authorises the holder to sell on the premises intoxicating liquor in any quantity between the hours of 10.00 a.m and 11.30 p.m. on any day"

(b) by the addition of the following two subsections immediately after subsection (2) thereof -

"(3) Nothing in section 21 applies in respect of intoxicating liquor supplied under authority of a restaurant licence.

(4) For the purposes of this section, intoxicating liquor is not consumed as an ancillary to a meal if it is consumed more than an hour after the conclusion of the meal."

2. Section 22 is amended by the addition thereto, immediately after subsection (2) of the following new subsection (3) -

"(3) Nothing in subsection (2) applies in respect of intoxicating liquor to be supplied under the authority of a residential licence or a restaurant licence?"

3. Section 23 is amended by the addition thereto, immediately after subsection (2) of the following new subsection (3) -

"(3) Nothing in the foregoing provisions of this section shall render it unlawful for a person under the age of 18 years to enter or remain in a bar in licensed premises where a residential restaurant licence held in respect of the premises extends to that bar."

- 4. Section 35 is amended -
 - (a) by constituting the existing section 35 as subsection (1) of the section;

(b) by deleting all words before "On weekdays" presently appearing in that subsection and substituting the following words —

"Intoxicating liquor may be sold under authority of a Publican's retail licence"

(c) by adding the following subsection immediately after subsection (1) -

"(2) Intoxicating liquor may be sold under authority of a wholesaler's licence between the hours of 8 a.m. and 8 p.m. on any day"

- 5. Section 69(1) is amended by
 - (a) inserting in the third line thereof, after the word "provided" the words "and unless by some other provision of this Ordinance a different fine or term of imprisonment applies in respect of such offence"
 - (b) by deleting the figures "£20" appearing in paragraph (a) therof and replacing them with the figures "£250"; and
 - (c) by deleting the figures "£50" appearing in paragraph (b) thereof and replacing them with the figures "£500".

Part II

REPEAL AND REPLACEMENT OF PROVISIONS OF THE LICENSING ORDINANCE

1. Section 15 of the Licensing Ordinance is repealed and replaced with the following new section 15 -

"Certain Licensed premises not to be used for other purposes. 15. (1) It shall be unlawful for any premises in respect of which any licence other than a wholesaler's licence or club licence, is held authorising the sale of intoxicating liquor to be used for the sale or supply by way of business of any other goods but nothing in this subsection shall apply to -

- (a) the sale or supply of any goods usually offered for sale at an hotel for the convenience of persons frequenting that hotel;
- (b) the sale or supply of food for consumption upon the premises or cooked meals for consumption off such premises;
- the sale or supply of tobacco confectionery and smokers requisites;
- (d) the sale or supply of any goods suitable for the purpose of playing any game usually played upon the licensed premises.
- (2) A person who contravenes subsection (1) commits an offence."
- 2. Section 22(1) of the Licensing Ordinance is repealed and is replaced by the following —

"(1) Intoxicating liquor shall not be sold or supplied under authority of a Publican's retail licence upon credit, nor shall payment therefor be made other than by cash or by cheque. Any pledge or any property by way of security for payment for or as payment for intoxicating liquor supplied under authority of a Publican's retail licence is unlawful and voidable at the instance of the person pledging the property, and the licensee, if the pledge was taken with his consent, and any person accepting the pledge commits an offence."

3. Sections 26, 27, 28 and 29 of the Ordinance are repealed and replaced by the following new sections -

Supply of intoxicating liquor prohibited persons. 26. (1) If a court is satisfied by evidence given on oath (whether in proceedings or an application for an order under this section or otherwise) that a person is by reason of his excessive consumption of intoxicating liquor —

- (a) severely prejudicing his health;
- (b) failing to make adequate provision for his wife or any dependent child;
- (c) neglecting his person or to provide himself sufficiently with the necessities of life;

(d) violent or abusive towards his spouse or any child or remoter descendant of his living with him in the same household; the court may make an order under this section ("a prohibition order").

(2) The effect of a prohibition order shall be to render if unlawful —

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 - (a) for the person the subject of the order -
 - (i) subject to subsection (3) to consume intoxicating liquor;
 - (ii) subject to subsection (3) to obtain or attempt to obtain intoxicating liquor;
 - (iii) subject to subsection (4), to enter or remain in any bar in any premises in respect of which a Publican's retail licence is held during any time during which it is lawful for intoxicating liquor to be sold upon those premises or to enter or remain upon any premises in respect of which a club licence is held during any time during which intoxicating liquor is being sold at those premises; or
 - (b) for any person who is aware of the order --
 - subject to subsection (3) to supply to the person the subject of the order any intoxicating liquor;
 - (ii) being the licensee of or otherwise concerned in the management of or employed (whether or not for reward) in connection with any premises in respect of which a Publican's retail licence or Club licence is held, subject to subsection (4), knowingly and voluntarily to permit the person the subject of the order to enter upon or remain in any bar contrary to paragraph (a) (ii) of this section.

(3) Paragraphs (a) (i) and (ii) and (b) (i) of subsection (2) do not apply in respect of the obtaining and supply of intoxicating liquor in the course of Holy Communion or Mass in accordance with the rites of any religious denomination.

(4) Paragraphs (a) (iii) and b(ii) of subsection (2) do not apply in respect of any bar in respect of which a residential or restaurant licence applies, notwithstanding that that bar may also be licensed under a publican's retail licence.

(5) A prohibition order shall be made so as to be valid for a period of not more than twelve months, but may be extended for a period not exceeding twelve months by any court upon its convicting the person the subject of such an order of any offence an element of which is the consumption by that person of intoxicating liquor or of an offence under subsection (6).

(6) A person commits an offence who contravenes any provision of subsection (2) and is liable on conviction thereof to a fine of ± 200 and, on a second or subsequent conviction of such an offence, also to imprisonment for one month.

27. (1) Any court making a prohibition order under section 26 or under that section extending such an order shall transmit a copy of the prohibition order or the order for extension, as the case may be, to the Chief Police Officer who shall in writing inform every licensee in the Falkland Islands of the effect of the order.

(2) Every licensee shall bring to the attention of all persons employed or engaged in the sale or supply of intoxicating liquor on any premises in respect of which he is a licensee every notification he has received from the Chief Police Officer pursuant to subsection (1): Provided that he need not do so where the prohibition order concerned has expired by effluxion of time.

Notification of prohibition order. (3) In any proceedings for an offence under section 26 in which knowledge of a prohibition order is relevant, the accused shall be deemed to be aware of the order unless he proves the contrary on the balance of probabilities.

Offences by licensees and others of supply of intoxicating liquor etc. 28 (1) A person who is the holder of a licence authorising him to sell intoxicating liquor and any other person who is employed by or engaged by any such licensee commits an offence if he -

- (a) sells or supplies upon licensed premises any intoxicating liquor to any person who, at the time of such sale or supply, is drunk; or
- (b) permits any violent, quarrelsome or riotous conduct to take place in the licensed premises,

and on conviction of any such offence he is liable to a fine of £200.

(2) If any person procures or attempts to procure any intoxicating liquor for -

- (a) a drunken person; or
- (b) a person in respect of whom to his knowledge, a prohibition order under section 26 is in force

he commits an offence and is liable on conviction thereof to a fine of £200.

Drunken behaviour in public place: offence.

- 29. (1) A person commits an offence who -
 - (a) in any public place, while drunk, is disorderly in his behaviour;
 - (b) is, in any public place, found incapable through drunkeness.

(2) A person convicted of an offence under this section is liable to a fine of £200 and imprisonment for seven days.

(3) In this section, "public place" includes any road, footpath, car park or track and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise.

(4) A person reasonably suspected of having committed an offence under this section may be arrested without a warrant by any person."

Part III

REPEALS OF PROVISIONS OF THE LICENSING ORDINANCE WITHOUT REPLACEMENT

1. Sections 46(1), 49 and 62 of the Licensing Ordinance are repealed.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Old Age Pensions (Amendment) (No. 2) Ordinance 1988 (No. 19 of 1988)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.

2. Amendment of the Old Age Pensions Ordinance 1952. Schedule.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor:

The Old Age Pensions (Amendment) (No. 2) Ordinance 1988

(No. 19 of 1988)

An Ordinance to amend the Old Age Pensions Ordinance 1952.

(Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Old Age Pensions (Amendment) (No. 2) Ordinance Short title. 1988.

2. The Old Age Pensions Ordinance 1952 is amended in the manner specified in the Schedule hereto.

Amendment of the Old Age Pensions Ordinance 1952. (No. 3 of 1952).

SCHEDULE

The Old Age Pensions Ordinance 1952 is amended by the insertion therein, immediately after section 6E thereof of the following new section 6F —

"Exemptions from liability to make contributions. 6F (1) An employed person whose emoluments fall exclusively within the description set out in subsection (3) below is not obliged to make contributions under section 5 of this Ordinance.

(2) An employer is not obliged to make contributions under section 6 of this Ordinance in respect of an employed person who is himself exempted from contributions under subsection (1) above.

(3) The description referred to in subsection (1) is emoluments falling within any of paragraphs (a) to (g), (l) or (o) of the Medical Services Levy Ordinance 1979."

Ref: TRE/2/1.

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Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Medical Services Levy (Amendment) Ordinance 1988 (No. 20 of 1988)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.

2. Amendment of the Medical Services Levy Ordinance 1979. Schedule.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Medical Services Levy (Amendment) Ordinance 1988 (No. 20 of 1988)

An Ordinance to amend the Medical Services Levy Ordinance 1979.

(Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Medical Services Levy (Amendment) Ordinance 1988.

2. The Medical Services Levy Ordinance 1979 is amended in the manner specified in the Schedule to this Ordinance.

Short Title.

Amendment of the Medical Services Levy Ordinance 1979. (No. 13 of 1979).

SCHEDULE

The Medical Services Levy Ordinance 1979 is amended in section 7 thereof by the deletion of paragraph (o) and the substitution of the following new paragraph (o) -

"(0) The emoluments paid to any person ordinarily resident outside the Falkland Islands by any institution, corporation or contractor engaged in the provision of services connected with the defence of the Falkland Islands to the United Kingdom Government but only so far as such emoluments are exclusively referable to employment in the provision of such services."

Ref: TRE/10/9.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

P. T. KING, Clerk of Councils.

The Law of Contract Ordinance 1988

(No. 22 of 1988)

ARRANGEMENT OF CLAUSES

Section

PART I - INTRODUCTORY

- 1. Short title and Commencement.
- 2. Interpretation.

PART II - PROVISIONS AS TO FORMATION AND ENFORCEABILITY OF CERTAIN CONTRACTS

- 3. Contracts for sale etc. of land to be in writing.
- 4. Time not be deemed to be of essence in certain cases.
- 5. When contracts must be by deed.
- 6. Guarantees.
- 7. Rights of Surety.
- 8. Representations of character etc.
- 9. Contracts by bodies.
- 10. Execution of deeds by an individual.
- 11. Execution of instruments by or on behalf of corporations.
- 12. Assignment of choses in action.
- 13. Creation of interest in land by parol.
- 14. Persons taking who are not parties and as to indentures.
- 15. Provision as to supplemental instruments.
- 16. Construction of expressions used.
- 17. Contracts by minors.
- 18. Contracts by married woman.
- 19. Agreements to marry.
- 20. Property of engaged couples.
- 21. Gifts between engaged couples.

PART III - CONTRACTS WITH CONSUMERS

- 22. Scope of Part III.
- 23. Negligence.
- 24. Liability arising in contract.
- 25. Unreasonable indemnity clauses.
- 26. "Guarantee" of Consumer goods.
- 27. Sales.
- 28. Miscellaneous contracts under which goods pass.
- 29. Effect of breach.
- 30. Evasion by means of a secondary contract.
- 31. The "reasonableness" test.
- 32. Dealing as consumer.
- 33. Varieties of exemption clause.

- 34. Interpretation.
- 35. International supply contracts.
- 36. Choice of law clauses.
- 37. Saving for other relevant legislation.

PART IV - FURTHER PROVISIONS AS TO SALE AND SUPPLY OF GOODS AND AS TO HIRE PURCHASE

- 38. Interpretation of this Part.
- 39. Application of Sale of Goods Act 1979. (1979 c. 24) and Supply of Goods and Services Act (1982 c. 29)
- 40. Adoption of Uniform Laws on International Sales Act 1967.
- 41. Implied conditions in hire-purchase agreements.
- 42. Letting goods under hire-purchase agreement by description.
- 43. Implied conditions or warranties as to fitness for any particular purpose in hire-purchase agreements.
- 44. Goods let under hire-purchase agreement by reference to a sample.
- 45. Exclusion of conditions and warranties implied in hire-purchase agreement.

PART V - MISREPRESENTATION

- 46. Removal of certain bars to action for innocent misrepresentation.
- 47. Damages for misrepresentation.
- 48. Avoidance of certain provisions excluding liability for misrepresentation.
- 49. Saving for past transactions.

PART VI - FRUSTRATED CONTRACTS

- 50. Interpretation.
- 51. Adjustment of rights and liabilities of parties to frustrated contracts.
- 52. Application of Part VI.

PART VII - GENERAL

- 53. Amendment of application of Enactments Ordinance 1954. 6 & 7 Geo 6, c. 21.
- 54. Saving for Common Law and rules of equity.

SCHEDULES

Scope of Sections 23 to 25 and 28.	
"Guidelines" for application of reasonableness test.	
Exceptions, modifications and adaptations subject to which the Sale of Goods Act 1979 applies as law of the Falkland Islands.	
Modifications and adaptations subject to which the Uniform Laws on International Sales Act 1967 applies as law of the Falkland Islands.	
Exceptions, modifications and adaptations subject to which the Supply of Goods Act 1982 is applied as law of the Falkland Islands.	



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Law of Contract Ordinance 1988 (No. 22 of 1988)

To consolidate with amendments certain imperial enactments applying as law of the Falkland Islands by incorporating them as so amended as provisions of this Ordinance, to make new provision as to certain matters related to contracts and formation of contracts where no statutory provision at present exists, to continue the application as law of the Falkland Islands of the Sale of Goods Act 1979, but subject henceforth to certain exceptions, modifications and adaptations set out in this Ordinance, to adopt subject to exceptions, modifications and adaptations the Supply of Goods and Services Act 1982; and for connected purposes.

> (Assented to: 21st December 1988) (Commencement: 23rd January 1989) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

PART I - PRELIMINARY

1. This Ordinance may be cited as the Law of Contract Ordinance 1988 and shall come into force on the expiration of one month after it is first published in the Gazette.

Short title and commencement.

2. Subject in respect of any provision having effect for the purpose of any provision, Part Interpretation. or Parts of this Ordinance by virtue of any subsequent provision of this Ordinance, in this Ordinance —

"instrument" does not include a statute, unless the statute creates a settlement; "mort gage" includes any charge or lien on property for securing money or money's worth, and

"mortgage" has a corresponding meaning; "parol" means, in relation to any contract or alleged contract, a contract made or alleged to have been made by word of mouth or by writing not under seal, according to the context; "property" includes anything in action, and any interest in real or personal property; "purchaser" in Part II of this Ordinance, means a purchaser in good faith for valuable consideration and includes a lessee, mortgagee or other person who acquires an interest in property; "valuable consideration" includes marriage but does not include a nominal consideration in money.

Part II

Provisions as to Formation and Enforceability of Certain Contracts And Connected Provisions

3. (1) Subject to section 13, no action may be brought upon any contract for the sale or other disposition of any interest in land, unless the agreement upon which such action is brought, or some memorandum or note thereof, is in writing, and signed by the party to be charged or by some person thereunto by him lawfully authorised.

(2) This section applies to contracts whether made before or after the commencement of this Ordinance and does not affect the law relating to part performance or sales by the court.

4. Stipulations in any contract for the sale or other disposition of any interest in land, which according to the rules of equity are not deemed to be or have become of the essence of the contract, are to be construed and have effect at law in accordance with same rules.

5. (1) A contract must be made by deed where any written law requires it to be so made.

(2) A contract made without valuable consideration is unenforceable unless it is made by deed.

6. (1) No action shall be brought upon any special promise to answer for the debt, default or miscarriage of another person unless the agreement upon which such action is brought or some memorandum or note thereof is in writing and signed by the party to be charged or by some person by him lawfully authorised

(2) No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing, and signed by the party to be charged therewith, or some other person by him thereunto lawfully authorised, shall be deemed invalid to support an action, suit or other proceeding to charge the person by whom such promise was made, by reason only that the consideration for such promise does not appear in writing, or by necessary inference from a written document.

7. Every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, shall pay or perform such duty, shall be entitled to have assigned to him, or to a trustee for him, every judgment, specialty, or other security which shall be held by the creditor in respect of such debt or duty, whether such judgment, specialty, or other security shall or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty, and such person shall be entitled to stand in place of the creditor, and to use all the remedies, and, if need be, and upon a proper indemnity, to use the name of the creditor, in any action or other proceeding, at law or in equity, in order to obtain from the principal debtor, or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who shall have so paid such debt or performed such duty, and such person or other proceeding by the payment or performance so made by such surety shall not be pleadable in bar of any such action or other proceeding by him:

Provided always, that no co-surety, co-contractor, or co-debtor shall be entitled to recover from any other co-surety, co-contractor, or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last-mentioned person shall be justly liable.

8. (1) No action shall be brought upon or by reason of any representation or assurance made or given by any person concerning or relating to the character, conduct, credit, ability, trade or dealings of another person, to the intent or purpose that such other person may obtain credit, money or goods, unless such representation or assurance is in writing and signed by the party to be charged.

(2) Subsection (1) shall have effect only in relation to a representation or assurance which is alleged to be fraudulent and so as to prevent any action being brought on the basis of a fraudulent representation or assurance having been given; it shall not have effect so as to prevent an action being brought in negligence.

- 9. (1) This section does not apply
 - (a) to the Falkland Islands Development Corporation;
 - (b) to any company formed and registered under the Companies and Private Partnership Ordinance; or

Contracts for sale etc. of land to be in writing.

Time not be deemed to be of essence in certain cases. Certain contracts to be by deed.

Guarantees.

Rights of Surety.

Representations of character etc.

Contracts by bodies.

(c) to any body corporate incorporated under any Ordinance enacted for the purpose of its incorporation after the enactment of this Ordinance and containing provision contrary to the subsequent provisions of this section, but otherwise applies to all bodies corporate wherever, whenever and however incorporated.

(2) Subject to subsection (1), a contract may be made on behalf of a body corporate as follows -

- (a) a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith may be made on behalf of the body corporate in writing signed by any person acting under its authority express or implied; and
- (b) a contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the body corporate by any person acting under its authority, express or implied.

(2) A contract made according to this section shall be effectual in law, and shall bind the body corporate and its successors and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorised to be made.

(4) Nothing in this section shall be taken as preventing a contract under seal being made by or on behalf of a body corporate.

(5) This section shall not apply to the making, variation or discharge of a contract before the commencement of this Ordinance but shall apply whether the body corporate gave its authority before or after the commencement of this Ordinance.

10. (1) Where an individual executes a deed, he shall either sign or place his mark upon the same and sealing alone shall not be deemed to be sufficient.

(2) This section applies only to deeds executed after the commencement of this Ordinance.

11. (1) This section applies to deeds executed by a corporation aggregate and takes effect in addition to and without prejudice to the provisions of section 9 (which enables corporations to make contracts in certain circumstances other than by deed).

(2) In favour of a purchaser a deed shall be deemed to have been duly executed by a corporation aggregate if its seal be affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer or his deputy, and a member of the board of directors, council or other governing body of the corporation, and where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as aforesaid, the deed shall be deemed to have been executed in accordance with the requirements of this section, and to have taken effect accordingly.

(3) Where a person is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of a corporation sole or aggregate, he may as attorney execute the conveyance by signing the name of the corporation in the presence of at least one witness, and in the case of a deed by affixing his own seal, and such execution shall take effect and be valid in like manner as if the corporation had executed the conveyance

(4) Where a corporation aggregate is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of any other person (including another corporation), an officer appointed for that purpose by the board of directors, council or other governing body of the corporation by resolution or otherwise, may execute the deed or other instrument in the name of such other person; and where an instrument appears to be executed by an officer so appointed, then in favour of a purchaser the instrument shall be deemed to have been executed by an officer duly authorised.

(5) The foregoing provisions of this section apply to transactions wherever effected but only to deeds and instruments executed after the commencement of this Ordinance, except that, in the case of powers of appointments of an agent or officer, they apply whether the power was conferred or the appointment was made before or after the commencement of this Ordinance.

Execution of deeds by an individual.

Execution of instruments by or on behalf of corporations.

(6) Notwithstanding anything contained in this section, any mode of execution or attestation authorised by law or by practice or by the statute, charter, memorandum or articles, deed of settlement or other instrument constituting the corporation or regulating the affairs thereof, shall (in addition to the modes authorised by this section) be as effectual as if this section had not been passed.

12. (1) Any absolute assignment by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal thing in action, of which express notice in writing has been given to debtor, trustee or other person from whom the assignor would have been entitled to claim such debt or thing in action, is effectual in law (subject to equities having priority over the right of the assignee) to pass and transfer from the date of such notice -

- (a) the legal right to such debt or thing in action;
- (b) all legal and other remedies for the same; and
- (c) the power to give a good discharge for the same without the concurrence of the assignor.

Provided that, if the debtor, trustee or other person liable in respect of such debt or thing in action has notice —

- (a) that the assignment is disputed by the assignor or any person claiming under him; or
- (b) of any other opposing or conflicting claims to such debt or thing in action;

he may, if he thinks fit, either call upon the persons making claim thereto to interplead concerning the same, or pay the debt or other thing in action into court under the provisions of the Trustee Act, 1925.

(2) This section does not affect the provisions of the Policies of Assurance Act, 1867.

13. (1) All interests in land created by parol and not put in writing and signed by the persons creating the same, or by their agents thereunto lawfully authorised in writing, have, notwithstanding any consideration having been given for the same, the force and effect of interests at will only.

(2) Nothing in the foregoing provisions of this Ordinance shall effect the creation by parol of leases taking effect in possession for a term not exceeding three years (whether or not the lessee is given power to extend the term) at the best rent which can be reasonably obtained without taking a fine.

(3) A lease by the Crown cannot be effected, whatever the term created thereby, by parol.

- (4) Nothing in this section shall --
 - (a) invalidate dispositions by will;
 - (b) affect any interest validly created before the commencement of this Ordinance;
 - (c) affect the right to acquire an interest in land by virtue of taking possession; or
 - (d) affect the operation of law relating to part performance.

14. (1) A person may take an immediate or other interest in land or other property, or the benefit of any condition, right of entry, covenant or agreement over or respecting land or other property, although he is not named as a party to the conveyance or other instrument.

(2) A deed between parties, to effect its objects, has the effect of an indenture though not indented or expressed to be an indenture.

15. Any instrument (whether executed before or after the commencement of this Ordinance) expressed to be supplemental to a previous instrument, shall, as far as may be read and have effect as if the supplemental instrument contained a full recital of the previous instrument.

16. In all deeds, contracts and other instruments executed, made or coming into operation after the commencement of this Ordinance, unless the context requires -

- (a) "month" means a calendar month;
- (b) "person" includes a corporation;
- (c) the singular includes the plural and vice versa;
- (d) the masculine includes the feminine and vice versa.

17. (1) All contracts, whether by specialty or by simple contract, entered into since 7th August 1874 by minors for the repayment of money lent or to be lent, or for goods supplied (other than contracts for necessaries), and all accounts stated with minors are absolutely void:

Creation of interests in land by parol.

Persons taking

who are not par-

ties and as to indentures.

Provisions as to

supplemental in-

Construction of

expressions used.

struments.

Assignment of choses in action.

Contracts by minors.

lidate any contract into which a minor

Provided always that this subsection shall not invalidate any contract into which a minor might, by any statute in force on 7th August 1874 or by any existing or future statute, or by the rules of common law or equity, enter, except such as were on 7th day of August 1874 by law voidable.

(2) No action shall be brought whereby to charge any person upon any promise made after full age to pay any debt contracted during minority, or upon any ratification made after full age of any promise or contract made during infancy, whether there shall or shall not be any new consideration for such promise or ratification after full age.

(3) For the purpose of this section "minor" means -

- (a) in relation to any time between 7th August 1874 and 31st December 1969, a person who was under the age of twenty-one years; and
- (b) in relation to any time after 31st December 1969, a person under the age of eighteen years, and "minority" shall have a correlative meaning.

18. A married woman has the same capacity to contract as if she were not a married woman.

19. (1) An agreement between two persons to marry one another shall not have effect in the Falkland Islands, wherever the agreement was made, as a contract giving rise to legal rights and no action shall lie in the Falkland Islands for breach of such an agreement, whatever the law applicable to the agreement.

(2) This section shall have effect in relation to agreements entered into before it comes into force, except that it shall not affect any action commenced before it came into force.

20. (1) Where an agreement to marry is terminated, any rule of law relating to the rights of husbands and wives in relation to property in which either or both has beneficial interest shall apply in relation to any property in which either or both of the parties to the agreement had a beneficial interest while the agreement was in force, as it applies in relation to property in which a beneficial interest.

(2) Where an agreement to marry is terminated any provision of law for the time being in force conferring power upon any judge or court to settle disputes between husband and wife about property shall apply, as if the parties were married, to any dispute by or claim by one of them in relation to property in which either or both had a beneficial interest while the agreement was in force; provided that the application to the judge or court is made within three years of the termination of the agreement.

21. (1) A party to an agreement to marry who makes a gift of property to the other party to the agreement on the condition (express or implied) that it shall be returned if the agreement is terminated shall not be prevented from recovering the property by reason only of his having terminated the agreement.

(2) The gift of an engagement ring shall be presumed to be an absolute gift but such presumption may be rebutted by proving that the ring was given on the condition, express or implied, that it should be returned if the marriage did not take place for any reason.

PART III

CONTRACTS WITH CONSUMERS

22. (1) For the purposes of this Part of this Ordinance, "negligence" means the breach -

- (a) of any obligation, arising from the express or implied terms of a contract, to take reasonable care to exercise reasonable skill in the performance of the contract;
- (b) of any common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty);
- (c) of the common duty of care imposed by the terms of any statute.

(2) This part of this Ordinance is subject to Part V, and in relation to contracts, the operation of sections 23 to 25 and 28 is subject to the exceptions made by Schedule 1.

(3) In the case of both contract and tort, sections 23 to 28 apply (except where the contrary is stated in section 27 (4)) only to business liability, that is liability for breach of obligations or duties arising -

- (a) from things done or to be done by a person in the course of a business (whether his own business or another's); or
- (b) from the occupation of premises used for business purposes by the occupier,

Contracts by married woman. Agreements to marry.

Property of engaged couples.

Gifts between engaged couples.

Scope of Part III. and references to liability are to be read accordingly but liability of an occupier of premises for breach of an obligation or duty towards a person obtaining access to the premises for recreational or educational purposes, being liability for loss or damage suffered by reason of the dangerous state of the premises, is not a business liability of the occupier unless granting that person such access for the purposes concerned falls within the business purposes of the occupier.

(4) In relation to any breach of duty or obligation, it is immaterial for any purpose of this Part of this Ordinance whether the breach was inadvertent or intentional, or whether liability for it arises directly or vicariously.

(5) In this Part of this Ordinance -

"business" includes a profession and the activities of any department of the Falkland Islands Government and the activities of the Falkland Islands Development Corporation;

"goods" includes all personal chattels other than things in action and money, and in particular goods includes all industrial growing crops and things attached to or forming part of the land which are agreed to be severed before sale or under a contract of sale;

"hire purchase agreement" means an agreement under which the goods are bailed in return for periodical payments by the person to whom they are bailed and under which the property in the goods will pass to that person if the terms of that agreement are complied with and one or more of the following occurs —

(i) the exercise of an option to purchase by that person,

(ii) the doing of any other specified act by any party to the agreement,

(iii) the happening of any other specified event,

but does not include an agreement (a "conditional sale agreement") for the sale of goods or land under which the purchase price or part of it is payable by instalments, and the property in the goods or land is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods or land) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled;

"negligence" has the meaning given by subsection (1) of this section;

"personal injury" includes any disease and only impairment of physical or mental condition.

(6) Any reference to this Part to an Act is to be construed as a reference to the Act of the United Kingdom Parliament the short title of which is as mentioned to this Part, and subject to such exceptions, modifications and adaptations as by this or any other Ordinance have been or are hereafter made to that Act in its application to the Falkland Islands.

23 (1) A person cannot by reference to any contract term or to a notice given to persons Negligence. Negligence.

(2) In the case of other loss or damage, a person cannot so exclude or restrict his liability for negligence except in so far as the term or notice satisfies the requirement of reasonableness.

(3) Where a contract term or notice purports to exclude or restrict liability for negligence a person's agreement to or awareness of it is not of itself to be taken as indicating his voluntary acceptance of any risk.

24. (1) This section applies as between contracting parties where one of them deals as consumer or on the other's written standard terms of business.

Liability arising in contract.

(2) As against that party, the other cannot by reference to any contract term --

(a) when himself in breach of contract, exclude or restrict any liability of his in respect of the breach; or

- (b) claim to be entitled -
 - (i) to render a contractual performance substantially different from that which was reasonably expected of him, or
 - (ii) in respect of the whole or any part of his contractual obligation, to render no performance at all,

except in so far as (in any of the cases mentioned above in this subsection) the contract term satisfies the requirement of reasonableness.

25. (1) A person dealing as consumer cannot by reference to any contract term be made to indemnify another person (whether a party to the contract or not) in respect of liability that may be incurred by the other for negligence or breach of contract, except in so far as the contract term satisfies the requirement of reasonableness.

(2) This section applies whether the liability in question -

- (a) is directly that of the person to be indemnified or is incurred by him vicariously;
- (b) is to the person dealing as consumer or to someone else.

26. (1) In the case of goods as a type ordinarily supplied for private use or consumption where loss or damage -

Guarantee of Consumer goods.

Unreasonable indemnity clauses.

- (a) arises from the goods proving defective while in consumer use; and
- (b) results from the negligence of a person concerned in the manufacture or distribution of the goods,

liability for the loss or damage cannot be excluded or restricted by reference to any contract term or notice contained in or operating by reference to a guarantee of the goods.

(2) For these purposes -

- (a) goods are to be regarded as "in consumer use" when a person is using them, or has them in his possession for use, otherwise than exclusively for the purposes of a business; and
- (b) anything in writing is a guarantee if it contains or purports to contain some promise or assurance (however worded or presented) that defects will be made good by complete or partial replacement, or by repair, monetary compensation or otherwise.

(3) This section does not apply as between the parties to a contract under or in pursuance of which possession or ownership of the goods passed.

27. (1) Liability for breach of the obligations arising from section 2 of the Sale of Goods Sales. Act 1979 seller's implied undertakings as to title etc cannot be excluded or restricted by reference to any contract term.

(2) As against a person dealing as consumer, liability for breach of the obligations arising from -

- (a) section 13, 14 or 15 of the 1979 Act (seller's implied undertakings as to conformity of goods with description or sample, or as to their quality or fitness for a particular purpose);
- (b) sections 43 and 44 of this Ordinance (the corresponding things in relation to hire-purchase).

cannot be excluded or restricted by reference to any contract term.

(3) As against a person dealing otherwise than as consumer, the liability specified in subsection (2) above can be excluded or restricted by reference to a contract term, but only in so far as the term satisfies the requirement of reasonableness.

(4) The liabilities referred to in this section are not only the business liabilities defined by section 22 (3), but include those arising under any contract of sale of goods or hirepurchase agreement. 28. (1) Where the possession or ownership of goods passes under or in pursuance of a contract not governed by the law of sale of goods or hire-purchase, subsections (2) to (4) below apply as regards the effect (if any) to be given to contract terms excluding or restricting liability for breach of obligation arising by implication of law from the nature of the contract.

(2) As against a person dealing as consumer, liability in respect of the goods correspondence with description or sample, or their quality or fitness for any particular purpose, cannot be excluded or restricted by reference to any such term.

(3) As against a person dealing otherwise than as consumer, that liability can be excluded or restricted by reference to such a term, but only in so far as the term satisfies the requirement of reasonableness.

(4) Liability for breach of the obligations arising under section 2 of the Supply of Goods and Services Act 1982 (implied terms about the title etc in certain contracts for the transfer of the property in goods) cannot be excluded or restricted by references to any such term.

(5) Liability in respect of ---

- (a) the right to transfer ownership of the goods, or give possession; or
- (b) the assurance of quiet possession to a person taking goods in pursuance of the contract,

cannot (in a case to which subsection (4) above does not apply) be excluded or restricted by reference to any such term except in so far as the term satisfies the requirement of reasonableness.

29. (1) Where for reliance upon it a contract term has to satisfy the requirement of reasonableness, it may be found to do so and be given effect accordingly notwithstanding that the contract has been terminated either by breach or by a party electing to treat it as repudiated.

(2) Where on a breach the contract is nevertheless affirmed by a party entitled to treat it as repudiated, this does not of itself exclude the requirement of reasonableness in relation to any contract term.

30. A person is not bound by any contract term prejudicing or taking away rights of his which arise under, or in connection with the performance of, another contract, so far as those rights extend to the enforcement of another's liability which this Part of this Ordinance prevents that other from excluding or restricting.

31. (1) In relation to a contract term, the requirement of reasonableness for the purposes of this Part of this Ordinance and section 49 of this Ordinance is that the term shall have been a fair and reasonable one to be included having regard to the circumstances which were, or ought reasonably to have been, known to or in the contemplation of the parties when the contract was made.

(2) In determining for the puposes of section 27 or 28 above whether a contract term satisfies the requirement of reasonableness, regard shall be had in particular to the matters specified in Schedule 2 to this Ordinance; but this subsection does not prevent the court or arbitrator from holding, in accordance with any rule of law, that a term which purports to exclude or restrict any relevant liability is not a term of the contract.

(3) In relation to a notice (not being a notice having contractual effect), the requirement of reasonableness under this Ordinance is that it should be fair and reasonable to allow reliance on it, having regard to all the circumstances obtaining when the liability arose or (but for the notice) would have arisen.

(4) Where by reference to a contract term or notice a person seeks to restrict liability to a specified sum of money, and the question arises (under this or any other Ordinance) whether the term or notice satisfies the requirement of reasonableness, regard shall be had in particular (but without prejudice to subsection (2) above in the case of contract terms) to -

(a) the resources which he could expect to be available to him for the purpose of meeting the liability should it arise, and

Evasion by means of a secondary contract.

The "reasonableness" test.

Miscellaneous contracts under which goods pass.

Effect of breach.

(b) how far it was open to him to cover himself by insurance.

(3) It is for those claiming that a contract term or notice satisfies the requirement of reasonableness to show that it does.

32. (1) A party to a contract "deals as consumer" in relation to another party if -

- (a) he neither makes the contract in the course of a business nor holds himself out as doing so; and
- (b) the other party does make the contract in the course of a business; and
- (c) in the case of a contract governed by the law of sale of goods or hire-purchase, or by section 28 of this Ordinance, the goods passing under or in pursuance of the contract are of a type ordinarily supplied for private use or consumption.

(2) But on a sale by auction or by competetive tender the buyer is not in any circumstances to be regarded as dealing as consumer.

(3) Subject to this, it is for those claiming that a party does not deal as consumer to show that he does not.

33. (1) To the extent that any preceding provision of this Part of this Ordinance prevent the exclusion or restriction of any liability they also prevent -

Varieties of exemption clause.

Dealing as consumer.

- making the liability or its enforcement subject to restrictive or onerous conditions;
- (b) excluding or restricting any right or remedy in respect of the liability, or subjecting a person to any prejudice in consequence of his pursuing any such right or remedy;
- (c) excluding or restricting rules of evidence or procedure;

and (to that extent) sections 23 and 26 to 28 also prevent excluding or restricting liability by reference to terms and notices which exclude or restrict the relevant obligation or duty.

(2) But an agreement in writing to submit present or future differences to arbitration is not to be treated under the preceding provisions of this Part of this Ordinance as restricting any liability.

PART IV

PROVISIONS APPLYING TO CERTAIN INTERNATIONAL CONTRACTS

34. In this Part -

"competent authority" means any court, arbitrator or arbiter, government department or public authority;

"enactment" means any legislation of or having the force of law in the Falkland Islands and any instrument having effect by virtue of such legislation; and

"statutory" means conferred by an enactment.

35. (1) The limits imposed by Part III of this Ordinance on the extent to which a person may exclude or restrict liability by reference to a contract term do not apply to liability arising under such a contract as is described in subsection (3) below.

(2) The terms of such a contract are not subject to any requirement of reasonableness under section 24 or 25.

(3) Subject to subsection (4), that description of contract is one whose characteristics are the following -

- (a) either it is a contract of sale of goods or it is one under or in pursuance of which the possession or ownership of goods passes; and
- (b) it is made by parties whose places of business (or, if they have none, habitual residences) are in the territories of different States (the Channel Islands and the Isle of Man and the Falkland Islands being treated for this purpose as different States from the United Kingdom).

Interpretation.

International supply contracts.

- (4) A contract falls within subsection (3) above only if either -
 - (a) the goods in question are, at the time of the conclusion of the contract in the course of carriage, or will be carried, from the territory of one State to the territory of another; or
 - (b) the acts constituting the offer and acceptance have been done in the territories of different States; or
 - (c) the contract provides for the goods to be delivered to the territory of a State other than that within whose territory those acts were done.

36. (1) Where the proper law of a contract is the law of the Falkland Islands only by choice of the parties (and apart from that choice would be the law of some country outside the Falkland Islands) sections 23 to 28 of this Ordinance do not operate as part of the proper law.

(2) Part III of this Ordinance and this Part of this Ordinance have effect notwithstanding any contract term which applies or purports to apply the law of some country outside the Falkland Islands, where (either or both) -

- (a) the term appears to the court or arbitrator to have been imposed wholly or mainly for the purpose of enabling the party imposing it to evade the operation of the said Part III and this Part;
- (b) in the making of the contract one of the parties dealt as consumer, and he was then habitually resident in the Falkland Islands and the essential steps necessary for the making of the contract were taken there, whether by him or by others on his behalf.

37. (1) Nothing in Part III of this Ordinance in this Part removes or restricts the effect of, or prevents reliance upon, any contractual provision which -

- (a) is authorised or required by the express terms or necessary implication by any enactment; or
- (b) being made with a view to compliance with an international agreement to which the United Kingdom is party and which extends to the Falkland Islands, and which does not operate more restrictively than is contemplated by the agreement.

(2) A contract term is to be taken for the purposes of Part III of this Ordinance as satisfying the test of reasonableness if it is incorporated or approved by, or incorporated pursuant to a decision or ruling of a competent authority acting in the exercise of any statutory jurisdiction or function and is not a term in a contract to which the competent authority is itself a party.

PART V

FURTHER PROVISIONS AS TO SALE AND SUPPLY OF GOODS AND AS TO HIRE PURCHASE

38. (1) In this Part -

"antecedent negotiations" in relation to hire purchase agreement means any negotiations or arrangements with the hirer whereby he was induced to make the agreement or which otherwise promoted the transaction to which the agreement related;

"business" has the same meaning as it has under section 22(5) of this Ordinance;

"hirer" means the person who takes or has taken goods from an owner under a hirepurchase agreement and includes a person to whom the hirer's rights or liabilitites under the agreement have passed by assignment or by operation of law;

"owner" means the person who lets or has let goods to a hirer under a hire-purchase agreement and includes a person to whom the owners's property in the goods or any of the owner's rights or liabilitites under the agreement has passed by assignment or by operation of law.

(2) For the purpose of this Part any negotiations conducted, or arrangements or representations made, by a servant or agent, if conducted or made by him in the course of his employment or agency, shall be treated as conducted or made by his employer or principal.

Saving for other relevant legislation.

Interpretation of this part.

Choice of law clauses.

39. (1) The Sale of Goods Act 1979 (which prior to the commencement of this Ordinance applied as law of the Falkland Islands by virtue of Part XI of the Interpretation and General Clauses Ordinance 1977) shall continue to apply as law of the Falkland Islands but subject to the exceptions modifications and adaptations set out in Schedule 3 (in addition to those made or having effect by virtue of the said Ordinance) and which said exceptions, modifications and adaptations shall be deemed always to have had effect in the Falkland Islands.

(2) Subject to subsection (1), the provisions of Part XI of the Interpretation and General Clauses Ordinance 1977 shall continue to apply in relation to the Sale of Goods Act 1979.

(3) The Supply of Goods and Services Act 1982 is adopted as law of the Falkland Islands subject to the exceptions, modifications and adaptations set out in Schedule 4.

40 The Uniform Laws on International Sales Act 1967 of the United Kingdom shall apply as law of the Falkland Islands subject to modifications and adaptations set out in Schedule 4.

41. (1) In every hire-purchase agreement, other than one to which subsection (2) below applies, there is -

- (a) an implied condition on the part of the owner that he will have a right to sell the goods at the time when the property is to pass; and
- (b) an implied warranty that the goods are free, and will remain free until the time when the property is to pass from any charge or encumbrance not disclosed or known to the hirer before the agreement is made and that the hirer will enjoy quiet possession of the goods except so far as it may be disturbed by any person entitled to the benefit of any charge or encumbrance so disclosed or known.

(2) In a hire-purchase agreement, in the case of which there appears from the agreement or is to be inferred from the circumstances of the agreement an intention that the owner should transfer only such title as he or a third person may have, there is -

- (a) an implied warranty that all charges or encumbrances known to the owner and not known to the hirer have been disclosed to the hirer before the agreement is made; and
- (b) an implied warranty that neither-
 - (i) the owner; nor
 - (ii) in a case where the parties to the agreement intend that any title which may be transferred shall be only such title as a third person may have, that person; nor
 - (iii) anyone claiming through or under the owner or that third person otherwise than under a charge or encumbrance disclosed or known to the hirer before the agreement is made; will disturb the hirer's quiet possession of the goods.

42. (1) Where under a hire-purchase agreement goods are let by description, there is an implied condition that the goods will correspond with the description; and if under the agreement the goods are let by reference to a sample as well as a description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

(2) Goods shall not be prevented from being let by description by reason only that, being exposed for sale or hire, they are selected by the hirer.

43. (1) Except as provided by this section 44 below and subject to the provisions of any enactment, there is no implied condition or warranty as to the quality or fitness for any particular purpose of goods let under a purchase agreement.

(2) Where the owner lets goods under a hire-purchase agreement in the course of a business, there is an implied condition that the goods are of a merchantable quality, except that there is no such condition -

(a) as regards defects specifically drawn to the hirer's attention before the agreement is made; or

Letting goods under hirepurchase agreement by description.

Implied Condi-

tions or warranties as to fitness

in hire-purchase

for any particular purpose

agreements.

Application of

Sale of goods Act 1979. (1979

c. 24) and Supp-

ly of Goods and

1982 (1982 c. 29)

Services Act

on International Sales Act 1967. Implied conditions in hirepurchase agreements. (b) if the hirer examines the goods before the agreement is made, as regards defects which that examination ought to reveal.

(3) Where the owner lets goods under a hire purchase agreement in the course of a business and the hirer, expressly or by implication, makes known to the owner or the person by whom any antecedent negotiations are conducted, any particular purpose for which the goods are being hired, there is an implied condition that the goods supplied under the agreement are reasonably fit for that purpose, whether or not that purpose for which such goods are commonly supplied, except where the circumstances show that the hirer does not rely, or that it is unreasonable for him to rely, on the skill or judgement of the owner or that person.

(4) An implied condition or warranty as to quality or fitness for a particular purpose may be annexed to a hire-purchase agreement by usage.

(5) The foregoing provisions of this section apply to a hire-purchase agreement made by a person who in the course of a business is acting as agent for the owner as they apply to an agreement made by the owner in the course of a business, except where the owner is not letting in the course of business and either the hirer knows that fact or reasonable steps are taken to bring it to the notice of the hirer before the agreement is made.

44. Where under a hire-purchase agreement goods are let by reference to a sample, there is an implied condition -

- (a) that the bulk will correspond with the sample in quality; and
- (b) that the hirer will have a reasonable opportunity of comparing the bulk with the sample; and
- (c) that the goods will be free from any defect, rendering them unmerchantable, which would not be apparent on reasonable examination of the sample.

45. An express condition or warranty does not negative a condition or warranty implied by this Part.

PART VI

MISREPRESENTATION

46. Where a person has entered into a contract after a misrepresentation has been made to him, and

- (a) the misrepresentation has become a term of the contract; or
- (b) the contract has been performed;

or both, then, if otherwise he would be entitled to rescind the contract without alleging fraud, he shall be so entitled, subject to the provisions of this Part notwithstanding the matters mentioned in paragraphs (a) and (b) of this section.

47. (1) Where a person has entered into a contract after a misrepresentation has been made to him by another party thereto and as a result thereof he has suffered loss, then if the person making the misrepresentation would be liable to damages in respect thereof had the misrepresentation been made fraudulently, that person shall be so liable notwithstanding that the misrepresentation was not made fraudulently, unless he proves that he had reasonable ground to believe and did believe up to the time the contract was made that the facts represented were true.

(2) Where a person has entered into a contract after a misrepresentation has been made to him otherwise than fraudulently, and he would be entitled, by reason of the misrepresentation, to rescind the contract, then, if it is claimed, in any proceedings arising out of the contract, that the contract ought to be or has been rescinded the court or arbitrator may declare the contract subsisting and award damages in lieu of recission, if of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party.

Goods let under hire-purchase agreement by reference to a sample.

Exclusion of conditions and warranties implied in hirepurchase agreement.

Removal of certain bars to action for innocent misrepresentation.

Damages for misrepresentation. (3) Damages may be awarded against a person under subsection (2) of this section whether or not he is liable to damages under subsection (1) thereof, but where he is so liable any award under the said subsection (2) shall be taken into account in assessing his liability under the said subsection.

48. If any agreement (whether made before or after the commencement of this Ordinance) contains a provision which would exclude or restrict —

- (a) any liability to which a party to a contract may be subject by reason of any misrepresentation made by him before the contract was made; or
- (b) any remedy available to another party to the contract by reason of such a misrepresentation;

that provision shall be of no effect except to the extent (if any) that, in any proceedings arising out of the contract, the court or arbitrator may allow reliance on it as being fair and reasonable in the circumstances of the case.

49. Nothing in this Part shall apply in relation to any misrepresentation or contract of sale which is made before the commencement of this Ordinance.

PART VII

FRUSTRATED CONTRACTS

50. In this Part the expression "the court" means, in relation to any matter, the court or arbitrator by or before whom the matter falls to be determined.

51. (1) Where a contract governed by the law of the Falkland Islands has become impossible of performance or been otherwise frustrated, and the parties thereto have for that reason been discharged from the further performance of the contract, the following provisions of this section shall, subject to the provisions of section 53, have effect in relation thereto.

(2) All sums paid or payable to any party in pursuance of the contract before the time when the parties were so discharged (in this Part referred to as "the time of discharge") shall, in the case of sums so paid, be recoverable from him as money received by him for the use of the party by whom the sums were paid, and, in the case of sums so payable, cease to be so payable:

Provided that, if the party to whom the sums were so paid or payable incurred expenses before that time of discharge in, or for the purpose of, the performance of the contract, the court may, if it considers it just to do so having regard to all the circumstances of the case, allow him to retain or, as the case may be, recover the whole or any part of the sums so paid or payable, not being an amount in excess of the expenses so incurred.

(3) Where any party to the contract has, by reason of anything done by any other party thereto in, or for the purpose of, the performance of the contract, obtained a valuable benefit (other than a payment of money to which the last foregoing subsection applies) before the time of discharge, there shall be recoverable from him by the said other party such sum (if any) not exceeding the value of the said benefit to the party obtaining it, as the court considers just, having regard to all the circumstances of the case and, in particular, -

- (a) the amount of any expenses incurred before the time of discharge by the benefited party in, or for the purpose of, the performance of the contract, including any sums paid or payable by him to any other party in pursuance of the contract and retained or recoverable by that party under the last foregoing subsection, and
- (b) the effect, in relation to the said benefit, of the circumstances giving rise to the frustration of the contract.

(4) In estimating, for the purposes of the foregoing provisions of this section, the amount of any expense incurred by any party to the contract, the court may, without prejudice to the generality of the said provisions, include such a sum as appears to be reasonable in respect of overhead expenses and in respect of any work or services performed personally by the said party.

Avoidance of certain provisions excluding liability for misrepresentation.

Saving for past transactions.

Interpretation.

Adjustment of rights and liabilities of parties to frustrated contracts. (5) In considering whether any sum ought to be recovered or retained under the foregoing provisions of this section by any party to the contract, the court shall not take into account any sums which have, by reason of the circumstances giving rise to the frustration of the contract, become payable to that party under any contract of insurance unless there was an obligation to insure imposed by an express term of the frustrated contract or by or under the said party.

(6) Where any person has assumed obligations under the contract in consideration of the conferring of a benefit by any other party to the contract upon any other person, whether a party to the contract or not, the court may, if in all the circumstances of the case it considers it just to do so, treat for the purposes of subsection (3) of this section any benefit so conferred as a benefit by the person who has assumed the obligations as aforesaid.

52. (1) This Part shall apply to contracts, whether made before or after the commencement of this Part, in respect of which the time of discharge is on or after the 1st November 1954, but not to contracts as respect of which the time of discharge is before the said date.

Application of Part VI.

(2) Where any contract to which this Act applies contains any provision which, upon the true construction of the contract, is intended to have effect in the event of circumstances arising which operate, or would but for the said provision operate, to frustrate the contract, or is intended to have effect whether such circumstances arise or not, the court shall give effect to the said provision and shall only give effect to the foregoing section of this Act to such extent, if any, as appears to the court to be consistent with the said provision.

(3) Whether it appears to the court that a part of any contract to which this Act applies can properly be severed from the remainder of the contract, being a part wholly performed before the time of discharge, or so performed except for the payment in respect of that part of the contract of sums which are or can be ascertained under the contract, the court shall treat that part of the contract as if it were a separate contract and had not been frustrated and shall treat the foregoing section of this Act as only applicable to the remainder of that contract.

(4) This Part shall not apply -

- (a) to any charterparty, except a time charterparty or a charterparty by way of demise, or to any contract (other than a charterparty) for the carriage of goods by sea; or
- (b) to any contract of insurance, save as is provided by subsection (4) of the foregoing section; or
- (c) to any contract to which section 7 of the Sale of Goods Act 1979 (which avoids contracts for the sale of specific goods which perish before the risk has passed to the buyer) applies, or to any other contract for the sale, or for the sale and delivery, of specific goods, where the contract is frustrated by reason of the fact that the goods have perished.

PART VIII

GENERAL

53. (1) The Application of Enactments Ordinance 1954 is amended by the deletion from the Schedule thereto of the paragraph 49 (which relates to the Law Reform (Frustrated Contracts) Act 1943).

(2) Notwithstanding subsection (1), and insofar as Part VII of this Ordinance (which enacts as Law of the Falkland Islands provisions in all material respects identical to those of the Act mentioned in subsection (1)) is incapable of applying to any contract made or discharged before the commencement of this Ordinance, the said Act shall continue to apply in respect of any such contract.

54. For the sake of avoidance of doubt, it is declared that the common law and the rules and doctrines of equity as applying immediately before the commencement of this Ordinance in the Falkland Islands continue to apply to the law of contract and matters arising out of or connected therewith and are not abrogated by any of the provisions of this Ordinance

Amendment of Application of Enactments Ordinance 1954. 6 & 7 Geo 6, c. 21.

Saving for Common Law and rules of equity. except insofar as they are inconsistent therewith and, save insofar as they are inconsistent with any provision of this Ordinance or any other law of or applying in the Falkland Islands, shall continue to apply as if this Ordinance had not been enacted.

SCHEDULE 1

(section 22 (2))

SCOPE OF SECTIONS 23 TO 25 AND 28

1. Sections 23 to 25 of this Ordinance do not extend to -

- (a) any contract of insurance (including a contract to pay an annuity on human life);
- (b) any contract so far as it relates to the creation or transfer of an interest in land, or to the termination of such an interest whether by extinction, merger, surrender, forfeiture or otherwise;
- (c) any contract so far as it relates to the creation or transfer of a right or interest in any patent, trademark, copyright, registered design, technical or commercial information or other intellectual property, or relates to the termination of any such right or interest;
- (d) any contract so far as it relates -
 - (i) to the formation or dissolution of a company (which means any body corporate or unincorporated association and includes a partnership), or
 - (ii) to its constitution or the rights or obligations of its corporators or members;
- (e) any contract so far as it relates to the creation or transfer of securities or of any right or interest in securities.

2. Section (1) extends to -

- (a) any contract of marine salvage or towage;
- (b) any charterparty of a ship or hovercraft; and
- (c) any contract for the carriage of goods by ship or hovercraft;

but subject to this sections 23 to 25 and 28 do not extend to any such contract except in favour of a person dealing as consumer.

3. Where goods are carried by ship or hovercraft in pursuance of a contract which either —

- (a) specifies that as the means of carriage over part of the journey to be covered, or
- (b) makes no provision as to the means of carriage and does not exclude that means,

then sections 23(2) 24 and 25 do not, except in favour of a person dealing as consumer, extend to the contract as it operates for and in relation to the carriage of the goods by that means.

4. Sections 23(1) and (2) do not extend to a contract of employment, except in favour of the employee.

5. Section 23(1) does not affect the validity of any discharge and indemnity given by a person, on or in connection with an award to him of compensation for pneumoconiosis attributable to employment in the coal industry, in respect of any further claim arising from his contracting that disease.

SCHEDULE 2 (section 32 (2))

"GUIDELINES" FOR APPLICATION OF REASONABLENESS TEST

The matters to which regard is to be had in particular for the purposes of sections 27(3), 28(3) and (4), 31 and 32 are any of the following which appear to be relevant —

- (a) the strength of the bargaining positions of the parties relative to each other, taking into account (among other things) alternative means by which the customer's requirements could have been met;
- (b) whether the customer received an inducement to agree to the term, or in accepting it had an opportunity of entering into a similar contract with other persons, but without having to accept a similar term;
- (c) whether the customer knew or ought reasonably to have known of the existence and extent of the term (having regard, among other things, to any custom of the trade and any previous course of dealing between the parties);
- (d) where the term excludes or restricts any relevant liability if some condition is not complied with, whether it was reasonable at the time of the contract to expect that compliance with that condition would be practicable;
- (e) whether the goods were manufactured, processed or adapted to the special order of the customer.

SCHEDULE 3 (section 39 (1))

Exceptions, modifications and adaptations subject to which the Sale of Goods Act 1979 applies as law of the Falkland Islands.

Provision of 1979 Act.

(a) section 4(1).

(b) sections 11 (1) and (5)

(c) section 11(7).

(d) section 21(2).

(e) section 25(2).

(f) section 35(2).

(g) section 49(3).

(h) section 52(4).

(i) section 53(5).

(j) section 55(1).

(k) section 58.

(1) section 61(2).

(m) section 62(5).

(n) Schedule 2.

(o) Schedule 3.

Exceptions, modifications and adaptations.

- (a) In subsection (1), the reference to "any other Act" shall be deemed to include a reference to any Ordinance of the Falkland Islands.
- (b) These provisions (applicable to Scotland) shall not apply.
- (c) All words after "22nd April 1967" shall be omitted.
- (d) The reference to "the Factors Acts" shall be construed as a reference to such Acts subject to any exceptions, modifications and adaptations applying by virtue of any Ordinance in relation to their application as law of the Falkland Islands.
- (e) (i) for the purposes of paragraph (a), "conditional sale agreement" has the same meaning as is given to it within the definition of "hire-purchase agreement" contained in section 22(5) of this Ordinance,
 - (ii) paragraph (b) shall be omitted.
- (f) The like omission as under (c) above.
- (g) This provision (applicable to Scotland) shall not apply.
- (h) This provision (applicable to Scotland) shall not apply.
- (i) This provision (applicable to Scotland) shall not apply.
- (j) The reference to the Unfair Contract Terms Act 1977 shall be omitted and a reference to the Law of Contract Ordinance 1987 substituted for it.
- (k) This provision (applicable in Scotland) shall not apply.
- (1) This provision (applicable to Scotland) shall not apply.
- (m) (i) the reference to Northern Ireland in paragraph 2 shall be omitted,
 - (ii) in paragraph 5 (substituted section 14), omit all words after the semi-colon in subsection (7) of the substituted section 14,
 - (iii) in paragraph 10, omit the reference to Northern Ireland and,
 - (iv) in paragraph 13, in the substituted section 56(1), substitute "the Falkland Islands" for the United Kingdom.
- (n) Omit.
- (o) Omit.

SCHEDULE 4

(section 39 (3))

Exceptions, modifications and adaptations subject to which the Supply of Goods and Services Act 1982 is applied as law of the Falkland Islands

Provision

(a) section 11(1).

(b) section 12(4).

(c) section 12(5).

(d) section 17.

(e) section 18(1).

(f) section 19.

(g) section 20(2) (3) and (6).

(h) section 20(5).

(i) Schedule.

Exceptions, modifications and adaptations

- (a) Delete the words "and the 1977 Act" appearing in the subsections and substitute the words "and Parts III and IV of the Law of Contract Ordinance 1987".
- (b) Delete the words "Secretary of State" appearing in the subsection and substitute the word "Governor".
- (c) Omit.
- (d) Omit.
- (e) (i) delete the definition of "business" appearing in the subsection and substitute the following definition —

" "business" has the same meaning as it has under section 22(5) of the Law of Contract Ordinance 1987",

(ii) delete the definition of "enactment" appearing in the subsection and substitute the following definition —

> " "enactment" means any Ordinance or subsidiary legislation of the Falkland Islands and any imperial enactment for the time being having effect in the Falkland Islands",

(iii) delete the definition of "hire-purchase agreement" appearing in the subsection and substitute the following definition —

> " "hire-purchase agreement" has the same meaning as it has for the purpose of Part IV of the Law of Contract Ordinance 1987";

- (iv) omit the definition of "redemption" and "trading stamps" appearing in the subsection.
- (f) Omit.
- (g) Omit.
- (h) Delete the subsection as appearing and substitute the following subsection —

"(6) No provision of the Act applies to a contract made before the Law of Contract Ordinance 1987 came into force."

(i) Omit.

SCHEDULE 5

(section 40)

Modifications and adaptations subject to which the Uniform Laws on International Sales Act 1967 applies as law of the Falkland Islands.

- (a) In section 1(2) the words "Falkland Islands" shall be substituted for the words "United Kingdom".
- (b) In section 1(4) the words "of any law of or having effect for the time being in the Falkland Islands" shall be substituted for the words "England and Wales, Scotland or Northern Ireland".
- (c) In section 1(6) the words "or the date on which the Law of Contract Ordinance 1987 came into force, whichever is the later" shall be added after the words "United Kingdom" appearing in the subsection.

Ref: LEG/10/67.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Interpretation and General Clauses (Amendment) Ordinance 1988

(No. 23 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short title.
- 2. "The principal Ordinance"
- 3. Repeal and replacement of section 81A of the principal Ordinance.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Interpretation and General Clauses (Amendment) Ordinance 1988

(No. 23 of 1988)

An Ordinance to amend the Interpretation and General Clauses Ordinance 1977.

> (Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Interpretation and General Clauses (Amendment) Short title. Ordinance 1988.

2. In this Ordinance, "the principal Ordinance" means the Interpretation and General Clauses Ordinance 1977.

"The principal Ordinance". (No. 14 of 1977).

3. Section 81A of the principal Ordinance is repealed and the following new sections 81 A to 81C are substituted therefor -

"Application 81 A. (1) of English law.

81 A. (1) In this section -

Repeal and replacement of section 81A of the principal Ordinance.

(a) "the 1900 English law" means

- (i) all statutes of general application in force in England on 22nd May 1900; and
- (ii) all subsidiary legislation of general application which is for the time being in force and which was made under any statute referred to in subparagraph (i);
- (b) the "current English law" means any imperial enactment for the time being in force in England; and
- (c) "specific legislation" means -

- (i) any imperial enactment which expressly or by necessary implication applies to the Falkland Islands independently of this section (and whether such application is by virtue of any imperial enactment or by virtue of any Ordinance or subsidiary legislation made under any Ordinance), and
- (ii) any Ordinance or subsidiary legislation made thereunder.

(2) Subject to this section and to section 76 the 1900 English law shall apply in the Falkland Islands unless it has been repealed in relation to England.

(3) Subject to this section and to section 76, if a provision of the current English law deals with the same or substantially the same subject matter as a provision of the 1900 English law which it repeals, amends or augments, that provision of the current English law shall apply in the Falkland Islands instead of or in addition to that provision of the 1900 English law.

(4) If any specific legislation is inconsistent with any law to which subsection (2) or subsection (3) relates, then to the extent of the inconsistency that specific legislation shall apply instead of that law.

81 B. (1) The common law and the rules and doctrines of equity for the time being applying in England shall apply in the Falkland Islands except insofar as they are inconsistent with -

- (a) any imperial enactment for the time being applying in the Falkland Islands; or
- (b) any Ordinance or subsidiary legislation made thereunder.

(2) Where the common law conflicts with the rules and doctrines of equity or either of them, equity shall prevail.

81 C. The imperial enactments specified in the Schedule to this Ordinance shall continue to apply in the Falkland Islands."

Specific application of certain imperial enactments.

Ref: LEG/10/5.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

Application of English Common law and Equity.

The Telecommunications Ordinance 1988 (No. 24 of 1988)

ARRANGEMENT OF PROVISIONS

PART I

PRELIMINARY

Section

- 1. Short title.
- 2. Interpretation.

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LICENCES

- 3. Telecommunications services not to be provided without licence.
- 4. No licence required for certain Crown et cetera purposes.
- 5. Agreement with telecommunications utility.
- 6. Broadcasting without broadcasting station licence prohibited.
- 7. Other licences.
- 8. Private telecommunications systems.
- 9. Criminal offence.

PART III

TELECOMMUNICATIONS UTILITIES

- 10. Functions and powers of telecommunications utility.
- 11. Company to provide Government with information.
- 12. Inspection of telecommunications utilities installations.
- 13. Compulsory acquisition of land.
- 14. Right of entry and to construct lines across land.
- 15. Telecommunications utility to pay compensation.
- 16. Lines may be laid under streets etc.
- 17. Damage to property or injury to persons.
- 18. Alteration of works at request of another person.
- 19. Trees obstructing telegraph lines.
- 20. Height and depth of lines.

PART IV

WORKS ON SHORE AND ON SEA BED AND SUBMARINE CABLES

- 21. Company not to carry out certain works without the consent of the Crown or of the Government.
- 22. International obligations to be complied with.

PART V

TELEGRAMS

- 23. Offensive language in telegrams.
- 24. Theft, destruction, forging or alteration of telegrams.
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TELEPHONES, TELEX, FACSIMILE AND DATA TRNSMISSION SEVICES

- 26. Meaning of "telephone or telex service".
- 27. Application for telephone or telex service.
- 28. Liability of applicant for payment for work done.
- 29. Liabilities of telecommunications utility.
- 30. Telecommunications utility to offer to sell equipment.
- 31. Liability for maintenance of installation.
- 32. Subscriber to protect telecommunication utility's employees and property at premises at risk.
- 33. Damage to telecommunication utility's property on subscriber's premises.
- 34. Limitation of subscribers rights to recover damages.
- 35. Minimum period of service.
- 36. Termination of service by telecommunications utility.
- 37. Service not to be assigned or disposed of.
- 38. Payments in advance.
- 39. Telecommunications utility may alter telephone or telex number et cetera.
- 40. Subscriber's right to provide own equipment.
- 41. Indecent calls.
- 42. Access to subscribers' premises.
- 43. Supplementary provisions related to termination of service.
- 44. Subscriber to provide power.
- 45. Subscriber to pay tariff and other listed charges.
- 46. Arbitration as to tariff.
- 47. Directory entries.
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REVOCATION OF BROADCASTING AND TELECOMMUNICATIONS UTILITY LICENCES

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- 50. Prior notice of breach.
- 51. Powers of the Supreme Court on application for leave to revoke licence.

52. Revocation of licence.

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PART VIII

COMPENSATION FOR ASSETS OF FORMER LICENSEE

54. Right to compensation.

PART IX

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55. Power to make regulations.

56. Regulations as to use etc of wireless telegraphy apparatus.

57. Misleading messages and interception of messages.

58. Deliberate interference.

59. Entry and search of premises etc.

60. Interpretation of this Part.

61. Adoption of the Marine & Broadcasting (Offences) Act 1967.

62. Jurisdiction in relation to offences under this Ordinance.

63. Repeal.

Schedule - Initial tariff.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

Telecommunications Ordinance 1988

(No. 24 of 1988)

An Ordinance to provide for the issue of licences for wireless telegraphy operations and installations and in particular the licensing of a telecommunications utility in the Falkland Islands and for the provision, development, operation and management of the Falkland Islands internal and external public telecommunications services and for matters connected therewith or incidental to any of the foregoing matters.

> (Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

PART I

PRELIMINARY

1. This Ordinance may be cited as the Telecommunications Ordinance 1988.

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

Short title. Interpretation.

"amateur" means a person who is interested in radio techniques solely with a personal aim and without pecuniary interest;

"amateur radio station" means a radio station operated by an amateur;

"broadcast" means the transmission by wireless telegraphy of aural or visual material dedicated for reception by the public at large;

"broadcasting station licencee" means a person licenced to operate a broadcasting station;

"construct" means to erect, set up, lay down, or place;

"Crown" includes Her Majesty's Government in the United Kingdom;

"exchange line" means a circuit provided as part of an installation for the purpose of connecting that installation with a telex or telephone exchange, not being a circuit provided as a private circuit or part of a private circuit;

"fixed station" means -

- (a) a station intended to be operated from a fixed point to a fixed point or points; or
- (b) a headquarters station intended to be operated solely for the purpose of communicating with land mobile stations;

"installation" means equipment or apparatus supplied by the telecommunications utility to a subscriber for the purpose of providing telecommunications; "ITU Convention" means the International Convention of Nairobi 1982 and any later Convention amending or replacing the same to which the United Kingdom or the Falkland Islands is a party and includes the General and Administrative Regulations from time to time in force under any such Convention to the extent that such General and Administrative Regulations extend to the Falkland Islands;

"message" means any communication, whether oral, written, printed or displayed or conveyed by the system or by any other means;

"mobile station" means a land station intended to be operated while in motion or during halts at unspecified points;

"public system" means the public telecommunications system;

"radio" means the transmission or reception over any distance without connecting wires of images and other visual matter and of sounds, signs or signals by electrical means;

"radio communications equipment" means any apparatus or article, or any part thereof, intended for or capable of transmitting or receiving images, signs, signals or visual matter by radio;

"sender", in relation to a telegram, means the person from whom that telegram purports to have come, unless such person proves that he is not the sender thereof;

"service" means any service or facility provided by telecommunications utility as a means of supplying telecommunications;

"subscriber" means a person on whose application the telecommunications utility provides service by means of an installation and includes, where the context so requires, an applicant for service to be provided by the telecommunications utility;

"subscriber's premises" means any premises in or on which an installation or part of an installation is situated, being premises in the possession or occupation or under the control of the person who is a subscriber in respect of the installation or of a person for whose use the installation or part thereof is provided on the application of the subscriber, or premises connected by telecommunications with such premises by means of an extension or private wire comprised in the installation;

"telecommunications services" includes telephone, telex, telegraph, data, facsimile and leased circuit services, together with appropriate terminal equipment;

"telecommunication" means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems;

"telecommunications utility" means a person or body corporate licensed under section 3(2) to provide telecommunications services to the public;

"telegram" means any communication transmitted or intended to be transmitted by telegraph or delivered or intended to be delivered as a communication transmitted in whole or in part by telegraph;

"telegraph" means any system or means of conveying signs, signals, images, sounds or communications by the agency of electricity, magnetism or electromagnetism or any agency of a like nature, whether with or without the aid of wires, and includes wireless telegraphy, radio and visual transmission by the system commonly known as television and telephone;

"telegraph lines" includes any apparatus, instrument, pole, mast, standard, wire, pipe, tunnel, pneumatic or other tube thing or means which is or may be used in connection with or for the purpose of sending, transmitting, conveying or receiving telegraphic signs, signals, sounds or communications;

PART II

LICENCES

3. (1) Except as provided by this Ordinance it is unlawful for any person or body corporate to provide within the Falkland Islands any telecommunications system or to provide telecommunications services to any other person.

Telecommunications services not to be provided without licence.

(2) The Governor may grant to any person or body corporate a licence to provide to other persons telecommunications services upon such terms and conditions, not inconsistent with this Ordinance, as the Governor thinks fit.

"ITU Convention" means the International Convention of Nairobi 1982 and any later Convention amending or replacing the same to which the United Kingdom or the Falkland Islands is a party and includes the General and Administrative Regulations from time to time in force under any such Convention to the extent that such General and Administrative Regulations extend to the Falkland Islands;

"message" means any communication, whether oral, written, printed or displayed or conveyed by the system or by any other means;

"mobile station" means a land station intended to be operated while in motion or during halts at unspecified points;

"public system" means the public telecommunications system;

"radio" means the transmission or reception over any distance without connecting wires of images and other visual matter and of sounds, signs or signals by electrical means;

"radio communications equipment" means any apparatus or article, or any part thereof, intended for or capable of transmitting or receiving images, signs, signals or visual matter by radio;

"sender", in relation to a telegram, means the person from whom that telegram purports to have come, unless such person proves that he is not the sender thereof;

"service" means any service or facility provided by telecommunications utility as a means of supplying telecommunications;

"subscriber" means a person on whose application the telecommunications utility provides service by means of an installation and includes, where the context so requires, an applicant for service to be provided by the telecommunications utility;

"subscriber's premises" means any premises in or on which an installation or part of an installation is situated, being premises in the possession or occupation or under the control of the person who is a subscriber in respect of the installation or of a person for whose use the installation or part thereof is provided on the application of the subscriber, or premises connected by telecommunications with such premises by means of an extension or private wire comprised in the installation;

"telecommunications services" includes telephone, telex, telegraph, data, facsimile and leased circuit services, together with appropriate terminal equipment;

"telecommunication" means any transmission, emission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems;

"telecommunications utility" means a person or body corporate licensed under section 3(2) to provide telecommunications services to the public;

"telegram" means any communication transmitted or intended to be transmitted by telegraph or delivered or intended to be delivered as a communication transmitted in whole or in part by telegraph;

"telegraph" means any system or means of conveying signs, signals, images, sounds or communications by the agency of electricity, magnetism or electromagnetism or any agency of a like nature, whether with or without the aid of wires, and includes wireless telegraphy, radio and visual transmission by the system commonly known as television and telephone;

"telegraph lines" includes any apparatus, instrument, pole, mast, standard, wire, pipe, tunnel, pneumatic or other tube thing or means which is or may be used in connection with or for the purpose of sending, transmitting, conveying or receiving telegraphic signs, signals, sounds or communications;

PART II

LICENCES

3. (1) Except as provided by this Ordinance it is unlawful for any person or body corporate to provide within the Falkland Islands any telecommunications system or to provide telecommunications services to any other person.

Telecommunications services not to be provided without licence.

(2) The Governor may grant to any person or body corporate a licence to provide to other persons telecommunications services upon such terms and conditions, not inconsistent with this Ordinance, as the Governor thinks fit.

- (3) A licence under subsection (2) may be granted -
 - (a) so as to be valid for an indefinite period until determined by a period of notice which shall not exceed five years;
 - (b) so as to be valid for a fixed period of years, not exceeding twenty years; or
 - (c) so as to be valid for a fixed period of years not exceeding twenty, and then to continue indefinitely unless and until determined on the expiration of the fixed period of years or at any later time by a period of notice, not to exceed five years.

(4) If a licence granted under this section licences the provision of all public telecommunications services, both internal and external, for the Falkland Islands, the licence may be expressed to be an exclusive licence, in which case no further licence shall be granted under subsection (2) which takes effect before the expiry or sooner determination of that licence.

4. (1) Nothing in section 3 shall in any way effect or preclude the right of the Crown to establish, extend, maintain, or work any telecommunications apparatus or station, or authorise any other person to establish, extend, maintain or work any telecommunications apparatus or substation on behalf of the Crown -

No licence required for certain Crown et cetera purposes.

- (a) for any Crown purpose of a non-commercial nature;
- (b) for experimental purposes;
- (c) for broadcasting;
- (d) for aeronautical services;
- (e) for purposes associated with the navigation of ships or the safety of shipping; or
- (f) for scientific purposes,

if any such telecommunications apparatus or station is not used to provide telecommunications services to the public of a kind or nature which are provided by a licensee licenced under section 3(2).

(2) For the purposes of subsection (1) the operation of any telecommunications apparatus station by Her Majesty's armed forces or by the British Antarctic Survey, is subject to the proviso to that subsection, deemed to be a Crown purpose of a non-commercial nature.

(3) Nothing in Section 3 shall apply so as to prevent any person doing anything within the territorial sea that he is permitted to do under any treaty convention or agreement relating to international maritime satellite communications.

5. (1) The Government may at any time (whether before or after the granting of a licence under section 3 (2)) enter into an agreement in writing with a telecommunications utility on terms not contrary to this Ordinance and providing (inter alia) for obligations to be observed by the telecommunications utility in or in connection with the provision of telecommunication services.

(2) A telecommunications utility shall perform and observe each and all of its obligations under any such agreement as is referred to in subsection (1) and if it shall fail or neglect at any time to do so, it shall be deemed to be in breach of its obligations under this Ordinance and notice may be given to it under section 49 of intention to revoke its licence.

6. (1) Subject to this section, it is unlawful for any person or body corporate to operate a broadcasting station except under the authority of a licence granted under this Ordinance.

(2) The Governor may grant to any person or body corporate, upon such conditions as he thinks fit, a broadcasting station licence.

(3) The provisions of section 5 apply in respect of broadcasting station licences and holders of such licences as they do to telecommunication utility licences with such modifications and adaptations as may be necessary in the circumstances.

Agreement with telecommunications utility.

Broadcasting without broadcasting station licence prohibited.

- (4) A broadcasting station licence is not required -
 - (a) in respect of any broadcasting station operated by the Government;
 - (b) in respect of any broadcasting station operated by the Services Sound and Vision Corporation substantially for the benefit of members of Her Majesty's regular armed forces and their dependents.
 - (c) in respect of the supply of programmes by the Services Sound and Vision Corporation for rebroadcast by any broadcasting station operated by the Government.

(5) Nothing in subsection (1) shall render it unlawful for any person to do what an amateur may lawfully do in relation to an amateur radio station (without prejudice however to any requirement under regulations made under section 7 that he shall possess a licence for the operation of an amateur radio station).

7. (1) The Governor may make regulations providing that no person shall erect, maintain, or have in his possession any radio communications equipment or transmit by radio any sound, image, sign or signal unless he is a person who does so by authority of a licence granted under a preceding provision of this Part or exempted by virtue of a preceding provision of this Part from possessing such a licence, he is authorised to do so by a licence granted under such regulations.

(2) Regulations to which subsection (1) relate may exempt from their provisions the establishment, installation, or uses of stations of such classes or descriptions as may be therein specified, either absolutely or subject to such terms, provisions and limitations as may be so specified.

(3) Regulations made under subsection (1) may provide that licences granted under such regulations may be issued subject to such terms, provisions and limitations as the Governor may think fit, including in particular in the case of a licence to establish a station, limitations as to the position and nature of the station, the purposes for which, the circumstances in which, and the persons by whom the station may be used, and the apparatus which may be installed or used therein, and in the case of any other licence, limitations as to the apparatus which may be installed or used, and the places where, the purposes for which, the circumstances in which, the circumstances in which and the persons by whom the apparatus may be used.

- (4) Regulations made under subsection (1) may further
 - (a) provide for the period or periods of validity of any class or category of licence issued under authority of such regulations;
 - (b) provide for the revocation or variation of the terms, provisions or limitations of a licence issued under authority of the said regulations;
 - (c) provide for the payment of fees for the issue or renewal of a licence granted thereunder and the exemption of any class or category of person specified therein from the payment of such fees;
 - (d) provide for the things which are to be done or are not to be done in connection with the use of any station licenced thereunder for wireless telegraphy or wireless telegraphy apparatus, obligations as to permitting and facilitating the inspection of any such station and it apparatus, as to the condition in which such station and any such apparatus are to be kept and, in the case of a station or apparatus for the establishment, installation or use of which such a licence is necessary, as to the production of the licence, or of such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations;
 - (e) contain such other provisions as are necessary or convenient in relation to the erection, maintenance, possession or operation of any radio communications equipment other than any radio communications equipment erected, maintained possessed or used under authority of a licence granted under any proceeding provision of this Part.

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Other licences.

12. (1) The Government and any public officer or agent duly authorised by the Government may at all reasonable times enter upon all or any of the stations, offices and installations in the Falkland Islands in the possession or occupation of a telecommunications utility (either solely or jointly with any other person or persons) for the purpose of inspecting any of the apparatus used in telecommunications of the utility and the working and use of such apparatus provided that any information thereby gained with regard to such apparatus shall not be published or publicly made known by the Government or such officer or servant without the prior consent of the telecommunications utility.

(2) If in the opinion of the Government any telecommunications apparatus is causing interference with any other apparatus (including in particular but without limitation of the generality of the foregoing, any apparatus operated by Her Majesty's armed forces) the Government may serve notice upon the operator of the telecommunications apparatus requiring him to take such steps or do such things as may be necessary to prevent such interference, and that telecommunications utility shall, within such period of time as may be reasonable in all the circumstances, take all steps as are necessary to comply with any such notice.

13. (1) For the purposes of any law of the Falkland Islands relating to the compulsory acquisition of land for public purposes, the functions and operations of a telecommunications utility shall be deemed to be public purposes.

(2) It shall be lawful for the Government to exercise its powers under any law relating to the compulsory acquisition of land for public purposes for the purpose of acquiring land or of rights over or in connection with land with the intention of enabling the telecommunications utility to enjoy that land or those rights in connection with land for the purpose of its functions and operations as a telecommunications utility.

14. (1) Subject to this section, a telecommunications utility may, for the purpose of its functions and operations under its licence, after giving at least 48 hours prior notice in writing, enter upon any land, including land reserved for public purposes, street, road or footpath and construct and maintain thereon any telegraph, telegraph lines, or conduct work upon, under, over, along or across any land, street, road or footpath and for that purpose may attach wires, stays or any other kind of support to any building or other structure, and may remove or alter any such line, work, wires, stays or support.

(2) Nothing in subsection (1) shall be construed or interpreted as permitting a telecommunications utility to do anything mentioned in that subsection without the consent of the owner, and where appropriate also the consent of the occupier, of the land in question, unless the telecommunications utility has served such notice in writing detailing the works it intends to carry out and the owner, or as the case may be, the occupier, has not within the period of 14 days following the service of such notice, by notice to the Summary Court requested that court to consider whether or not the telecommunications utility should be permitted without his consent to construct or maintain on the land in question the things mentioned in the telecommunications utility's notice to him to which subsection (1) refers.

(3) On notice being given to it by an owner or occupier of land pursuant to subsection (2) the Summary Court shall issue a summons requiring the telecommunications utility and the owner, or, as the case may be, the occupier, who gave the notice pursuant to subsection (2) to attend before it on a day and time fixed by the court (without prejudice, however, to the power of the Summary Court (whether of its own motion or on the application of any party) to adjourn the matter to another day and time).

(4) If on the hearing of a summons to which subsection (3) applies, the telecommunications utility in question satisfies the Summary Court that the works in question -

- (a) are reasonable having regard to the functions and operations of the telecommunications utility under its licence; and
- (b) ought reasonably be permitted to be undertaken on the land in question; and
- (c) that the said works will not seriously interfere with the present enjoyment, for the purposes for which the land in question is at present used, of the said land,

Inspection of telecommunications utilities instalations.

Compulsory acquisition of land.

Right of entry and to construct lines across land. the Summary Court shall declare that the telecommunications utility shall be entitled at any time thereafter, after giving such notice as is required by subsection (1) to enter upon the land in question for the purpose of construction or, as the case may be, maintenance of works the subject of its notice under subsection (2) of this section, but an appeal lies to the Supreme Court at the instance of a party aggrieved by a decision of the Summary Court under this section.

(5) Notwithstanding the foregoing provisions of this section, a telecommunications utility may enter upon any land, on, under or over which there is any thing to which subsection (1) relates for the purpose of carrying out urgent repairs or urgent maintenance to any such thing either without notice or after a period of notice less than 48 hours and whether or not the owner or occupier of the land consents thereto.

15. (1) If a telecommunications utility constructs any telegraph line upon the land of any other person it shall, if the owner, or as the case may be, the occupier of the land so requires pay to such owner and, as the case may be, the occupier of such land adequate compensation.

(2) In subsection (1), "adequate compensation" means such lump sum payment or periodic payment as may be agreed between the parties to be adequate compensation or, in default of such agreement, such lump sum payment or periodic payment as is determined by the Summary Court, on the application of any party, to be adequate compensation.

(3) An application to the Summary Court to which subsection (2) refers may be made by notice in writing by the telecommunications utility or the owner of the land or, as the case may be, the occupier of the land concerned which specifies the works to which the notice relates and any such notice shall be delivered to the office of the Summary Court.

(4) On receipt of a notice to which subsection (3) relates, the Summary Court shall issue a summons requiring the telecommunications utility and the owner, or as the case may be, the occupier of the land in question, to appear before it on a day and at a time specified in the summons (provided that nothing in the foregoing shall preclude the Summary Court of its own motion or on the application of any party from adjourning the matter) when the Summary Court shall determine the amount of compensation which shall be paid by the telecommunications utility to the owner, or as the case may be, occupier, of the land in question.

(5) Any person aggrieved by a decision of the Summary Court under subsection (4) as to the amount of compensation to be paid by the telecommunications utility may, by notice in writing delivered to the office of the Supreme Court within 21 days from the date of such determination, appeal to the Supreme Court.

(6) The telecommunications utility shall be obliged to pay the compensation determined by the Summary Court or, as the case may be, on appeal therefrom by the Supreme Court, and if it shall fail to do so the person to whom such compensation is to be paid may recover the same by civil proceedings in any court of competent jurisdiction.

> Lines may be laid under streets etc.

16. (1) After reasonable notice in writing to the Director of Public Works, a telecommunications utility may construct, maintain, alter or remove in the manner specified in that notice any telegraph or telephone line, pipe tunnel or tube required for telegraphic or telephone purposes beneath such street, road or footpath and may for such a purpose break or open up any street, road or footpath and alter the position thereunder of any pipe, not being a sewer, drain or mains for the supply of water, gas or electricity.

(2) The Director of Public Works and any public officer or other person appointed by him for the purpose shall be entitled at all times, while work in connection with the alteration in the position of that pipe is in progress, to supervise that work, and the telecommunications utility shall pay all reasonable expenses of the Director of Public Works incurred in connection with the supervision of any alteration or removal to which subsection (1) applies or in connection with the supervision of work relating to any such alteration or renewal.

Telecommunications utility to pay compensation. 17. (1) A telecommunications utility shall carry out any work required for the purposes of its licence with due regard to the safety and convenience of persons and with the minimum of damage to property, and shall make good all roads, streets or footpaths disturbed by such work.

(2) A telecommunications utility shall not be liable for compensation for injury or damage caused by the execution of works by it unless that such injury or damage was caused by the negligence of the telecommunications utility, its employees or agents.

18. (1) Where, as a result of any works undertaken by another person, it becomes necessary, in the reasonable opinion of a telecommunications utility, to alter any pre-existing telegraph or telephone line belonging to such utility, the cost of such alteration shall be borne by the person who undertook those works.

(2) Where any telegraph or telephone line passing over land interferes or may interfere with any building about to be erected on that land, the owner of that land may require the telecommunications utility to cause the line to be diverted or altered in such a manner as will remove any obstacle to building operations.

(3) A requirement under subsection (2) shall be made by notice in writing delivered to the telecommunications utility not less than 28 days before the diversion or alteration is required to be effected.

(4) The cost of any diversion or alteration required by a notice under subsection (3) shall be borne by the person at whose request the diversion or alteration is effected.

19. Where a telegraph or telephone line may be interfered with or endangered by any tree or undergrowth, a telecommunications utility may, after giving such notice to the owner and as the case may be, occupier, of the land in question as may be reasonable in all the circumstances, cut down or trim such tree or undergrowth -

Provided that whenever reasonably possible in the circumstances the telecommunications utility shall permit the owner or occupier of the land upon which such tree or undergrowth grows a reasonable opportunity of himself carrying out the necessary cutting down or trimming.

20. (1) The height of aerial wires or cables along the boundary of any land or on any street, road, or footpath shall be at least three metres, and every aerial wire or cable which crosses any land, steet, road, or footpath shall be at least five metres above the surface of the ground beneath it -

Provided that nothing in this subsection shall oblige any telecommunications utility to alter the height of any aerial wire or cable constructed or erected by the Government prior to 31 May 1988.

(2) A telecommunications utility shall not construct or lay any underground telegraph or telephone line at a depth of less than thirty centimetres below the surface of the ground.

PART IV

WORKS ON SHORE AND ON SEA BED AND SUBMARINE CABLES

21. (1) Notwithstanding any foregoing provision of this Ordinance, it shall be unlawful for a telecommunications utility to carry out any works whatsoever upon the shore or on the bed of the sea without the prior consent of the Crown in writing.

(2) It shall be lawful for the Crown or the Government and any person authorised by the Crown at any time to remove from the shore and the bed of the sea any buildings, works or material which may have been placed there by any telecommunications utility without the consent of the Crown or which by reason of having been abandoned or suffered to fall into decay may be in such a condition as, in the opinion of the Crown, to prejudice or obstruct or cause reasonable apprehension that they may prejudice or obstruct navigation, or be or become injurious to any person or property and to restore the shore and bed of the sea to the former or proper condition thereof.

Company not to carry out certain works without the consent of the crown or of the Government.

Damage to property or injury to persons.

Alteration of works at request of another person.

Trees obstructing telegragh lines.

Height and depth of lines.

(3) The Crown may recover from the telecommunications utility responsible for the placing on the shore or bed of the sea any building works or materials removed under subsection (2) the cost of their removal and may do so by civil action.

22. (1) Whenever a telecommunications utility constructs or lays any submarine communications cable of any type on or along any shore or on the bed of the sea or in any other place within the Falkland Islands, the telecommunications utility shall in respect thereof at all times comply with and observe the provisions of the Submarine Telegraph Act 1885 in its application to the Falkland Islands under section 11 of that Act.

(2) A telecommunications utility shall at all times observe and comply with all provisions of the International Telecommunications Union Convention which are applicable to or relate in any way to the telecommunication utility's operations and functions within the Falkland Islands.

(3) Without prejudice to the generality of subsection (2), a telecommunications utility shall promptly comply with all its obligations relating to the settlement of international telecommunications accounts with other administrations and to pay for goods and services imported for the purposes of the telecommunications utility.

(4) No exchange control restrictions shall be imposed the effect of which would be unreasonably to restrict a telecommunications utility transferring money from the Falkland Islands.

PART V

TELEGRAMS

23. A telecommunications utility is not obliged to accept for transmission, nor shall it knowingly transmit, any telegram which reasonably appears to contain anything of a blasphemous, indecent, obscene, offensive or defamatory nature.

24. Any person who -

- (a) with fraudulent intent takes from the possession of any employee of a telecommunications utility or from a person having the custody thereof for the telecommunications utility, or from any telecommunications office, or steals, secretes or destroys, any telegram or any part thereof or fraudulently receives any such telegram or part thereof;
- (b) forges a telegram or alters a telegram knowing the same to be forged or false or transmits as a telegram any message or communication purporting to be a telegram which he knows to be forged or false; or
- (c) knowingly sends, delivers or causes to be sent or delivered to any person for the purpose of being transmitted as a telegram any message or communication which has been wilfully and without due authority altered, or which purports to be signed or sent by any other person without that person's consent or who wrongfully signs any telegram with the name of any other person without that person's consent, or with the name of some fictious person, or who wilfully and without the consent of the sender alters any telegram, or writes, issues or delivers any message or communication which purports to be a telegram received through a telegraph office but which was not so received,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding £1,000 or to imprisonment for a term not exceeding six months, or both such fine and such imprisonment.

25. (1) It shall be the obligation of every telecommunications utility to bring to the attention of all its staff the rules of secrecy relating to telecommunications contained in the ITU Convention.

(2) Any employee of the Corporation who, except as he may be permitted to do so under any other law, without the consent of the sender or addressee, or otherwise than in pursuance of his duty, opens or tampers with or divulges the contents or substance of any telegram or discloses its existence otherwise than by delivering it or giving a copy thereof to the person to whom he is authorised to deliver it or to give such copy, or who maliciously

Offensive language in telegrams.

Theft, destruction, forging or alteration of telegrams.

International obligations to be complied with.

Secrecy of telecommunications. or wilfully misdelivers, mistimes, secretes, intercepts, destroys, makes away with, alters or omits to transmit or deliver or prevents or delays the transmission or delivery of any telegram, or makes use for his own purposes of any knowledge he may acquire of the contents of any telegram, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding £1,000 or a term of imprisonment not exceeding six months or to both such fine and such imprisonment.

PART VI

TELEPHONES, TELEX, FACSIMILE AND DATA TRANSMISSION SERVICES

26. In every subsequent provision of this Part, the expression "telephone or telex service" includes any service whereby by equipment at the subscriber's premises and by use of any service provided by the telecommunications utility any transmission, emission, or reception of signs, signals, writing, images and sounds or intelligence of any nature whether by wire, radio, optical or other electrical or electro-magnetic system takes place.

27. (1) A telecommunications utility may require any person who wishes a telephone or telex service to be provided to him to make application in writing on an application form provided for the purpose by the telecommunications utility.

(2) Where it appears to a telecommunications utility that an applicant for a telephone or telex service is not the occupier of the building or premises to which he has requested the service to be provided, the telecommunications utility may require the applicant to produce to it such evidence as the telecommunications utility may reasonably request to satisfy it that the occupier is aware of the application and consents to the installation of the necessary apparatus and the provision to the premises or building of that service.

(3) A telecommunications utility shall not unreasonably refuse to provide a telephone or telex service in accordance with an application (but, for the purposes of this subsection a refusal by a telecommunications utility to provide such service is reasonable if, without prejudice to any other reason by virtue of which it may be reasonable, the ground on which it refuses to provide such service is that the applicant has failed to discharge within a reasonable period any account submitted to him by the telecommunications utility for any telecommunications services and is still indebted to the utility in respect thereof).

28. (1) If an applicant withdraws his application for a telephone or telex service or, as a result of anything done or omitted by the applicant, any apparatus or service specified in his application is not provided, and the work relating to such service is in progress or has been completed then the applicant shall pay to the telecommunications utility the cost of the work carried out by the telecommunications utility with a view to providing him with telephone or telex service together with the amount of the periodic rental or charge for the minimum period of service for which, in accordance with the telecommunication utility's standard terms of business, it is prepared to provide such service.

(2) In addition to any cost which he is obliged to pay by virtue of subsection (1), the applicant shall pay the cost of the removal by the telecommunications utility of any of its apparatus or equipment which is upon his premises.

29. (1) A telecommunications utility which has installed apparatus or equipment at a subscriber's premises and has agreed to supply service to him shall subject to the provisions of this Ordinance, maintain such apparatus and equipment in good working order

(2) A telecommunications utility shall not be liable to any person, and a subscriber shall not be entitled to any repayment of rental, for or on account of or in respect of any loss or damage suffered by that person or by any other person by reason of or in connection with —

- (a) a failure to provide or delay in providing service, any apparatus equipment or service ancillary thereto;
- (b) a failure, interruption, suspension or restriction of service or a service ancillary thereto;
- (c) a delay of or fault in communications by way of service provided; or
- (d) an error in or omission from a directory or other document relating to such service.

Meaning of "telephone or telex service,"

Application for telephone or telex service.

Liability of applicant for payment for work done.

Liabilities of telecommunications utility. 30. (1) Save as provided by this section, a telecommunications utility shall give every subscriber a choice between —

Telecommunications utility to offer to sell equipment.

- (a) the rental of any equipment supplied to him in connection with any service; or
- (b) the purchase from the telecommunications utility of that equipment at a reasonable price.

(2) In subsection (1), "a reasonable price" means such price as is reasonable having regard to the cost to the telecommunications utility of the equipment and its transport to the Falkland Islands and a reasonable profit margin to the utility above such cost.

(3) Where a subscriber purchases any equipment from a telecommunications utility, the telecommunications utility shall offer to maintain that equipment for a reasonable period of time after its purchase at reasonable charges.

- (4) Nothing in subsection (1) above shall -
 - (a) apply to telex machines; or
 - (b) prevent a telecommunications utility making a periodic standing charge to a subscriber for the provision of any telephone or telex service to him.

31. (1) Notwithstanding section 29 (1), a telecommunications utility shall not be liable to maintain any part of such installation which has been sold by it to a subscriber where the subscriber has not accepted the offer of the telecommunications utility under subsection (3) of the last foregoing section to maintain the same.

(2) For the purpose of maintaining any installation it is obliged to maintain (and insofar as the installation is its own property, at its own expense) a telecommunications utility shall supply all necessary spare parts and replace such installation or any part thereof where it becomes unserviceable or otherwise inoperative due to fair wear and tear.

(3) Every part of an installation provided by a telecommunications utility shall, except insofar as the same has been sold by the telecommunications utility to the subscriber, remain the property of the telecommunications utility and the subscriber shall be reponsible for the safety of all such parts thereof as are in or on a subscribers premises, fair wear and tear excepted.

32. (1) If at any time a telecommunications utility serves notice in writing upon a subscriber informing that subscriber that, in the opinion of the telecommunications utility, the premises at which a telephone or telex service is or is to be provided by the telecommunications utility are subject to abnormal risk of fire, flood or explosion, or that the telecommunication utility's employees or property on that subscribers premises are subject to abnormal risks of injury or damage, the subscriber shall take such steps to protect all telephone or telex apparatus and equipment installed or to be installed on the premises as the telecommunication utility may reasonably require.

(2) If a subscriber, without reasonable excuse, fails or refuses to take any step which a telecommunications utility has reasonably required him to take pursuant to subsection (1), the telecommunications utility may terminate the telephone or telex service to that subscriber and may enter upon the subscriber's premises for the purpose of disconnecting and recovering all or any telephone or telex apparatus and equipment belonging to the telecommunications utility.

33. (1) If by any cause other than the negligence or default of the telecommunications utility's employees, servants or agents or fair wear and tear, any damage or loss is occasioned on the subscriber's premises to any property of the telecommunications utility, the subscriber shall pay to the telecommunications utility the amount of any cost or expense incurred by the telecommunications utility in repairing or replacing any such property.

(2) If by any cause other than the negligence or default of the telecommunications utility its employees, servants or agents any injury or death is occasioned to any person on the subscriber's premises the subscriber shall, as and when called upon by the telecommunications utilities so to do, indemnify the telecommunications utility against all actions, proceedings, claims, demands or any costs or expenses incidental thereto arising out of or in connection with such injury or death.

instaliation.

Liability for maintenance of

Subscriber to protect telecommunication utilitie's employees and property at premises at risk.

Damage to telecommunication utilitie's property on subscriber's premises.

Limitation of subscriber's right to recover damages.

34. (1) Subject to subsection (2), a person shall not be entitled to recover damages from a telecommunications utility in respect of any loss, damage, injury or death sustained or suffered by that person through, as a result of or consequential upon any explosion or fire or electric potential attributable directly or indirectly —

- (a) to anything done or omitted by any person engaged in the business of the telecommunications utility; or
- (b) any property of the utility on or joined to any person's premises.

(2) Subsection (1) shall not apply so as to prevent a person recovering damages he would otherwise be entitled to recover from a telecommunications utility if the loss, damage, injury or death was caused or contributed to by the negligence or default of the telecommunications utility, its servants employees or agents.

35. (1) The minimum period of service in respect of any telephone or telex service provided by a telecommunications utility to any subscriber shall be such period of service as is agreed between the telecommunications utility and that subscriber.

(2) If a subscriber requests a change in that subscriber's installation requiring the supply of additional apparatus or equipment either in the subscriber's premises or elsewhere or both, the telecommunications utility may require the subscriber to agree to such of the following as the telecommunications utility may in its discretion require —

- (a) a minimum period of service in respect of the added apparatus or equipment only; or
- (b) a fresh minimum period of service in respect of the whole installation including the added apparatus or equipment.

(3) A subscriber shall be obliged to pay periodic charges or service rental however described in respect of the minimum period of service in relation to the installation provided to him.

(4) Except where a telecommunications utility, under any other provision of this Ordinance, itself terminates the provision of service to a subscriber, a subscriber shall continue to pay periodic charges or rental however described in respect of services provided to him by telecommunications utility until the later of -

- (a) the expiration of the minimum period of service applicable to that service; or
- (b) the expiry of one month's notice in writing given by the subscriber to the telecommunications utility,

Provided that if the telecommunications utility enters into an agreement with another person to provide at the same premises the same service to that other person as was provided to the subscriber, the subscriber shall not be liable to pay periodic charges or rental to the telecommunications utility in respect of that installation in relation to any period of time falling after the date on which the telecommunications utility commences to provide service to that other person.

36. (1) A telecommunications utility may cease to provide a service to a subscriber -

- (a) in the circumstances provided by section 41 (3) (indecent calls etc); or
- (b) in the circumstances provided by section 43 (2) (failure to pay sums due to the telecommunications utility etc.)

(2) Where in any circumstances mentioned in subsection (1), a telecommunications utility terminates service to a subscriber, that subscriber shall not be entitled to any refund or reduction in any periodic charge or rental (however described) for the minimum period of service which has been paid or is payable under this Ordinance.

37. (1) A subscriber shall not, except with the written consent of a telecommunications utility assign, dispose of or part with a service provided by the telecommunications utility to that subscriber.

(2) A subscriber who contravenes subsection (1) shall, without prejudice to any other right or remedy of the telecommunications utility, continue to be liable for all rental charges and sums due or which may become due in respect of the installation, the use thereof and the services and facilities rendered at the request or with the authority of the person using the installation.

Termination of service by telecommunications utility.

Service not to be assigned or

disposed of.

Minimum period of service. (3) A subscriber shall be liable to pay all charges for calls made from any telephone or telex installation at his premises to which services are provided by the telecommunications utility, notwithstanding that such calls were made without his knowledge or authority, and it shall be presumed in favour of the telecommunications utility that every call made using any such service was made with the subscriber's authority.

38. (1) If, at the request of an applicant, a telecommunications utility provides service for a period of less than one year, it may require the applicant to pay in advance the rental and a sum on account of call charges.

(2) Without prejudice to subsection (1), a telecommunications utility may on agreeing to provide service to a subscriber require that subscriber to pay by way of deposit such amount, not exceeding three months periodic charge or rental together with £100 or such other greater sum as may be prescribed by regulations on account of call charges to become payable by that subscriber.

(3) The telecommunications utility may retain any of the deposit to which subsection (2) relates until the liability of the subscriber in respect of charges for service has been discharged or for as long as service continues to be provided to that subscriber.

(4) The fact that a telecommunications utility holds a deposit under subsection (1) shall not reduce a subscriber's liability to pay bills rendered to him by the telecommunications utility and no sum held as a deposit under subsection (1) or (2) shall be applicable in discharge of any charge or fee until the provision to the subscriber of service is terminated by the subscriber or by the telecommunications utility.

(5) In the event of the final amount payable to a telecommunications utility upon termination of service being less than the amount of any deposit heid by the telecommunications utility, the amount by which the deposit exceeds the final amount payable shall be repaid to the subscriber.

39. A telecommunications utility may -

- (a) at any time after at least fourteen days notice in writing to a subscriber alter the telephone or telex number alloted to that subscriber and shall not be responsible for any loss or damage to that subscriber which may be caused thereby;
- (b) at any time without notice change or alter apparatus, equipment or facilities provided by the telecommunications utility other than upon the subscriber's premises.

40. (1) A telecommunications utility shall not unreasonably refuse to connect or allow a subscriber to connect for use with that telecommunications utility's telecommunications systems and services equipment or apparatus intended for subscriber use and obtained by the subscriber other than from the telecommunications utility —

Provided that a telecommunications utility shall not be obliged to connect or allow a subscriber to connect a telex machine not owned by the utility and rented to the subscriber.

(2) For the purposes of subsection (1), a telecommunications utility's refusal to allow a subscriber to use his own equipment or apparatus is reasonable (without prejudice to any other circumstances in which it may be reasonable) if that equipment or apparatus is not compatible with or may do damage or harm of any kind to the telecommunication utility's telecommunications systems, equipment or apparatus.

(3) A subscriber shall not use any equipment or apparatus in or in connection with any service provided to him by a telecommunications utility unless —

- (a) the telecommunications utility has provided him with that equipment or apparatus; or
- (b) he has given reasonable notice to the telecommunications utility of his intention to use that equipment or apparatus in connection with a service provided to him by the utility and either —
 - the utility has consented to the use by him for that purpose of the equipment or apparatus; or

Telecommunications utility may alter telephone or telex number et cetera.

Subscriber's right to provide own equipment.

Payments in advance.

(ii) the utility has not, within such time as may be reasonable, informed the subscriber that it will not allow the use of that equipment or apparatus.

(4) A subscriber who contravenes subsection (3) commits an offence and is liable on conviction to a fine of £200.

(5) A subscriber shall not without the consent express or implied of the telecommunications utility, make or permit to be made any alteration or addition to any equipment or apparatus connected to or capable of being connected to the public system or attach anything to an installation or connect, place or use anything in connection therewith, electrically by induction or mechanically, unless it is approved by or provided by the telecommunications utility for that purpose, nor shall he without the consent of the telecommunications utility attach or cause or permit to be attached any equipment or apparatus belonging to the telecommunications utility to anything, and any person contravening this subsection commits an offence and is liable on conviction to a fine of £200.

41. (i) Any person who uses the public system for -

Indecent calls.

- (a) sending to any other person against that person's will any message or communication of an indecent or obscene nature; or
- (b) persistently making telecommunications calls for the purpose of causing annoyance or inconvenience or needless anxiety to any other person,

commits an offence and is liable on conviction to a fine of £500 or to imprisonment for three months or both such fine and such imprisonment.

(2) A telecommunications utility may interrupt any message or refuse to give service to a person who it believes is transmitting or causing to be transmitted any message or signal contravening subsection (1).

(3) A telecommunications utility may, without notice, terminate the provision of telephone or telex services to any subscriber where it reasonably believes that with the knowledge of the subscriber the services provided to the subscriber's premises are persistently being used in breach of any provision of this section and the subscriber has refused or neglected to take steps which he has been reasonably requested by the telecommunications utility to take to prevent further contraventions of any provision of this section.

42. (1) A subscriber shall permit authorised employees of the telecommunications utility to have access at all reasonable times to any land or building in the possession or control of the subscriber for the purpose of inspecting, installing, maintaining, recovering or altering any telecommunications apparatus or equipment provided by the telecommunications utility and situated in, on, over or under any such land or building.

(2) A subscriber shall at the request of any employee of a telecommunications utility upon any land or building pursuant to subsection (1) inform that employee to the best of the knowledge and belief of the subscriber of the location of any hazard to that employee or any apparatus or equipment of the utility caused or likely to be caused by any matter or thing upon such land or building.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine of $\pounds 200$.

43. (1) If the supply of service by the telecommuncations utility is terminated either by the subscriber or by the telecommunications utility, the subscriber shall surrender to the telecommunications utility the installation upon his premises and together with all fixtures and accessories thereof (except such as may belong to him) in as good condition as when received, fair wear and tear accepted.

(2) Whenever a subscriber fails within thirty days of its receipt by him to pay or discharge any account rendered to him by a telecommunications utility or has a receiving order made against him or becomes insolvent or makes any composition or arrangement with or assignment for the benefit of his creditors, or, being a company goes into liquidation, whether voluntary or otherwise, or a receiver is appointed of the whole or any part of the property of a subscriber, or a subscriber fails to observe or perform any provision of this Part then, and in any such case, the telecommunications utility may (without prejudice to any other

Access to subscribers' premises.

Supplementary provisions related to termination of service. right or remedy it may have) without notice terminate or suspend wholly or in part any service provided by it to that subscriber and, where it thinks fit to do so, disconnect any installation upon that subscriber's premises.

44. (1) A subscriber shall, if reasonably required so to do by a telecommunications utility, provide at his premises at his own expense a continuous supply, at a pressure not exceeding 240 volts and a nominal frequency of 50 Hertz, of electricity required by the telecommunications utility for the installing, operation and maintenance of the installation and any part thereof.

(2) Electricity supplied pursuant to subsection (1) shall be supplied at such point or points and by such means of connection and connection to earth and with such protective devices as the telecommuncations utility may from time to time require.

(3) A subscriber who is obliged to supply a continuous supply of electricity pursuant to subsection (1) shall pay any cost incurred by the telecommunications utility from time to time in making any alteration to an installation required to conform to any change made otherwise than by the telecommunications utility and the method of supplying utility to the installation or in the electric current used, or to prevent injurious affection to the installation by any electric line or plant erected on the subscribers premises.

(4) Where a public supply of electricity is available at the premises a request by the telecommunications utility under subsection (1) shall be deemed to be reasonable.

45 (1) A subscriber in respect of an installation and any service provided thereto and any other person supplied other than at the cost of a subscriber with any service shall pay the appropriate rentals, charges and fees set out in the Schedule to this Ordinance ("the tariff") and in respect of any installation or service not referred to or described in the tariff such rental charge or fee as may from time to time be made in respect of such installation or service by the telecommunications utility.

(2) The Governor may by regulations amend add to or otherwise vary the Schedule and may do so -

- (a) by increasing or decreasing any rental, charge or fee to which the tariff relates;
- (b) by including or inserting in the tariff a rental, charge or fee to be paid to a telecommunications utility in respect of a matter or thing not previously provided by the tariff; and
- (c) inserting in the tariff provisions for the payment in the circumstances therein specified, of such specially reduced or increased rental, charges and fees therein specified.
- (3) The Governor shall not by exercise of his powers under subsection (2) -
 - (a) reduce any rental, charge or fee provided for in the Schedule as originally enacted or as from time to time in force by any previous regulations made under subsection (2); or
 - (b) amend the tariff so as to include therein any matter or thing for which provision is not presently made by the Schedule either as originally enacted or as amended from time to time by regulations previously made under subsection (2),

unless the Governor shall at least six weeks prior to making such regulations have given notice in writing of his intention so to do to the telecommunications utility and

- (i) the telecommunications utility has consented thereto in writing; or
- (ii) the matter has been referred to arbitration in accordance with the provisions of the next following section and it has been determined as a result of such arbitration that, having regard to the provisions of subsection (3) of that section that, it is reasonable for the Governor so to do.

(4) A telecommunications utility may at any time by notice in writing request the Governor by regulations under subsection (2) to vary the tariff for the time being in force.

Subscriber to provide power.

Subscriber to pay tariff and other listed charges. (5) If the Governor on receipt of a request under subsection (4) is not willing within six weeks from the date thereof to vary the tariff in the manner requested by a telecommunications utility shall, if the telecommunications utility so requests him refer the matter to arbitration under the provisions of the next succeeding section.

46. (1) Whenever the Governor wishes to alter in any manner the tariff contained in the Schedule or a public utility wishes the Governor to vary that tariff and the Governor and the public utility are not able to agree on such variation, then the difference between them so arising shall be submitted to arbitration in accordance with this section.

(2) The difference shall be referred to and determined by arbitration in London under the International Arbitration Rules of the London Court of International Arbitration and having regard to the provisions of subsection (3).

(3) For the purposes of arbitration under this section and the making of regulations under the last forgoing section, it is declared that the tariff shall be fixed and from time to time reviewed in such manner as to enable the telecommunications utility to operate and maintain national and international telecommunications systems and services in the Falkland Islands on an economic basis with a reasonable return on its investment after allowing for all costs (including the payment of amounts equal to 5% of net revenue within the islands to the head office of the telecommunications utility outside the said islands in respect of the provision of central support services).

47. (1) A telecommunications utility, unless otherwise required by the subscriber, shall make an entry, in a telephone or telex directory published by it or on its behalf, in respect of every exchange line and every entry shall be made on such terms and in such form, manner and order as, in the absence of any provision by regulations under this Ordinance, the telecommunications utility thinks fit.

(2) A subscriber may apply to a telecommunications utility (or, where so required, to a publisher acting on behalf of the telecommunications utility) for a special entry, in respect of a specified exchange line provided for him, to be made in a directory —

- (a) in bold type;
- (b) containing supplementary information;
- (c) in a section other than the appropriate section of the directory at such charge as may from time to time be fixed in relation thereto by the telecommunications utility.

(3) "Directory" in subsections (1) and (2) includes in relation to a subscriber who is engaged in any trade, profession or business and as such pays any such rental as is payable by a person who rents an installation for business purposes, a section in which the entries are classified according to the trade profession or business of subscribers.

48. (1) A telecommunications utility shall not be held liable or deemed to be in default in respect of any obligation to any subscriber in respect of any failure to perform its obligations under this Part, insofar as such failure results directly or indirectly from force majeure, nor shall a subscriber be entitled to any abatement of rental for the period of any failure so resulting.

(2) For the purposes of subsection (1) "force majeure" means any law or order or direction of the Government with which the telecommunications utility is required to comply, any failure or delay of transportation, inability to obtain or delay in obtaining any necessary labour, manufacturing facilities, materials or other component parts, a strike or other labour difficulty, insurrection, riot, national emergency, Act of God, act or omission of a subscriber or any other like cause beyond the control of the telecommunications utility.

Arbitration as to tariff.

Directory entries.

Force majeure.

PART VII

REVOCATION OF BROARDCASTING AND TELECOMMUNICATIONS

UTILITY LICENCES

49. (1) A broadcast licence or a telecommunications utility licence may, notwithstanding anything contained therein or anything contained in any agreement between the Government and the licencee, be revoked in accordance with the provisions of this Part.

(2) A licence to which subsection (1) relates may only be revoked if the licence is in substantial and continuing breach of -

- (a) any of the provisions of the licence; or
- (b) any agreement to which section 5 (1) refers; or
- (c) any of its obligations under any proceeding provision of this Ordinance, or two or more of the circumstances referred to in subparagraphs (a) to (c) of this subsection apply in the circumstances of the case, and (in any event) the Governor has obtained the leave of the Supreme Court under this Part to determine the licence.

50. (1) The Governor shall not be entitled to make application to the Supreme Court for leave to determine a broadcasting licence or telecommunications utility licence unless at least six weeks before making such application, the Governor has caused to be served upon the licensee a notice in writing specifying in sufficient detail the grounds upon which the Governor claims to be entitled to revoke the licence.

(2) A licencee is entitled to such further particulars of any ground referred to in a notice which subsection (1) relates as are reasonably necessary to enable it to oppose the application by the Governor to the Supreme Court for leave to revoke the licence.

(3) Subject to subsection (1), the Governor may apply to the Supreme Court for leave to determine a broadcasting licence or telecommunications licence.

51. (1) The Supreme Court shall not grant leave to the Governor to revoke a broadcasting or telecommunications utility licence unless the Supreme Court is of opinion that in all the circumstances of the case it is just and equitable so to do.

(2) Upon the hearing of any application for leave to revoke a broadcasting or telecommunications utility licence, the Supreme Court may, on the application of any party or of its own motion, adjourn the hearing of the application for such time as it thinks fit in order to afford to the licensee such opportunity as to the Supreme Court seems reasonable to rectify or remedy any breach of the licence which it appears to the Supreme Court may exist.

(3) On determination of an application for leave to revoke a licence, the Supreme Court may either grant or deny such leave and the determination of the Supreme Court shall be final and conclusive and shall not be subject to appeal or otherwise be called into question in any court or tribunal whatsoever.

52. The Governor may, in accordance with any leave granted by the Supreme Court, determine any licence to which such leave relates by causing to be served upon the licensee at its principal place of business in the Falkland Islands a notice in writing revoking such licence.

53. (1) The revocation of a licence in accordance with this Part shall not in any way prejudice or prevent the former licensee from recovering (and if necessary by action) any debt or charge due to it from any person in respect of telecommunications services provided to the person before the revocation of the licence.

(2) A former licensee under a telecommunications utility licence shall not, on revocation of its licence in accordance with this Part, be entitled to remove from any premises belonging to it any of its property to which the licence relates but shall be entitled in accordance with Part VIII to be paid compensation in respect of such property.

PART VIII

COMPENSATION FOR ASSETS OF FORMER LICENSEE

54. (1) Whenever a telecommunications utility licence comes to an end and is not renewed for a period commencing with the expiry of that licence, the Government shall pay to the former licensee compensation in accordance with the provisions of this section.

Circumstances in which broardcasting or telecommunications utility licence may be revoked.

Prior notice of breach.

Powers of the Supreme Court on application for leave to revoke licence.

Revocation of licence.

Effect of revocation.

Right to compensation. (2) Subsection (1) applies regardless of whether the licence of the telecommunications utility came to an end by reason of a effluxion of time or by revocation.

(3) Where a telecommunications utility's licence has come to an end by revocation, then notwithstanding subsequent provisions of this section, the amount payable to the former licensee by way of compensation shall be abated or reduced by any damage or loss suffered by the Government arising out of or in connection with the breaches of the obligations of the licensee which resulted in the revocation of the licence.

(4) The obligation of the Government under this section to pay, subject to this section, compensation to a former licensee is to pay to the former licensee the fair value of its telecommunications assets in the Falkland Islands.

(5) In subsection (4) -

"assets" means -

- (a) the land, buildings (and contents thereof), including staff quarters (if any), plant, apparatus, spares, stores and other articles in the Falkland Islands belonging to and reasonably used or intended to be used by the former licensee in the provision or operation of the national and international telecommunications systems and services the subject of its licence; and
- (b) all reasonable outstanding commitments incurred by the former licensee in respect of the carrying on of the operations which it was authorised to carry on by the former licence in the Falkland Islands;

"the fair value" means the fair value at the time of purchase by the Government due regard being had to -

- (i) to the replacement value of the asset;
- (ii) the age and standard life expectency of the asset; and
- (iii) the condition of the asset.

(6) If the licence of the former licensee was determined by the Government under any provision of the licence enabling the Government to determine the licence by written notice, the Government shall not by virtue of any provision of this section be obliged to pay any compensation to the former licensee in respect of any major extension or major renewal of any of the equipment, plant, apparatus or buildings in the Falkland Islands of the licensee effected after the service of such notice of determination unless, prior to such major extension or major renewal the former licensee served notice in writing upon the Government applying to the Government for its consent thereto and either —

- (a) the Government gave consent to such major extension or renewal; or
- (b) the withholding of such consent was, in the circumstances of the case, unreasonable.

(7) If the Government and the former licensee are unable to agree together the amount of compensation to be paid to the former licensee under the provisions of this section then, at the instance of either the Government or the former licensee the matter shall be referred to arbitration in accordance with the arbitration law of the Falkland Islands for the time being in force and the determination in such arbitration subject to any right of appeal shall be binding on the Government and the former licensee.

(8) Any compensation payable by the Government to a former licensee under the provisions of this section shall subject to any right of appeal be paid forthwith upon the amount thereof being agreed between the Government and the former licensee or, if not agreed, determined by arbitration under subsection (7) and shall stand charged upon the Consolidated Fund until paid.

PART IX

GENERAL

55. (1) The Governor may make regulations prescribing anything necessary or convenient to be prescribed for the purposes of this Ordinance.

Power to make regulations.

(2) Without prejudice to the generality of the Governor's powers under subsection (1) regulations made under that subsection may provide —

- (a) for fees to be paid on the issue or renewal of any licence to which the regulations relate; and
- (b) the amount of such fees (and different provision may be made in relation to different licences, according to the nature, terms, provisions, limitations and duration of such licences).

(3) Notwithstanding any previous provision of this section, no regulations made under this section may require the payment of any fees by any person ordinarily resident in the Falkland Islands in respect of the issue or renewal of any amateur radio licence.

56. (1) The Governor may make regulations -

- (a) prescribing the things which are to be done or are not to be done in connection with the use of any station for wireless telegraphy or wireless telegraphy apparatus, and, in particular, requiring the use of any such station or apparatus to cease on the demand in that behalf of any such persons as may be prescribed by or under the regulations;
- (b) imposing on the person to whom a wireless telegraphy licence is issued with respect to any station for wireless telegraphy or wireless telegraphy apparatus, or who is in possession or control of any station for wireless telegraphy or wireless telegraphy apparatus, obligations as to permitting and facilitating the inspection of the station and apparatus, as to the condition in which the station and apparatus are to be kept and, in the case of a station or apparatus for the establishment, installation or use of which a wireless telegraphy licence is necessary, as to the production of the licence, or of such other evidence of the licencing of the station or apparatus as may be prescribed by the regulations;
- (c) requiring the person to whom a wireless telegraphy licence authorising the establishment or use of a station has been issued to exhibit at the station such notices as may be specified in the regulations,

and different provisions may be made by any such regulations for different classes of case.

(2) Regulations to which subsection (1) relate may provide that any contravention of such regulations shall be an offence punishable on conviction by such fine as is precribed by such regulations (but such fine shall not exceed £500).

57. A person is guilty of an offence who -

- (a) by means of wireless telegraphy, sends or attempts to send, any message which, to his knowledge, is false or misleading and is, to his knowledge, likely to prejudice the efficiency of any safety of life service or endanger the safety of any person or of any vessel, aircraft or vehicle and, in particular, any message which, to his knowledge, falsely suggests that a vessel or aircraft is in distress or in need of assistance or nor in distress or not in need of assistance; or
- (b) otherwise than under the authority of the Governor or in the course of his duty as a servant of the Crown or of a telecommunications utility licenced under this Ordinance, either —
 - (i) uses any wireless telegraphy apparatus with intent to obtain information as to the contents, sender or addressee of any message (whether sent by means of wireless telegraphy or not) which neither the person using the apparatus nor any person on whose behalf he is acting is authorised by the Governor to receive; or
 - (ii) except in the course of legal proceedings or for the purpose of any report thereof, discloses any information as to the contents, sender or addressee of any such message, being information which would not have come to his knowledge but for the use of wireless telegraphy apparatus by him or by another person,

Misleading messages and interception of messages.

Regulations as to use etc. of wireless telegraghy apparatus. and is liable on conviction thereof to a fine not exceeding £1,000 or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

58. A person is guilty of an offence who uses any apparatus whatsoever for the purpose of interfering with any wireless telegraphy and is liable on conviction thereof to a fine not exceeding \pounds 500 or to imprisonment for three months or both such fine and such imprisonment.

59. (1) If a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Part 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, vessel or aircraft so specified, he may grant a search warrant authorising any person or persons authorised in that behalf by the Governor and named in the warrant, with or without any police officer, to enter, at any time within one month from the date of the warrant, the premises specified in the information or, as the case may be, the vehicle, vessel or aircraft so specified and any premises upon which it may be, and to search the premises, or, as the case may be, the vehicle, vessel or aircraft.

(2) Where under subsection (1) a person has a right to examine and test any apparatus on any premises or in any vesse!, aircraft or vehicle, it shall be the duty of any person who is on the premises, or is in charge of, or in or in attendance on, the vessel, aircraft or vehicle, to give him any such assistance as he may reasonably require in the examination or testing of the appartus.

- (3) A person who
 - (a) obstructs any person in the exercise of the powers conferred on him under this section; or
 - (b) fails or refuses to give to any such person any assistance which is under this section under a duty to give him; or
 - (c) discloses, otherwise than for the purposes of this part or of any report of proceedings thereunder, any information obtained by means of the exercise of powers under this Part, being information with regard to any manufacturing process or trade secret,

commits an offence and is liable on conviction thereof to a fine not exceeding £1,000 or to imprisonment for three months or both such fine and such imprisonment.

60. (1) In this Part, except where the context otherwise requires, every expression has the same meaning as it has for the purpose of the Wireless Telegraphy Act 1949 by virtue of the provisions of section 19 of that Act.

(2) In considering for any of the purposes of this Part whether, in any particular case, any interference with any wireless telegraphy caused or likely to be caused by the use of any apparatus, is or is not undue interference, regard should be had to all the known circumstances of the case and the interference shall not be regarded as undue interference if so to regard it would unreasonably cause hardship to the person using or desiring to use the apparatus.

61. The Marine, &c, Broadcasting (Offences) Act 1967 is adopted as law of the Falkland Islands.

62. The Senior Magistrate and the Summary Court shall each have jurisdiction in respect of any offence under any provision of this Ordinance and may impose any sentence authorised by this Ordinance to be imposed on the conviction of any person of any offence created thereby.

63. The Wireless Telegraphy Ordinance (Cap. 78) is repealed.

Deliberate interference.

Entry and search of premises etc.

Interpretation of this Part.

Adoption of the Marine &c Broadcasting (Offences) Act 1967.

Jurisdiction in relation to offences under this Ordinance.

Repeal.

SCHEDULE

(Tariff)

- 1. Rental of Lines -
 - (a) Residential £4.00 per month; and
 - (b) Business £8.00 per month.
- 2. Telephone Call Charges -
 - (a) within the Falkland Islands -
 - (i) Dialled calls 5p per minute or part thereof;
 - (ii) Operator connected calls 8p per minute or part thereof;
 - (b) International calls
 - (i) United Kingdom
 - (A) Dialled direct 15p for each 6 seconds or part thereof;*
 - (B) Person to person or other operator connected calls £6.00 and 15 pence for each 6 seconds or part thereof in excess of three minutes:
 - (ii) Rest of World -
 - (A) Dialled calls 18p for each 6 seconds or part thereof;
 - (B) Person to person or other operator connected calls £7.20 and 18 pence for each six seconds or part thereof in excess of three minutes.

3. Alarm Calls, Advise Duration and Charge of calls and Reverse Charges Fees - 20p.

- 4. Telex call charges -
 - (a) within the Falkland Islands 25p per minute or part thereof;
 - (b) International calls -
 - (i) to United Kingdom £1.95 per minute or part thereof;
 - (ii) rest of Europe £2.47 per minute or part thereof;
 - (iii) rest of World £2.73 per minute or part thereof.
- 5. Facsimile Calls -
 - (a) from customer's own facility: as per telephone call charges in item 2 above;
 - (b) From Cable and Wireless plc counter -
 - (i) within Falkland Islands: first sheet (maximum size A4) 75 pence, every subsequent sheet 25 pence;
 - (ii) International: appropriate international telephone call charge as per item 2 above plus 50 pence;

6. Installation Fees -

- (a) Telephone
 - (i) Stanley £15.00;
 - (ii) Camp £100 (but until initial installation of Camp Telecommunications System is completed £15);
- (b) Telex -
 - (i) Stanley £30.00;
 - (ii) Camp £100.00;
- (c) Facsimile -
 - (i) Stanley -
 - (a) on existing telephone line £15;
 - (b) on dedicated line £30;
 - (ii) Camp £100 (and whether on existing line or on dedicated line).

(No charge is to be made if customer installs the facsimile machine himself)

Notes

1. The charges mentioned above are the maximum charges permitted. In all cases relating to installation of equipment in Camp they are inclusive of the cost of travel to the relevant location and regardless of the time engaged in the job concerned, travel and waiting.

2. Any charge not mentioned above is not regulated under the Ordinance.

3. This Schedule does not regulate charges for services to which the International Maritime Satellite Convention relates.

Ref: TEL/1/1.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

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P. T. KING, Clerk of Councils.

The Education (Amendment) Ordinance 1988 (No. 25 of 1988)

ARRANGEMENT OF PROVISIONS

Section

.

1. Short Title.

2. Amendment of Education Ordinance 1967. Schedule.



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Education (Amendment) Ordinance 1988

(No. 25 of 1988)

An Ordinance to amend the Education Ordinance 1967.

(Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

This Ordinance may be cited as the Education (Amendment) Ordinance 1988. 1,

2. The Education Ordinance 1967 is amended in the manner specified in the Schedule to this Ordinance.

Amendment of Education Ordinance 1967. (No. 14 of 1967)

SCHEDULE

Amendments to the Education Ordinance 1967

1. Section 3(1) is amended by the deletion of the word "on" appearing therein and by the substitution in its place of the words "with effect from".

- 2. Section 3(2) is repealed and replaced by the following subsection
 - "(2) For the purposes of this section
 - "term" includes any subsequent holiday period falling before the commencement of the next (a) following term;
 - (b) the first term in every calendar year (regardless of when it actually begins) shall be deemed to begin on 1st February in that year."

3. Section 6(2) is repealed and replaced by the following subsection --

"(2) Subsection (1) shall apply to and in respect of a child from the day with effect from which he is required by section 3 of this Ordinance to be entered as a pupil until the last day of the term in the academic year in which he attains the age of fifteen years (and for the purposes of this subsection every academic year shall be deemed to commence on 1st February and to end on the next following 31st January)."

Ref: EDU/10/1.

Short title.

(Section 2)

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

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P. T. KING, Clerk of Councils.

The Customs (Amendment) Ordinance 1988 (No. 26 of 1988)

Arrangement of Provisions

Section

1. Short Title.

2. Amendment of the Customs Ordinance. Schedule.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Customs (Amendment) Ordinance 1988

(No. 26 of 1988)

An Ordinance to amend the Customs Ordinance.

(Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Customs (Amendment) Ordinance 1988.

Short title,

2. The Customs Ordinance is amended as specified in the Schedule to this Ordinance.

Amendment of the Customs Ordinance. (Cap. 16)

SCHEDULE

The Customs Ordinance is amended by the insertion therein, immediately after section 6, of the following section -

Crown etc. exemption. 6A (1) Notwithstanding any other provision of this Ordinance there are exempt from all import or export duties of customs —

- (a) all goods imported or exported by the Governor for his personal use;
- (b) all goods imported or exported for use by Her Majesty's armed forces;
- (c) all goods imported or exported for his personal use by any person who
 - (i) not being a person who belongs to the Falkland Islands, is a serving member of Her Majesty's armed forces, an employee of the Navy Army and Air Force Institute or of the Services Sound and Vision Corporation or the spouse or dependent of any such person;
 - (ii) not being a person who belongs to the Falkland Islands, is in connection with the defence of the Falkland Islands in the service of Her Majesty in right of Her government in the United Kingdom or is the spouse or dependent of such a person;
 - (iii) not being a person who belongs to the Falkland Islands is a person or a member of a class of persons declared by the Governor after consultation with the Executive Council to be so closely associated with other persons

in the service of Her Majesty in Her armed forces or otherwise in connection with the defence of the Falkland Islands that he (or as the case may be, that class of persons) ought fairly to have the benefit of an exemption under this paragraph;

- (d) all goods imported or exported by --
 - (i) the Navy Army and Air Force Institute; or
 - (ii) the Services Sound and Vision Corporation,

and not intended for resale or other disposal to any person not entitled to the benefit of an exemption under this section.

(2) Notwithstanding any other provision of this Ordinance goods may be supplied within the Falkland Islands without the prior payment, or payment on such supply, of duty otherwise payable if the supply is to a person entitled to the benefit of an exemption from duty under subsection (1) above.

(3) In this section a person belongs to the Falkland Islands if he belongs to the Falkland Islands for the purpose of Chapter 1 of Schedule 1 to the Falkland Islands Constitution Order 1985.

(SI 1985 No. 444).

Ref: CUS/10/1: INC/10/6.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Road Traffic (Amendment) (No. 2) Ordinance 1988 (No. 27 of 1988)

ARRANGEMENT OF PROVISIONS

Section

1. Short title.

2. Interpretation.

3. Amendment of the principal Ordinance.

Schedule

Part 1 - Repeal and replacement of certain provisions of the principal Ordinance.

Part 2 - Amendment of certain provisions of the principal Ordinance.

Part 3 - Insertion of new sections and a Schedule in the principal Ordinance.



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON. Governor.

The Road Traffic (Amendment) (No. 2) Ordinance 1988

(No. 27 of 1988)

An Ordinance to Amend the Road Traffic Ordinance.

(Assented to: 21st December 1988) (Commencement: to be fixed) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Road Traffic (Amendment) (No. 2) Ordinance 1988 Short title. and shall come into force on such date as is notified by the Governor in a notice published in the Gazette; but different dates may be notified in respect of different provisions of this ordinance and more than one notice may be published under this section.

2. In this Ordinance, "the principal Ordinance" means the Road Traffic Ordinance.

- 3. The principal Ordinance is amended -
 - (a) by the repeal and replacement of certain provisions thereof in accordance with and as provided by Part 1 of the Schedule hereto;
 - (b) the amendment of certain provisions thereof in accordance with and as provided by Part 2 of the Schedule hereto; and
 - (c) by the insertion of a number of new sections and a Schedule therein in accordance with and as provided by Part 3 of the Schedule hereto.

THE SCHEDULE

(section 3)

Part 1

(Repeal and replacement of certain provisions of the principal Ordinance)

1. Section 3 of the principal Ordinance is repealed and is replaced by the following new section 3 -

"Registration of motor vehicles".

- 3. (1) Every motor vehicle in the Falkland Islands shall within 28 days of its first being used within the Falkland Islands be registered except that -
 - (a) any motor vehicle owned by the Crown and used by the Governor: and
 - (b) any motor vehicle to which section 4(3)(d) applies,

need not be registered.

Interpretation.

Amendment of the principal Ordinance.

(2) For the purposes of subsection (1), a motor vehicle is not used merely by reason of it being driven from the point of its arrival in the Falkland Islands to a place where it will be kept until sold or otherwise disposed of or by reason of its being driven for purpose of demonstration to a person interested in the acquisition of that vehicle.

(3) The obligation to register a motor vehicle is upon the person who, otherwise than under a contract for hire of the vehicle for a period of less than 14 days, is for the time being in law entitled against all others to the possession and use of that vehicle.

- (4) Any person who -
 - (a) being obliged under subsection (3) to register a motor vehicle, fails to do so; or
 - (b) drives a motor vehicle required to be registered,

unless he proves that he was not aware that the motor vehicle was not registered, commits an offence and is liable on conviction of that offence to a fine of f100?

2. Section 5 (2) of the principal Ordinance is repealed and replaced by the following —

"(2) For the purposes of subsection (1), a person is deemed not to be the holder of a driver's licence in force if he drives a motor vehicle of a class as to which no driver's licence he holds permits him to drive or he holds only a provisional licence in respect of that class of vehicle and he drives the vehicle in contravention of the conditions of that provisional licence"

3. Section 5 (4) of the principal Ordinance is repealed and is replaced by the following -

"(4) For the purpose of enabling a person to drive a motor vehicle with a view to passing a test under subsection (3) the Chief Police Officer may, if he is satisfied -

- (a) that the person is of an age such that a driver's licence of the relevant class could be granted to that person;
- (b) that the person is not suffering from any such disease or physical disability as is mentioned in paragraph (b) of subsection (3), and
- (c) that the prescribed fee has been paid,

grant to that person a provisional licence which said licence shall -

- (i) be granted subject to such conditions as are prescribed;
- (ii) be restricted so as to authorise only the driving of vehicles of the classes mentioned in the provisional licence; and
- (iii) shall be valid for a period of 3 months (but may be renewed on or before its expiry)."

4. Section 5 (5) of the principal Ordinance is repealed and is replaced by the following new subsections (5), (5A), (5B) and (5C) -

"(5) Where it appears to the Chief Police Officer -

- (a) that a licence granted by him to any person is required to be endorsed in pursuance of any enactment or was granted in error or with an error or omission in the particulars specified in the licence or required to be so endorsed on it, or
- (b) that the particulars specified in a Licence granted by him to any person do not comply with any requirement imposed since the licence was granted by any provision made by or having effect under any enactment,

the Chief Police Officer may serve notice in writing on that person revoking the licence and requiring him to deliver up the licence forthwith to him.

(5 A) Where the name or address of the licence holder specified in a licence ceases to be correct, its holder shall forthwith surrender the licence to the Chief Police Officer and furnish to him particulars of the alterations falling to be made in the name or address.

(5B) On the surrender of a licence by any person in pursuance of subsection (5) or (5A) the Chief Police Officer —

- (a) shall, except where the licence was granted in error or is surrended in pursuance of the said subsection (5) in consequence of an error or omission appearing to the Chief Police Officer to be attributable to that person's fault or in consequence of a current disgualification, and
- (b) may in such an excepted case which does not involve a current disqualification —

grant to that person free of charge a new licence for such a period that it expires on the date on which the surrendered licence would have expired had it not been surrendered, except that, where the period for which the surrendered licence was granted was based on an error with respect to the licence holder's date of birth such that, if that error had not been made, that licence would have been expressed to expire on a different date, the period of the new licence shall be such that it expires on that different date.

(5C) If the Chief Police Officer has reason to believe that the holder of a driver's licence is suffering from a disease or physical disability likely to cause the driving by him of a motor vehicle to be a source of danger to the public or that he is suffering from a prescribed disability, the Chief Police Officer may revoke that licence."

5. Sections 7, 7A and 7B and paragraph (k) of section 18(1) of the principal Ordinance are repealed and are replaced by the following new sections 7, 7A, 7B and 7C -

"Regulation of construction, weight, equipment and use of vehicles. 7. (1) The Governor may make regulations generally as to the use of motor vehicles and trailers on roads, their construction and equipment and the conditions under which they may be so used, and in particular, but without prejudice to the generality of the foregoing provisions, may make regulations with respect to any of the following matters -

- (a) the width, height and length of motor vehicles and trailers and the load carried thereby, the diameter of wheels, and the width, nature and conditions of tyres, of motor vehicles and trailers;
- (b) the towing of or drawing of vehicles by motor vehicles;
- (c) the number and nature of brakes, and for ensuring the brakes, silencers and steering gear shall be efficient and kept in proper working order;
- (d) the testing and inspection, by persons authorised by or under the regulations, of the brakes, silencers, steering gear, tyres, lighting equipment and reflectors of motor vehicles and trailers on any premises where they are, subject, however to the consent of the owner of the premises;
- (e) the appliances to be fitted for signalling the approach of a motor vehicle, or enabling the driver of a motor vehicle to become aware of the approach of another vehicle from the rear, or for intimating any intended change of speed or direction of a motor vehicle, and the use of any such appliance, and for ensuring that they shall be efficient and kept in proper working order.

(2) Different regulations may be made under subsection (1) as respects different classes or descriptions of vehicles or as respects the same class or description of vehicle in different circumstances and as respects different places in the Falkland Islands.

(3) Subject to the provisions of this section and section 7A of this Ordinance, a person -

- (a) who contravenes or fails to comply with any regulations made under this section; or
- (b) who uses on a road a motor vehicle or trailer which does not comply with any such regulations or causes or permits a vehicle to be so used,

commits an offence.

Tests of satisfactory condition of vehicles. 7A (1) The provisions of this section shall have effect in relation to motor vehicles for the purpose of ascertaining whether the prescribed statutory requirements relating to the construction and condition of motor vehicles or their accessories or equipment are complied with.

(2) The Governor may by regulations make provision for the examination of vehicles submitted for examination under this section and for the issue, where it is found on such an examination that the said requirements are complied with, of a certificate (hereafter in this Ordinance referred to as a "test certificate") that at the date of the examination the requirements were complied with in relation to the vehicle.

(3) Examinations for the purposes of this section shall be carried out by persons authorised for those purposes by the Governor (in this section referred to as "authorised examiners").

(4) Where a test certificate is refused, the examiner shall issue a notification of the refusal stating the grounds thereof.

(5) The Governor may make regulations for the purposes of giving effect to the foregoing provisions of this section and for prescribing anything authorised by this section to be prescribed, and in particular as to -

- (a) the authorisation of examiners, the imposition of conditions to be complied with by authorised examiners and the withdrawal of authorisations;
- (b) the manner in which, conditions under which and apparatus with which examinations are carried out, and the maintenance of that apparatus in an efficient state;
- (c) the manner in which applications may be made for the examination of vehicles under this section, information to be supplied and documents to be produced on such an application or examination;
- (d) the form of, and particulars to be contained in, test certificates and notifications of the refusal thereof; and
- (e) the issue of duplicates of test certificates lost or defaced and the fee to be paid for the issue thereof;
- (f) that where application is made for a licence under section 4 of this Ordinance for a vehicle to which this section applies that licence shall not be granted unless —
 - (i) there is produced such evidence as may be prescribed as to the granting of an effective test certificate or (if it is so prescribed) there is produced such certificate or there is furnished to the Chief Police Officer a copy thereof, or

- (ii) the owner of the vehicle proves to the satisfaction of the Chief Police Officer that the vehicle has not been used on roads (whether in the Falkland Islands or elsewhere) for a period or periods exceeding 12 months in aggregate since the date of its manufacture.
- (6) Regulations to which paragraph (f) of subsection (5) apply -
 - (a) shall not come into operation until they have been approved by a resolution of the Legislative Council; and
 - (b) may be made so as to apply to such classes only of vehicles as may be specified in those regulations.

(7) For the purposes of this section, the date of manufacture of a vehicle shall be taken to be the date on which its final assembly is completed.

(8) In this section "effective test certificate" means, in relation to an application for a licence for a vehicle under section 4 of this Ordinance, a test certificate relating to the vehicle and issued within a period not exceeding four weeks before the date on which the application for the licence is made or the date on which the licence is to come into force, which ever of those dates is the later.

7B A person who promotes or takes part in a race or trial of speed between motor vehicles on a road commits an offence.

Racing on roads prehibited. Road Code.

7C (1) The Governor shall cause to be prepared and published a code ("the Road Code") comprising directions for the guidance of persons using roads.

(2) A failure on the part of a person to observe a provision of the Road Code shall not of itself render that person liable to criminal proceedings but any such failure may in any proceedings (whether civil or criminal) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings?"

Part 2

(Amendment of certain provisions of the principal Ordinance)

- 1. Section 2(1) of the principal Ordinance is amended -
 - (a) by deleting the existing definition of "Hire car or Taxi" and replacing it with the following new definition —

"Hire car or Taxi" means a motor vehicle which -

- (a) plies for hire; or
- (b) not being constructed or adapted for the carriage of more than twelve persons in addition to the driver
 - (i) is hired at an entire and separate fee including the services of the driver; or
 - (ii) carries passengers for hire or reward at separate fares for each passenger,

and in either case in the course of a buisiness a substantial part of the activities of which consist of the provision of transport facilities; and

(b) by deleting the existing definition of "public service vehicle" and replacing it with the following new definition —

"public service vehicle" means a motor vehicle constructed or adapted or in fact used for the carriage of more than twelve persons in addition to the driver (but so that nothing in this definition shall preclude it from being also a Hire car or Taxi in the event that the vehicle plies for hire);"

2. Section 5(1) and section 5(3) of the principal Ordinance are each amended by the insertion at the commencement thereof of the words and punctuation "Except as may be provided by regulations," and paragraph (b) of section 5(3) is amended by the insertion therein, immediately before the full stop appearing at the end thereof, of the following words —

"or from a prescribed disability."

3. Section 9N of the principal Ordinance is amended by the addition thereto, immediately after subsection (3) thereof, of the following new subsection (4) -

"(4) No offence under subsection (1) is committed by a person who being a police officer drives a police vehicle, being a member of the fire service drives a fire appliance or other vehicle belonging to the fire service or being an ambulance driver drives an ambulance and in any such case at a speed in excess of that permitted under subsection (1) if, in all the circumstances, the reasonable performance of his duty required him so to do."

4. Section 12A of the principal Ordinance is amended by the addition thereto immediately after subsection (3) thereof of the following new subsection (4)

"(4) A requirement imposed by regulations under this section (whenever made) shall not apply to any follower of the Sikh religion while he is wearing a turban."

- 5. Section 12B of the principal Ordinance is amended
 - (a) by the insertion in subsection (1) thereof, immediately preceding the full stop at the end of that subsection, of the words —

"and may also make regulations prescribing (by reference, construction, or any other quality) types of appliance of any description to which this section applies as authorised for use by persons driving or riding (otherwise than in side cars) on motor cycles of any class specified in the regulations."

(b) by the insertion therein, immediately after subsection (1) thereof, of the following new subsections (1A) and (1B) —

"(1A) Regulations made under subsection (1) in relation to applicances other than heimets -

- (a) may impose restrictions or requirements with respect to the circumstances in which appliances of any type prescribed by the regulations may be used; and
- (b) may make different provision in relation to different circumstances.

(1B) If a person driving or riding on a motor cycle on a road uses an appliance (here including a helmet) of any description for which a type is prescribed under this section he shall be guilty of an offence if that appliance is not of a type so prescribed or is otherwise used in contravention of regulations under this section."

(c) the additon thereto, immediately following subsection (2) thereof, of the following subsections (3),
 (4) and (5) —

"(3) If a person sells, or offers for sale, an appliance (other than a helmet) of any such description as authorised for use by persons on or in motor cycles, or motor cycles of any class, and that appliance is not of a type prescribed under this section as authorised for such use, he commits an offence.

(4) The provisions of Schedule 1 to this Ordinance shall have effect in relation to contraventions of section 12A and to contraventions of this section but references to helmets shall be construed as extending to references to appliances which are not helmets and any reference to a type of helmet which could be lawfully sold or offered for sale shall extend to a reference to a type of appliance (not being a helmet) which could be lawfully sold or offered for use in the manner in question.

(5) In this section, any reference to an appliance other than a helmet means an appliance of any description designed or adapted for use —

- (a) with any head gear; or
- (b) by being attached to or placed upon the head (as, for example, eye-protectors or ear-phones), and
- (c) references to selling or offering for sale include respectively references to letting on hire and offering to let on hire?"

Part 3

(Insertion of new sections and a Schedule in the principal Ordinance)

1. The principal Ordinance is amended by the insertion therein, immediately after section 5 of the following new sections 5A and 5B -

Driving with uncorrected, defective eye sight. **5A** (1) If a person drives a motor vehicle on a road while his eyesight is such (whether through a defect which cannot be or one which is not for the

time being sufficiently corrected) that he cannot comply with any requirement as to eyesight prescribed under this Ordinance for the purposes of tests of competence to drive, he commits an offence.

(2) A police officer having reason to suspect that a person driving a motor vehicle may be guilty of an offence under subsection (1) may require that person to submit to a test for the purpose of ascertaining whether, using no other means of correction than he used at the time of driving, he can comply with the said requirement as to eyesight; and if that person refuses to submit to the test he commits an offence.

5B (1) If, in any proceedings for an offence committed in respect of a motor vehicle, it appears to the court that the accused may be suffering from any relevant disability, the court shall notify the Chief Police Officer in writing with such particulars as to the name and address and description of the accused as may be necessary.

(2) On receipt of a notification to which subsection (1) relates the Chief Police Officer may revoke the licence pursuant to section 5 (5C) of this Ordinance."

2. The principal Ordinance is further amended by the insertion therein, immediately after section 12B, of the following new section 12C -

Wearing of seat belts.

Notification of disease or

disability.

12C (1) The Governor may make regulations requiring, subject to such exceptions as may be prescribed, persons who are driving or riding in motor vehicles on a road to wear seat belts of such descriptions as may be prescribed.

- (2) Regulations under this section
 - (a) may be expressed so as to apply only to vehicles imported into the Falkland Islands on or after the date specified therein;
 - (b) may make different provision in relation to different classes of vehicles, different descriptions of persons and different circumstances;
 - (c) shall include exceptions for -
 - the users of vehicles constructed or adapted for the delivery of goods to consumers or addressees, as the case may be, while engaged in making local rounds of deliveries;
 - (ii) the drivers of vehicles while performing a manoeuvre which includes reversing; and
 - (iii) any person holding a valid certificate signed by a medical practitioner to the effect that it is inadvisable on medical grounds for him to wear a seat belt;
 - (d) may make any prescribed exceptions subject to such conditions as may be prescribed; and
 - (e) may prescribe cases in which a fee of a prescribed amount may be charged on an application for any certificate required as a condition of any prescribed exception.

(3) Any person who drives or rides in a motor vehicle in contravention of regulations under this section commits an offence; but notwithstanding any enactment or rule of law no person other than the person actually committing the contravention shall be guilty of an offence by reason of the contravention.

(4) Regulations under the previous provisions of this section requiring the wearing of seat belts by persons riding in motor vehicles shall not apply to children under the age of 14 (to whom the following subsections of this section apply).

(5) Except as provided by regulations made under subsection (7) a person shall not, without reasonable excuse, drive a motor vehicle on a road when there is in the front of the vehicle a child under the age of 14 years who is not wearing a seat belt in conformity with regulations made under that subsection. (6) A person who drives a motor vehicle in contravention of subsection (5) commits an offence.

(7) The Governor may by regulations –

- (a) except from the prohibition in subsection (5) children of any prescribed description, vehicles of a prescribed class or the driving of vehicles in such circumstances as may be prescribed;
- (b) define in relation to any class of vehicle what part of the vehicle is to be regarded as the front of the vehicle for the purposes of that subsection;
- (c) prescribe for the purposes of that subsection the description of seat belt to be worn by children of any prescribed description and the manner in which such a belt is to be fixed and used.

(8) In subsections (5) and (7) 'seat belt' includes any description of restraining device for a child and any reference to wearing a seat belt shall be construed accordingly.

(9) No regulations made under any provision of this section shall come into operation until those regulations have been approved by a resolution of the Legislative Council?

3. The principal Ordinance is further amended by the insertion therein, immediately after section 13 A thereof of the following new section 13 B -

"Offences connected with riding of pedal cycles. 13B (1) A person commits an offence who rides a cycle, not being a motor vehicle, on a road recklessly.

(2) A person commits an offence who rides a cycle, not being a motor vehicle, on a road without due care and attention or without reasonable consideration for other persons using the road.

(3) A person commits an offence who, when unfit to ride through drink or drugs, rides a cycle, not being a motor vehicle, on a road or other public place.

(4) A person liable to be charged with an offence under subsection (3) shall not be liable to be charged under section 12 of the Licensing Act 1872 with the offence of being drunk while in charge, on a highway or other public place, of a carriage. A police officer may arrest without warrant a person committing an offence under subsection (3).

(6) In this section -

- (a) "unfit to ride through drink or drugs means, as regards a person riding a cycle, under the influence of drink or a drug to such an extent as to be incapable of having proper control of it;
- (b) "road" includes a footpath within the boundaries of Stanley."

4. The principal Ordinance is further amended by the insertion therein, immediately after section 15, of the following new sections 16, 16A, 16B, 16C, 16D, 16E, 16F, 16G, 16H, 16I, 16J and 16K -

16. (1) A person commits an offence who, otherwise than with lawful authority or reasonable cause, takes or retains hold of, or gets onto, a motor vehicle or trailer while in motion on a road, for the purpose of being carried.

(2) A person commits an offence who, takes or retains hold of a motor vehicle or trailer while in motion on a road for the purpose of being drawn.

16A (1) A policy of insurance required by section 6 (1) of this Ordinance must satisfy the provisions of this section.

(2) A policy must be issued by an insurer who, in respect of policies to which Part VI of the Road Traffic Act 1972 relates is in the United Kingdom an authorised insurer within the meaning given in the expression "authorised insurer" by section 145(2) of that Act.

(3) Subject to subsection (4), the policy must insure such person, persons or classes of persons as may be specified in the policy in respect of any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by, or arising out of, the use of the vehicle on a road, including the payment or repayment of all charges by any Government hospital for emergency medical treatment for any such injury

(4) The policy shall not, merely be virtue of subsection (3), be required to cover -

Penalisation of holding or getting onto a vehicle in order to be towed or carried. Requirements in respect of policies of insurance.

- (a) liability in respect of the death, arising out of and in the course of his employment, of a person in the employment of a person insured by the policy or of bodily injury sustained by such a person arising out of an in the course of his employment; or
- (b) Any contractual liability.

16B (1) Where a policy of insurance to which section 6(1) relates or a certificate of insurance has been delivered by whom such a policy has been affected so much of the policy as purports to restrict the insurance of the persons insured by the policy by reference to any of the following matters, that is to say —

- (a) the age or physical or mental condition of the person driving the vehicle, or
- (b) the condition of the vehicle, or
- (c) the number of persons that the vehicle carries, or
- (d) the weight or physical charicateristics of the goods that the vehicles carries, or
- (e) the time at which or the areas within which the vehicle is used, or
- (f) the horse-power or cylinder capacity or value of the vehicle, or,
- (g) the carrying on the vehicle of any particular apparatus, or
- (h) the carrying on the vehicle of any particular means of identification other than plates prescribed by or under the provisions of this Ordinance, bearing the registered number of the vehicle

shall, as respects such liabilities as are required to be covered by a policy under section 16A, be of no effect -

Provided that nothing in this subsection shall require an insurer to pay any sum in respect of the liability of any person otherwise than in or towards the discharge of that liability, and any sum paid by an insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this subsection shall be recoverable by the insurer or giver of the security from that person.

(2) A condition in a policy issued or given for the purposes of section 6(1) providing that no liability shall arise under the policy, or that any liability so arising shall cease, in the event of some specified thing being done or omitted to be done after the happening of the event giving rise to a claim under the policy or security, shall be of no effect in connection with such liabilities as are required to be covered by a policy under section 16A of this Ordinance —

Provided that nothing in this subsection shall be taken to render void any provision in a policy requiring the person insured to pay to the insurer or the giver of the security any sums which the latter may have become liable to pay under the policy and which have been applied to the satisfaction of the claims of third parties.

(3) Where a person uses a motor vehicle in circumstances such that under section 6 (1) of this Ordinance there is required to be in force in relation to his use of it a policy of insurance of the kind mentioned in that provision, then, if any other person is carried in or upon the vehicle while the user is so using it, any antecedent agreement or understanding between them (whether intended to be legally binding or not) shall be of no effect so far as it purports or might be held —

Avoidance of certain exceptions to policies of insurance.

- (a) to negative or restrict any such liability of the user in respect of persons carried in or upon the vehicle as is required by section 16A of this Ordinance to be covered by a policy of insurance; or
- (b) to impose any conditions with respect to the enforcement of any such liability of the users.

and the fact that a person so carried has willingly accepted as his the risk of negligence on the part of the user shall not be treated as negativing any such liability of the user.

For the purposes of this subsection, references to a person being carried in or upon a vehicle include references to a person entering or getting onto, or alighting from, the vehicle, and the reference to an antecedent agreement is to one made at any time before the liability arose.

(4) Notwithstanding anything in any enactment, a person issuing a policy of insurance to which section 16 A (2) relates shall be liable to indemnify the persons or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of those persons or classes of persons?

16C (1) A person driving a motor vehicle on a road and a person riding a cycle, not being a motor vehicle, on a road shall stop the same on being so required by a police officer in uniform.

(2) A person who fails to comply with a requirement to which subsection (1) relates commits an offence.

16D (1) Any such person as the following, namely -

- (a) the driver of a motor vehicle who is alleged to have committed an offence against section 9, 9A, or 9C of this Ordinance, or
- (b) the rider of a cycle who is alleged to have committed an offence against section 13B (1) or (2) of this Ordinance,

who refuses, on being so required by any person having reasonable ground for so requiring, to give his name and address, or gives a false name or address, commits an offence.

- (2) A police officer may
 - (a) arrest without warrant the driver of a motor vehicle who within his view commits an offence to which paragraph (a) of subsection (1) of this section relates unless the driver either gives his name and address or produces for examination his licence to drive a motor vehicle;
 - (b) arrest without warrant the rider of a cycle who within his view commits an offence to which paragraph (b) of subsection (1) relates unless the rider gives his name and address.

16E (1) If in a case where, owing to the presence on a road of a motor vehicle an accident occurs involving personal injury to another person, the driver of the vehicle does not at the time produce to a police officer or some person who, having reasonable grounds for so doing has required its production, a certificate of insurance or other evidence of insurance in accordance with section 6 (1) of this Ordinance, the driver shall as soon as possible, and in any case within 24 hours of the occurence of the accident, report the accident at a police station or to a police officer and thereupon produce such a certificate or other evidence as aforesaid, and if he fails to do so he shall, subject to subsection (2), be guilty of an offence.

Penalisation of failure to give name and address, and power of arrest, in case of alleg-

ed offences.

Power of

vehicles.

police to stop

Duty of driver in case of accident involving injury to another. (2) A person shall not be convicted of an offence under subsection (i) by reason only of a failure to produce a certificate or other evidence if, within 5 days after the occurence of the accident, the certificate or other evidence is produced at such a police station as may be specified by him at the time the accident was reported.

16F (1) A person commits an offence who, within intent to deceive -

(a) forges, or alters, or uses or lends to, or allows to be used by, any other person, a document or other thing to which this section applies, or

(b) makes or has in his possession any document or other thing so closely resembling a document or other thing to which this section applies as to be calculated to deceive.

(2) This section applies to the following documents and other things, namely -

- (a) any driver's licence and any vehicle test certificate;
- (b) any driver's or driving licence issued by any authority overseas;
- (c) any policy or certificate of insurance.

16G (i) A person commits an offence who knowingly makes a false statement for the purpose —

- (a) of obtaining the grant of a licence under any provision of this Ordinance to himself or any other person, or
 - (b) of preventing the grant of any such licence, or
- (c) of procuring the imposition of a condition or limitation in relation to any such licence.

(2) A person commits an offence who makes a false statement or withholds any material information for the purpose of obtaining the issue of any policy of insurance to which section 6 (1) of this Ordinance relates.

16H (1) Where a police officer is for the time being engaged in the regulation of traffic in a road, or where a traffic sign, being a sign authorised under the provisions of any regulations made under this Ordinance has been lawfully placed on or near a road, a person driving or propelling a vehicle commits an offence if -

- (a) he neglects or refuses to stop the vehicle or to make it proceed in, or keep to, a particular line of traffic when directed to do so by the police officer in the execution of his duty, or
- (b) he fails to comply with the indication given by the sign.

(2) A traffic sign shall not be treated for the purposes of this section as having been lawfully placed unless either -

- (a) the indication given by the sign is an indication of a prohibition, restriction or requirement, or
- (b) it is expressly provided by or under any provision of this Ordinance that this section shall apply to the sign or signs of a type which the sign is one;

and where the indication mentioned in paragraph (a) of this subsection is of a general nature only of the prohibition, restriction or requirement to which the sign relates, a person shall not be convicted of failing to comply with the indication unless he has failed to comply with the said prohibition restriction or requirement.

False statements and withholding material information.

Drivers to comply with traffic directions.

Forgery of documents.

(3) For the purposes of this section a traffic sign placed on or near a road shall be deemed to be one authorised by the Governor and to have been lawfully so placed unless the contrary is so proved.

161 Where a police officer in uniform is for the time being engaged in the regulation of vehicular traffic in a road, a person on foot who proceeds across or along the carriageway in contravention of a direction to stop given by the police officer in the execution of his duty, either to persons on foot or to persons on foot and other traffic, commits an offence.

16J A person commits an offence who, being in charge of a vehicle, causes or permits the vehicle or a trailer drawn thereby to remain at rest on a road in such a position or in such condition or in such circumstances as to be likely to cause danger to other persons using the road.

Pedestrian 1 crossings.

Pedestrians

to comply

with direc-

given by

vehicles in

dangerous

position.

police officer. Leaving

tions to stop

16K (1) The Governor may make regulations providing for

- (a) the establishment on (and removal from) roads of crossings for pedestrians to be indicated in manner prescribed by regulations under this section and
- (b) the precedence of motor vehicles, carts, carriages and pedestrians respectively, and generally with respect to the movement of traffic (including pedestrians), at and in the vicinity of crossings.

(2) Without prejudice to the generality of section 1 above, regulations made thereunder may be made with respect to the indication of the limits of a crossing, or of any other matter whatsoever relating to the crossing by marks or devices on or near the road or otherwise.

(3) Different regulations may be made under this subsection in relation to different conditions, and in particular, but without prejudice to the generality of the foregoing words, different regulations may be made in relation to crossings in the vicinity of, and at a distance from, a junction of roads, and to traffic which is controlled by the police, and by traffic signals, and by different kinds of traffic signals.

(4) Regulations may be made under this section applying only to a particular crossing or particular crossings specified in the regulations.

(5) A person commits an offence who contravenes any regulations made under this section.

(6) In this section "crossing" means a crossing for pedestrians established by the Governor in accordance with the provisions hereof and indicated in accordance with the regulations having effect as respects that crossing; and for the purposes of the prosecution of a contravention of any of the provisions of a regulation having effect as respects a crossing the crossing shall be deemed to be established and indicated as aforesaid unless the contrary is proved."

5. The principal Ordinance is further amended by the addition thereto, so as to appear therein after the last section thereof, of the following Schedule.

"SCHEDULE

Supplementary provisions in connection with proceedings for offences relating to helmets and head gear.

1. (1) A person against whom proceedings are brought for an offence under section 12A of this Ordinance (hereinafter referred to as "the relevant section") shall, upon information duly laid by him and on giving to the prosecution not less than three clear days notice of his intention, be entitled to have any person to whose act or default he alleges that the contravention of that section was due brought before the court in the proceedings; and if, after the contravention has been proved, the original accused proves that the contravention was due to the actual default of that other person, that other person may be convicted of the offence, and, if the original accused further proves that he has used all due diligence to secure that that section was complied with, he shall be acquitted of the offence.

- (2) Where an accused seeks to avail himself of the provisions of sub-paragraph (1) above -
 - (a) the prosecution, as well as the person whom the accused charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence;
 - (b) the court may make such orders as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears that an offence under the relevant section has been committed in respect of proceedings which might be taken against some person (hereinafter referred to as "the original offender"), and a person proposing to take proceedings in respect of the offence is reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person, being an act or default which took place in the Falkland Islands, and that the original offender could establish a defence under sub-paragraph (1) above, the proceedings may be taken against that other person without proceedings first being taken against the original offender.

In any such proceedings the accused may be charged with, and on a proof that the contravention was due to his act or default be convicted of, the offence with which the original offender might have been charged.

2. (1) Where proceedings are brought against a person (hereafter in this paragraph referred to as "the accused") in respect of a contravention of the relevant section, and it is proved -

- (a) that the contravention was due to the act or default of some other person, being an act or default which took place outside the Falkland Islands, and
- (b) that the accused used all due diligence to secure compliance with that section,

the accused shall, subject to the provisions of this paragraph, be acquitted of the offence.

(2) The accused shall not be entitled to be acquitted under this paragraph unless within 7 days from the date of service of the summons on him he has given notice in writing to the prosecution of his intention to rely upon the provisions of this paragraph specifying the name and address of the person to whose act or default he alleges that the contravention was due, and has sent a like notice to that person.

(3) The person specified in a notice served under this paragraph shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to so do.

(4) Subject to the provisions of this paragraph, in any proceeding for an offence under the relevant section it shall be a defence for the accused to prove —

- (a) that he purchased the helmet in question as being of a type which under the relevant section could be lawfully sold or offered for sale, and with a written warranty to that effect,
- (b) that he had no reason to believe that at the time of the commission of the alleged offence that it was not of such a type, and
- (c) that it was then in the same state as when he purchased it.
- (5) The warranty shall only be a defence in any such proceedings if -
 - (a) the accused -
 - (i) has, not later than 3 clear days before the date of the hearing, sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and
 - (ii) has also sent a like notice of his intention to that person, if that person is within the Falkland Islands, and
 - (b) in the case of a warranty given by a person resident outside the Falkland Islands, the accused proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein.

(6) Where the accused is an employee of the person who purchased the helmet in question under a warranty, he shall be entitled to rely on the provisions of this paragraph in the same way as his employer would have been entitled to do if he had been the accused.

(7) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

3. (1) An accused who in any proceedings for an offence under the relevant section wilfully applies to a helmet a warranty not given in relation to that helmet, commits an offence.

(2) A person commits an offence who, in respect of a helmet sold by him, being a helmet in respect of which a warranty might be pleaded under paragraph 2 above, gives to the purchaser a false warranty in writing (but for the purposes of this sub-paragraph) a warranty shall be deemed not to be false if the accused proves that when he gave the warranty he had reason to believe that the statements or description contained therein were accurate."

Ref: POL/10/5.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Merchant Shipping (Transfer of Functions) Ordinance 1988 (No. 28 of 1988)

ARRANGEMENT OF PROVISIONS

Section

- 1. Short title.
- 2. Commencement.
- 3. Registrar General to be Registrar of British Ships for the Falkland Isands.
- 4. Transfer of Register, books and other papers.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Merchant Shipping (Transfer of Functions) Ordinance 1988

(No. 28 of 1988)

An Ordinance to transfer the functions of the Collector of Customs as Registrar of British Ships under section 4(1) of the Merchant Shipping Act 1894 to the Registrar General.

> (Assented to: 21st December 1988) (Commencement: to be fixed) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands, as follows -

1. This Ordinance may be cited as the Merchant Shipping (Transfer of Functions) Sho Ordinance 1988.

2. This Ordinance shall come into force on such date as may be notified by the Governor by notice published in the Gazette but that date may not be earlier than the date of commencement of an Order in Council under section 735(1) of the Merchant Shipping Act 1894 confirming this Ordinance.

3. (1) Subject to subsection (2), the Registrar General shall be the Registrar of British Ships in respect of every port in the Falkland Islands approved by the Governor for the registry of ships and accordingly so much of section 4(1) of the Merchant Shipping Act 1894 as would otherwise require the Chief Officer of Customs to be the Registrar of British Ships at that port shall cease to have effect in the Falkland Islands.

(2) If the office of Registrar General is at any time vacant or the holder of it is for the time being unable for any reason to discharge the functions of that office, the Governor may appoint another person to be Registrar of British Ships in place of the Registrar General until such time as the office of Registrar General is again filled or the Registrar General is again able to discharge the functions of the office of Registrar General, whichever in the circumstances of the case is appropriate.

4. The Collector of Customs shall forthwith on the commencement of this Ordinance deliver to the Registrar General all registers and other papers whatsoever which, immediately before such commencement, were in his possession as Registrar of British Ships.

Short title.

Commencement.

Registrar General to be Registrar of British Ships for the Falkland Islands.

Transfer of Register, books and other papers.

Ref: LEG/10/26.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Application of Enactments (Amendment) Ordinance 1988 (No. 29 of 1988)

ARRANGEMENT OF PROVISIONS

Section

1. Short Title.

2. Amendment of Application of Enactments Ordinance 1954. Schedule.

ELIZABETH II



Colony of the Falkland Islands

WILLIAM HUGH FULLERTON, Governor.

The Application of Enactments (Amendment) Ordinance 1988

(No. 29 of 1988)

An Ordinance to amend the Application of Enactments Ordinance 1954.

> (Assented to: 21st December 1988) (Commencement: on publication) (Published: 23rd December 1988)

ENACTED by the Legislature of the Falkland Islands as follows -

1. This Ordinance may be cited as the Application of Enactments (Amendment) Ordinance Short title. 1988.

2. The Application of Enactments Ordinance 1954 is amended in the Schedule thereto by deleting paragraph 53 (which relates to the Crown Proceedings Act 1947) and replacing it with the new paragraph 53 set out in the Schedule to this Ordinance.

Amendment of Application of Enactments Ordinance 1954.

SCHEDULE

(New paragraph 53 in Schedule to Application of Enactments Ordinance 1954)

53.	Crown Pro-
	ceedings Act
	1947 (11 & 12

The whole Act, except sections 10, 12, 17(1), 19, 23(3)(b) to (f) (inclusive) 24(4), 34, 39 and 41 to 53 (inclusive).

References to "the Crown" shall, except where the context otherwise requires, Geo. 6 c. 44) be construed as references to Her Majesty the Queen in right of the Falkland Islands and acting through Her Government of the Falkland Islands;

> References to "the United Kingdom" shall be construed as references to the Falkland Islands;

> References to "the High Court" shall be construed as references to the Supreme Court; references to "a county court" shall be construed as references to the Magistrate's Court; references to the Attorney General shall be construed as references to the Attorney General of the Falkland Islands; references to Parliament shall be construed as references to the Legislative Council;

> References to any fund other than the Consolidated Fund shall be omitted; references to "the Treasury" shall be construed as references to the Financial Secretary; references to any "Minister", "Secretary of State", "the Admiralty" shall be construed as references to the Governor; and references to "Her Majesty's Stationery Office" shall be construed as references to the Government Printer.

> For section 17(2), (3) and (4) shall be substituted the following subsections -

"(2) Civil proceedings against the Crown shall be instituted —

(a) against The Crown (so described) as defendant; or

(b) against The Attorney General (so described) as defendant.

(3) Civil proceedings by the Crown shall be instituted --

(a) by The Crown (so described) as plaintiff; or

(b) by The Attorney General (so described) as plaintiff, and all civil proceedings instituted by the Attorney General other than in his private capacity shall be deemed to be brought by The Crown.

(4) Save where specifically provided to the contrary civil proceedings may not be brought naming any public officer in his official capacity, the Government (so described) or any government department as a party to those proceedings and in any case where proceedings otherwise might have been so brought, they may be brought by or against the Crown or the Attorney General?

For section 18 shall be substituted the following section -

"18. All documents required to be served on the Crown for the purpose of or in connection with any civil proceedings brought by or against the Crown shall be served on the Attorney General."

Ref: LEG/10/3.

Passed by the Legislature of the Falkland Islands this 12th day of December 1988.

P. T. KING, Clerk of Councils.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

> P. T. KING, Clerk of Councils.

The Swimming Pool (Trust Fund) Ordinance 1987 (No. 35 of 1987)

The Swimming Pool (Trust Fund) Ordinance 1987 (Commencement) Order 1988

(S.R. & O. No. 21 of 1988)

ARRANGEMENT OF PROVISIONS

Paragraph

1. Citation.

2. Commencement of Ordinance.

The Swimming Pool (Trust Fund) Ordinance 1987 (No. 35 of 1987)

The Swimming Pool (Trust Fund) Ordinance 1987 (Commencement) Order 1988

(S.R. & O. No. 21 of 1988)

IN EXERCISE of my powers under section 1 of the Swimming Pool (Trust Fund) Ordinance 1987 I make the following Order —

1. This Order may be cited as the Swimming Pool (Trust Fund) Ordinance (Commencement) Order 1988.

2. The Swimming Pool (Trust Fund) Ordinance 1987 shall be deemed to come into force on the day on which this Order is first published in the Gazette.

Commencement of Ordinance (No. 35 of 1987).

Made this 21st day of December 1988.

W. H. FULLERTON, Governor.

Ref: INT/36/18.

The Income Tax Ordinance

(Cap.32)

The Deductions (Employees) (Amendment) Regulations 1988 (S.R. & O. No. 22 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

1. Citation.

2. The principal Regulations.

3. Amendment of the principal Regulations.

4. Saving.

Schedule

The Income Tax Ordinance

(Cap.32)

The Deductions (Employees) (Amendment) Regulations 1988

(S.R. & O. No. 22 of 1988)

IN EXERCISE of my powers under section 32E of the Income Tax Ordinance I make the following Regulations -

1. These Regulations may be cited as the Deductions (Employees) (Amendment) Regulations 1988 and shall come into force on 1st January 1989.

2. In these Regulations "the principal Regulations" means the Deductions (Employees) Regulations 1987.

3. The Schedule to the principal Regulations is amended by the substitution of the Tables A and B appearing in the Schedule to these Regulations for the Tables A and B appearing in the Schedule to the principal Regulations.

4. The amendments effected by regulation 3 above shall apply only in relation to remuneration paid to an employee by an employer on or after 1st January 1989: so that where an employer has failed to make a deduction before that date which he was required to make by the principal Regulations or has failed to account to the Commissioner for any deduction made before that date his liability shall be the same as it would be if these Regulations had not been made.

The principal Regulations. (S.R. & O. No. 23 of 1987).

Amendment of principal Regulations.

Saving.

SCHEDULE (New Tables A and B)

TABLE A

Deductions in respect of employees, pensioners and annuitants paid more frequently than once a month.

Column 1		Column 2
(Note: see para. 2 abov	e)	(Note: see para. 2 above)
Gross Remuneration		Deduction
Deduction in money.		
95		NIL
100		1
105		2
110		3
115		4
120		5
125		6
130		8
135		9
140		10
145		11
150		12
155		12
160		13
165		
170		15
		17
175		18
180		19
185		20
190		21
195		22
200		23
205		24
210		26
215		27
220		28
225		29
230		30
235		31
240		32
245	P#====================================	33
250		35
255		36
260		37
265		38
270		39
275		40
280		41
285		42
290		44
295		45
300		46
305		47
310		48
315		49
320		51
325		52
330		54
335		55

Column 1	
(Note: see para. 2 above)	
Gross Remuneration	
Deduction in money	

Column 2 (Note: see para. 2 above) Deduction

340		56
345		58
350		59
355		60
360		62
365		63
370	*******	64
375		66
380		67
385		68
390		70
395		71
400		72
405		74
410		75
415		76
420		78
425		79
430		80
435		82
440		83
445		85
450		
		86
455		87
460		89
465		90
470		91
475		93
480		94
485		95
49 0	******	97
495		98
500		99
505		101
510		102
515		103
520		105
525		106
530		108
535		110
540		112
545		114
550		115
555		117
560		119
565		121
570		123
575	+F*	124
580		126
585		128
590		130
595		132
600		133
605		135
610		135
010		1.57

Column 1 (Note: see para. 2 above) Gross Remuneration Deduction in money.	Column 2 (Note: see para. 2 above) Deduction
(15	100

615		139
620		141
625		142
630		144
63.		146
64(148
64.		150
650		151
655		153
660		155
665		157
670	**************************************	159
67		160
680		162
685		164
690	********	166
69.		168
700		169

Deductions in respect of employees, pensioners and annuitants paid monthly or less frequently than monthly.

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Column 1 (Note: see para. 2 abov Income per month.	e)	Column 2 (Note: see para. 2 above)
meome per month.		Deduction
400		NIL
425		2
450		8
475		13
500		19
525		
		24
550 575		30
		36
600 626		41
625		47
650		53
675		58
700		64
725		69
750		75
775		81
800		86
825		92
850		98
875		103
900		109
925		114
950		120
975		126
1000		131
1025		137
1050		143
1075		148
1100		154
1125		159
1150		165
1175		171
1200		176
1225		182
1250		188
1275		193
1300		199
1325		204
1350		210
1375		217
1400		224
1425		231
1450		237
1475		244
1500		251
1525		258
1550		264
1556		271
1600		278
1625		285
1650		285
1675		298
6701		220

Column 1 (Note: see para. 2 above) Income per month.

2

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Column 2 (Note: see para. 2 above) Deduction

1700	 305
1725	 312
1750	 318
1775	 325
1800	 332
1825	 339
1850	 345
1875	 352
1900	 359
1925	 366
1950	 372
1975	 379
2000	386
2025	 393
2050	 399
2075	406
2100	 413
2125	420
2150	426
2175	433
2200	440
2225	447
2250	 447
2230	 453
2300	
2300	 470
	 479
2350 2375	 488
2373 2400	 497
	 506
2425	 515
2450	 524
2475	 533
2500	 542
2525	 551
2550	 560
2575	 569
2600	 578
2625	 587
2650	 596
2675	 605
2700	 614
2725	 623
2750	 632
2775	 641
2800	 650
2825	 659
2850	 668
2875	 677
2900	 686
2925	 695
2950	 704
2975	 713
3000	 722
3025	 731
3050	 740
3075	 749

Column 1 (Note: see para. 2 above) Income per month.

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3100		758
3125		767
3150		776
3175		785
3200		794
3225		803
3250		812
3275		821
3300		830
3325		839
3350		848
3375		857
3400	** *	866
3425		875
3450		884
3475		893
3500		902
3525		911
3550		920
3575		929
3600		938
3625		947
3650		956
3675		965
3700		974
3725		983
3750		992
3775		1001
3800		1001
3825		1010
3850		1019
3875		1028
3900		1037
3925		1040
3950		1055
3975		1073
4000		1073
4025		1082
4050		1100
4075		1100
4100		1118
4125		1110
4150		1127
4175	*	1145
4200		1154
4225		1163
4250		1105
4275		1181
4300		1190
4325		1199
4350		1208
4375		1208
4400		1226
4400		1220
4423		1235
4450 4475		1244
		1255 1 262
4500		1202

Column 1		Column 2
(Note: see para. 2 abo	ove)	(Note: see para. 2 above)
Income per month.		Deduction
4525		1271
4550		1280
4575		1289
4600		1298
4625		1307
4650		1316
4675		1325
4700		1334
4725		1343
4750		1352
4775	***************************************	1361
4800		1370
4825		1379
4850		1388
4875		1397
4900		1406
4925		1415
4950		1424
4975		1433
5000		1442

Made this 21st day of December 1988.

W. H. FULLERTON, Governor.

Ref: INC/10/5,

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Road Traffic Ordinance

(Cap 60)

The Road Traffic (Priority in Stanley) Order 1988 (S.R. & O. No. 23 of 1988)

ARRANGEMENT OF PROVISIONS

Paragragh

- 1. Citation and Commencement.
- 2. Interpretation.
- 3. Drivers to give way.
- 4. Police etc. vehicles.
- 5. Offences.
- 6. Sheep.

Road Traffic Ordinance (Cap 60)

The Road Traffic (Priority in Stanley) Order 1988 (S.R. & O. No. 23 of 1988)

IN EXERCISE of my powers under section 18 of the Road Traffic Ordinance I make the following Order —

1. This Order may be cited as the Road Traffic (Priority in Stanley) Order 1988 and shall come into force on 1st January 1989.

2. (1) In this Order -

"driver" means a person steering a vehicle or riding or leading any animal in the carriageway of any road;

"excepted road" means Ross Road, Ross Road East, and Ross Road West;

"east to west road" means any road in Stanley connecting two points one of which lies at one end of that road and the other of which lies at the other end of that road and where one of such points is approximately to the east of the other of such points.

"north to south road" means any road in Stanley connecting two points one of which lies at one end of that road and the other of which lies at the other end of that road and where one of such points is approximately to the north of the other of such points;

(2) For the purposes of paragraph (1) above a point is approximately to the east of another point if it is nearer to being exactly true east of that point than it is to being exactly true north or true south of that point, and a point is approximately to the north of another point if it is nearer to being exactly true north of that point is approximately to the north of another point if it is nearer to being exactly true north of that point than it is to being exactly true east or true west of that point.

(3) For the purposes of this Order, a driver who is under a duty to give way is required to cause his vehicle or animal to slow down or stop so as to enable the traffic to which he is required to give way to precede him.

Citation and commencement.

Interpretation.